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

RECOMMENDATION

The Commissioners recommend that the notices of requirement as modified by the Requiring Authority at the hearing BE CONFIRMED subject to conditions.

PROPOSAL

Notices of Requirement (**NoR**) by the Supporting Growth Alliance/Te Tupu Ngatāhi on behalf of Auckland Transport (**Auckland Transport**) sought for the Takanini Level Crossing Project (NoRs 1 and 2) and for the South Frequent Transport Project (NoRs 1 to 4), in the following locations:

Takanini Level Crossing Project (**TLC Project**)

NoR 1 – Spartan Road, Manuia Road, Manuroa Road and Taka Street. Notice of requirement lodged by Auckland Transport for new multi-modal bridge crossings of the North Island Main Trunk (NIMT) at Manuia Road and Taka Street; and new active mode bridge crossings of the NIMT at Spartan Road and Manuroa Road with two consequential road closures.

NoR 2 – Walters Road Level Crossing Closure and New Multi-Modal Bridge. Notice of requirement lodged by Auckland Transport for a new multi-modal bridge crossing of the North Island Main Trunk (NIMT) railway at Walters Road.

South Frequent Transport Project (**SFT Project**)

NoR 1 – Great South Road FTN Upgrade. Notice of requirement lodged by Auckland Transport for upgrades to parts of Great South Road between Manukau and Drury to provide a multi-modal transport corridor that will accommodate bus priority measures, active mode facilities (i.e. walking and cycling facilities), intersection upgrades, replacement of the existing Otūwairoa / Slippery Creek bridge, and stormwater management.

NoR 2 – Great South Road Upgrade (Drury Section). Notice of requirement lodged by Auckland Transport for upgrades to Great South Road between Waihoehoe Road and the State Highway 1 Drury Interchange to provide a multimodal transport corridor that will accommodate general traffic lanes, active mode facilities (i.e. walking and cycling facilities) intersection upgrades, replacement of the existing Hingaia Stream bridge, and stormwater management.

NoR 3 – Takaanini FTN – Weymouth, Alfriston, and Great South Road Upgrades. Notice of requirement lodged by Auckland Transport for Upgrades to Weymouth and Alfriston Roads between Selwyn Road / Rogers Road and Saralee Drive; and Great South Road between Halver Road and Myers Road to accommodate bus priority measures, general traffic lanes, active mode facilities (i.e. walking and cycling facilities), intersection upgrades, proposed closure of the Beaumonts Way intersection with Weymouth Road, replacement of existing bridges along Weymouth Road over the North Island Main Trunk and Alfriston Road over State Highway 1, and stormwater management.

NoR 4 – Takaanini FTN – Porchester and Popes Road Upgrades. Notice of requirement lodged by Auckland Transport for upgrades to Porchester Road between Alfriston Road and Walters Road; and to Popes Road between Takanini School Road and Porchester Road to accommodate general traffic lanes, active mode facilities (i.e. walking and cycling facilities), and intersection upgrades.

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EDITORIAL NOTES:

Appendix A contains hearing details including the persons who presented at the hearing, the party that they represented, their role, and employment details where relevant. These details are not repeated in the text.

Appendix B contains a glossary with abbreviations. Full descriptions of abbreviations are not provided within the text.

"Takanini" versus "Takaanini"

Hearing documents reference both versions of this place name. We are advised that the NZ Geographic Board was due to consider an amendment to "Takanini", reflecting the correct pronunciation in te reo Māori on 15 October 2024, but the website was not updated as at 30 October 2024. We will therefore adopt the former version in this recommendation.

INTRODUCTION AND PROCEDURAL MATTERS

1. This recommendation on the NoRs is made on behalf of the Council by Independent Hearing Commissioners Mr Dave Serjeant, Mr Nigel Mark-Brown and Mr Basil Morrison appointed and acting under delegated authority pursuant to sections 34 and 34A of the RMA.

2. Pursuant to section 168 of the RMA, the Requiring Authority (Auckland Transport) gave notice to the Council to designate the sites described above. The NoRs were prepared by the Supporting Growth Alliance/Te Tupu Ngatāhi, a collaboration between Auckland Transport and NZ Transport Agency. At the request of the Requiring Authority, the NoRs were publicly notified on 13 November 2023. Submissions closed on 14 December 2023. There were a total of 182 submissions recorded within the submission period. The total number of submissions accounts for several submitters lodging the same or similar submissions on more than one NoR. Further, it is noted that, individually, the number of submissions ranged from 16 submissions for SFT NoR 2 to 46 submissions for TLC NoR 1.

3. The NoRs were referred to the Commissioners for a hearing and recommendation. Application materials, the Council's section 42A reports, and both expert and lay evidence was produced for pre-reading pursuant to an agreed timetable. The hearing took place on Monday 27th to Thursday 30th May and Tuesday 4th to Friday 7th June 2024. There were appearances at the hearing by and on behalf of the parties and submitters listed in the table in **Appendix A**. The hearing was formally closed on Monday 9th September 2024.

4. Prior to the commencement of the hearing we issued Direction #2 that provided for the receipt of late submissions, not otherwise covered by section 37A(4) of the RMA. Submissions by The Levene Foundation and Takanini Rentors Ltd were accepted accordingly on the recommendations of Council. The Requiring Authority also advised that it supported the Council's recommendation to accept the submissions. We therefore confirm their receipt as late submissions.

5. We were also advised by Mr Donovan of parties that had indicated their intention to attend the hearing to present their submissions but had since decided that such attendance was unnecessary and provided a tabled written response instead. These submitters were:

    a) By letter dated 4 April 2024 a joint group of submitters under the banner of The Telecommunication Companies and comprising Chorus New Zealand Limited (Chorus), Connexa Limited (Connexa), Spark New Zealand Trading Limited (Spark), One New Zealand Group Limited (One NZ) and FortySouth advised that they supported the LIP and NUMP conditions proposed for each Project as addressing their submissions and on that basis would not attend the hearing;

    b) Spark filed a letter dated 6 May 2024 in relation to the additional matter of the effects of NoR 4 on its data centre at 23 Popes Road. The letter advised that

following additional discussion with Auckland Transport and reviewing the rebuttal evidence of Mr Mason, Spark submission points were satisfied and it would not be attending hearing. Spark identified the SCED, the Network Utility Operators and Auckland Council Parks (Section 176 Approval) condition, SCEMP, ULDMP and NUMP as all providing future opportunities for Sparks involvement in works implementation;

c) Ministry of Education advised by letter dated 30 April 2024 that its submissions had been addressed satisfactorily provided that several of the conditions as drafted in the primary evidence of Auckland Transport were included. MoE noted that there were several existing schools in proximity to the NoRs and that it was concerned about the potential effects of construction on these schools, and future schools. Whilst the conditions referred to are not exactly the same, if anything they have become more favourable to maintaining safety and amenity around schools;

d) Heritage New Zealand Pouhere Taonga tabled a submission dated 17 April 2024 which we have addressed in the heritage effects section later in this recommendation;

e) KiwiRail Holdings Limited filed a letter dated 1 May 2024 confirming that it is satisfied that the conditions adequately incorporate ongoing dialogue with stakeholders and network utilities and is confident that the parties can adequately address detailed design matters. KiwiRail did not attend the hearing on this basis;

f) Auckland Council Parks and Community Facilities tabled a memorandum dated 29 May 2024 which we have addressed in the reserves and open space section later in this memorandum;

g) The Manurewa Business Association Incorporated and Southmall Manurewa tabled a submission for our consideration dated 5 June 2024. The submission expressed similar concerns to NTC and other business operations around the Weymouth Bridge and Alfriston Road intersection. Essentially, while the Association supported improved transport mode connections and the upgrade of the Weymouth Road rail bridge, it did not want these at the expense of Southmall carparks, the closure of the Weymouth Road entrance or the loss of land for surrounding business operations. We have addressed these concerns below in relation to all submitters in this locality;

h) DDI Takanini Investments Limited filed a memorandum dated 31 May 2024 advising that its concerns had been met through the reduction in extent of the designation over its property at 72-86 Great South Road and did not need to attend the hearing. The reduction is depicted in Appendix E to the closing submissions;

i) Accessible Properties Limited filed a memorandum dated 17 May 2024 in relation to its submission on properties it owns at 59, 59A, 59B and 59C Alfriston Road. On the basis of further engagement with Auckland Transport and understanding of

engagement prior to construction, APL did not require to be heard. We note that the submission is addressed in the noise and vibration section of this recommendation;

j) Wendy Wells filed a brief memorandum advising her inability to attend the hearing due to illness. Ms Wells was concerned about safety at the Great South Road/Mahia Road intersection. We note that this intersection will be subject to an overall upgrade in relation to active modes and traffic controls, including the elimination of the free left turn into Mahia Road.[1]

k) AS and SK Grewal, Durmast Holdings Ltd and P and S Chand all submitted in relation to the effects of the designation and property access matters which are addressed below.

6. Expert conferencing was conducted in relation to matters raised in submissions by many of the submitters. The conferencing was facilitated by Ms Chloe Trenouth, Consultant Planner and Independent Facilitator and we are grateful to Ms Trenouth for undertaking this task which enabled the useful exploration and, in some cases, resolution of the various matters.

7. During the hearing we took the opportunity to acquaint ourselves with each of the NoR routes and the existing environments through which they passed. We identified submitter's land along each route, particularly those submitters who had attended the hearing.

STATUTORY ASSESSMENT FRAMEWORK

8. Ms Evitt summarised the key statutory requirements and legal principles relevant to our decision-making function on the Projects as follows:[2]

> *Section 171(1) requires the Panel to, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to the following matters identified in section 171(1)(a)-(d):*
>
> *(a)* any relevant provisions of a national policy statement, a New Zealand coastal policy statement, a regional policy statement or proposed regional policy statement and a plan or proposed plan;
>
> *(b)* whether adequate consideration has been given to alternative sites, routes and methods of undertaking the work;
>
> *(c)* whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and

[1] Sang SoE at [10.133]
[2] Evitt Opening Submissions at [7.1]

(d) any other matters considered reasonably necessary to make its recommendations.

9. We observe that, as with the requirements for the consideration of resource consents (s.104 RMA) and Councils' obligations in preparing policy statements and plan changes (s.30 and 31), the primary requirement in the chapeau of the clause is to consider *"…the effects on the environment of allowing the requirement…",* with this consideration being informed by the matters to which particular regard is to be had.

SUMMARY OF OUR APPROACH

10. The approach we have taken in this recommendation is:

a) To record the key submissions and evidence given by Auckland Transport in relation to engagement, the existing environment, the need for the NoRs, the Project Objectives, and amendments to the designation boundaries since lodgement;

b) To then review two of the key statutory requirements relevant to the NoRs. These are that "*adequate consideration has been given to alternative sites, routes and methods*" (section 171(1)(b)) of undertaking the Project and that the Project is "*reasonably necessary*" (section 171(1)(c)) to achieve the Project Objectives. These are strategic matters and we review Auckland Transport's submissions and evidence on them. We note that we received very little in the way of legal submissions and expert evidence on these key requirements from submitters;

c) We then turn to consider several key location-specific submissions for each Project. These submissions typically raised multiple issues and were supported by legal submissions and expert evidence. Most were also the subject of expert conferencing on traffic and planning matters;

Our consideration of the key submissions does not in any way reduce the importance of other submissions made and which are addressed in the sections of effects on the environment. However, we note that this recommendation does not recognise every submission by name or every matter specifically raised by every submitter. Nevertheless, we have read all submissions and where a specific submission is not recognised we have addressed the general concern raised therein in a collective way;

d) Auckland Transport gave comprehensive evidence on the actual and potential effects on the environment. For each effects topic area, we summarise this evidence and the submissions and evidence from submitters where it was identified as a matter of concern. For each such submission we provide discussion and findings on the site-specific matters and *effects on the environment* (section 171(1)). We note that for some effects topic areas, apart from the Council review, the effects were not the subject of submissions and there was little in the way of expert evidence from submitters;

e) Returning to the strategic matters and the matter of the lapse period, we then discuss and make findings overall on the Project;

f) The penultimate section addresses the *relevant provisions* in the policy and planning documents at national, regional and district level, reviewing the evidence from Auckland Transport and Council (section 171(1)(a)); and

g) Finally, we provide a part 2 RMA assessment and our recommendation.

PROJECT INFORMATION

Engagement

11. Mr Gibson provided us with a summary of the engagement programme, example documentation and feedback recorded by the SGA.[3] It is clear to us that the effort in the engagement programme has been significant. Engagement was both extensive in its reach within the community and intensive where necessary to respond to suggestions, questions and concerns of the Local Board, elected members, Healthy Waters, business and developer representatives, network utilities, community and education service providers and the public in general. The ongoing commitment to resolving matters where possible has been evident in the agreements reached on revised designation boundary outcomes and other accommodations in the lead up to, during and after the hearing.

The Existing Environment

12. The existing environment for the NoRs comprises the existing urban environment of Takanini and Papakura, albeit that there are some Future Urban Zone areas in the east. The AEEs provided a full description of this environment and Mr Scrafton included an overview in Appendix A to his evidence. Mr Scrafton also emphasised that both projects were situated within an area to be developed and redeveloped to a much greater intensity to what exists today. He gave the following examples of development in the relevant zones, even without PC78:[4]

    (a) Residential – Mixed Housing Suburban – two-storey developments, up to three dwellings per site and a maximum permitted height of 8m;

    (b) Residential – Mixed Housing Urban – developments of up to three storeys in a variety of sizes and forms including terrace housing and low rise apartments, up to three dwellings per site and a maximum permitted height of 11m;

    (c) Business – Light Industry Zone – developments up to 20m in height; and

[3] Gibson SoE section 7 and appendices
[4] Scrafton EiC at [7.2]

(d) Business – Town Centre Zone – developments up to 27m in the Manurewa Town Centre and up to 18m in the Takanini Town Centre.

13. Mr Scrafton noted the spatial relationship between these land uses and the transport projects provided for by the NoRs. The existing urban environment includes several reserve open space areas, including the esplanade reserve of the Hingaia Stream, but little in the way of extensive natural environment.

14. In terms of a likely future environment, Mr Scrafton then detailed the impact of PC78 on the existing environment, observing that we must consider the effects of any national policy statement on this environment. In terms of the residential zonings noted above, Policy 3 of the NPS-UD enabled building heights of at least 6 storeys within 800m of the Takanini train stations (being Manurewa Train Station, Te Mahia Train Station, Papakura Train Station and the future Drury Station).

15. We record at this point that there were some questions raised by the Council reporting team on the weight that had been given by the Requiring Authority to PC78, due to the changes in central government direction and the postponement of hearings.

16. While noting that the implementation of PC78 had been delayed, it was Mr Scrafton's opinion that the response to the NPS-UD remained a mandatory requirement for Council and despite potential changes to the relevant legislation, the overarching goal of housing intensification remained.[5]

Finding

17. As the nature of the future environment comprises a fundamental element in evaluating the need for and benefits of the NoRs, we consider that it is informative at this point to record that we accept the position of the Requiring Authority on the weight to be given to PC78 and its likely effects on land use within and around the urban area affected by the NoRs.

The Need for the NoRs

18. Mr Lovell described the need for the NoRs, with additional detail from the Detailed Business Case and from a strategic transport perspective being provided by Ms Cottrell and Mr Murray respectively. South Auckland is anticipated to experience significant growth over the next 30 plus years through both urban intensification and the development of future urban land. Currently 70,000 people live in South Auckland between Manukau and Drury, with the planned growth in adjoining FUZ areas projected to double the population over the next 30 plus years. The Takanini projects service a large part of this area extending from Manukau to Drury.

[5] SGA provided recent correspondence from the Council Independent Hearing Panel for PC78 and the Minister Responsible for RMA Reform supporting this position.

19. The southern sub-region of Auckland currently has limited north-south travel options, particularly for public transport and active modes. The South FTN addresses these deficiencies and is therefore a critical part of a strategic network connecting key land uses and employment areas (i.e. Manukau, Takanini, Papakura and Drury) and rail stations (i.e. Drury, Papakura, Takanini, Te Mahia and Manurewa) by all modes, optimising existing and planned investment in the rail network. It builds on and fills in the gaps between Te Tupu Ngatahi future strategic transport network (i.e. Drury Arterials and Mill Road), State Highway 1 and planned upgrades to the rail network being progressed by AT and KiwiRail (i.e. Auckland Rail Programme Business Case).

20. There are currently four public road level crossings along the NIMT railway in Takanini - at Spartan Road, Manuroa Road, Taka Street and Walters Road. These road corridors currently experience congestion, severance and safety issues from the level crossing operations. Growth, and the anticipated KiwiRail Four Tracking work will exacerbate current issues. Safe and reliable east-west connections across the NIMT in Takanini as proposed by the TLC Project are therefore required to address these issues.

Project Objectives

21. The Project Objectives are set out in the application AEE and in the evidence of Mr Lovell.[6] We recognise the importance of these in making a finding on section 171(1)(c) in relation to the Project being "reasonably necessary". Each set of NoRs had the same objectives as follows:

"The Project Objective for the TLC Project is to provide east-west transport improvements crossing the NIMT line in Takanini that:

(a) Enables safe movements across the NIMT line;

(b) Supports the east-west movement of all users across the NIMT and its line capacity;

(c) Supports growth and enhanced access to economic and social opportunities;

(d) Improves the resilience, efficiency and reliability of the network; and

(e) Supports mode shift by improving active mode facilities and travel choice.

For the South FTN Project, the Project Objective for all four NoRs is to provide for upgraded multi-modal transport corridors between Manukau and Drury that:

(a) Improve connectivity and access to economic and social opportunities;

(b) Improve safety;

[6] South FTN AEE at Sections 3.3, TLC AEE at 3.2; Lovell SoE at section 6

(c) Improve efficiency, resilience and reliability;

(d) Integrate with and support existing development and planned urban growth;

(e) Integrate with and support the existing and future transport network; and

(f) Improve travel choice and contribute to mode share shift."

Amendments to the Designation Boundaries Since NoRs Lodged

22. The Requiring Authority amended the designation boundaries in response to several submissions prior to during and following the hearing. Appendix E to the closing submissions of the Requiring Authority details these changes and the reasons for them. Plans depicting the extent of changes were also part of Appendix E which included removal of the designation entirely, reduction of the designation extent, and an increase in extent in places. In summary, the reasons for the proposed changes included amendment to alignment design, amendment to stormwater pond provisions, changes to structural design of bridge/active mode provision, integration with consented or existing development on matters such as parking or manoeuvring, and reconsideration of noise or amenity effects.

23. The details of these changes are relevant to the consideration of several submissions below.

STRATEGIC MATTERS

Whether Adequate Consideration Has Been Given to Alternative Sites, Routes and Methods

24. Auckland Transport's approach to identifying the Project routes is detailed in the application documents with the TLC Project and the South FTN Project NoRs each being the subject of a separate AAR.[7] Both AARs commence with the development of initial alternatives and a corridor assessment which advances through a route refinement assessment and consideration of alternative methods. Each AAR involves multi-criteria analysis (MCA), and related tools,[8] and was informed by stakeholder and community input.

25. Mr Winter gave the primary evidence on alternatives, supported in relation to the DBC by Ms Cotterell and on engineering and design by Mr Busnardo. Mr Winter detailed the steps in each alternatives assessment.

26. The opening submissions summarised the assessment for the TLC Project as follows:[9]

[7] See *Takanini Level Crossing Project Appendix A – Assessment of Alternatives* and *South Frequent Transport Network Appendix A - Assessment of Alternatives* both dated October 2023 Te Tupu Ngatahi Supporting Growth

[8] Such as the Early Assessment Sifting Tool for the TLC Project alternatives

[9] Evitt opening submissions at [9.9]

a) Number and location of crossings: The required numbers and locations of east-west crossings of the rail corridor in Takanini, and which transport modes should be accommodated. This required a complex optioneering process that tested different configurations of crossing locations and connections across the targeted TLC Project area;[10]

b) Form and function of crossings: The physical form of grade separation – whether grade separation of road and rail is to be achieved by raising or lowering roads, or raising or lowering rail;

c) Location and alignment choice: The alignment and physical extent of each east-west crossing;

d) Form and function testing: Further form and function testing once each spatial location had been identified; and

e) Route refinement: Route and design refinement in response to engagement and submitter feedback.

27. Mr Winter emphasised the logical sequence which was required as part of each assessment. The gap analysis undertaken as part of the DBC for the TLC Project retested the core assumption that a minimum of three east-west crossings were needed, of which one was needed to directly serve the Takanini industrial area. By comparison, two crossings resulted in significantly increased congestion and four crossings provided limited additional benefits given the congestion effects on Great South Road of additional intersections.

28. In relation to the crossing for the industrial area, this initially comprised consideration of Rangi Road, Spartan Road, and Manuroa Road, each of which was considered suboptimal. This resulted in assessment of a further five options between Spartan Road and Manuroa Road, which ultimately resulted in the identification of the Manuia Road option after it was concluded that the Manuroa Road option required a significant increase in heavy vehicle movements through a predominantly residential environment.

29. The potential grade change of the NIMT, either in trench or on a viaduct, were alternatives that were the subject of submissions. Mr Busnardo explained the key dimensions of both options in order to clear the existing Manuroa Road, Taka Street and Walters Road level crossings as being 3700m in length, 7.6m in height and 28.8m wide to provide for the four tracking of the NIMT.[11] Neither option was progressed further due to a high level of uncertainty for the following reasons:

a) very high construction costs resulting from the scale and complexity associated with 3.7km viaduct or trench structures clearing multiple existing roads;

[10] Cottrell SoE at [8.9] for this detail
[11] Busnardo SoE at [7.15]

b) very high construction disruption, particularly for rail operations, given the likely prolonged rail closure (likely exceeding typical duration for blocks-of-line) and/or diversions of the rail corridor;

c) high visual effects (in the case of the viaduct option) resulting from a 7.6m high structure extending for 3.7km;

d) high risk and uncertainty (in the case of the trench option) associated with underlying peat soils, and potential groundwater and settlement effects.

30. Road underpasses were also further assessed following input from technical experts employed by the Takanini Group.[12] These were not advanced further due to non-compliance with various standards and not accommodating the four-tracking of the NIMT. We also note the susceptibility of flooding and related pumping requirements for the underpass option. The lower visual effects of underpasses were nevertheless noted in the relevant assessments.

31. Mr Winter also noted, in response to a submission point by several submitters, that while it was counter-intuitive to conclude that a fewer number of crossings than currently available would lead to an acceptable future level of service for traffic, in particular the replacement of two crossings at Spartan Road and Manuroa Road with one crossing at Manuia Road, the use of the replacement crossings in the future would be unconstrained by the rail operations.[13]

32. The selection of the South FTN route was also complex considering other strategic transport projects and the constraints and outcomes of the TLC Project rail crossings. It involved several stages as follows:

(a) Identify the preferred routes for the South FTN;

(b) Identify the preferred form and function for each part of the South FTN to determine its physical extent;

(c) Refine the detailed location of any road widening/realignment required to accommodate the preferred form and function along the preferred route; and

(d) Identify which elements of the routes required third party land take and which required proposed designations.

33. A key element for the South FTN project was balancing the desired transport outcomes with the potential impacts, in particular the extent of third-party land required for various cross-sections. Ms Cottrell explained how this required a 'tailored' approach involving targeting priority areas to maximise transport benefits and minimising impacts by reallocating road space to get the most out of existing investment.[14] We note here that

[12] Employed by Takanini Village, Tonea Properties Ltd and Takanini Business Association
[13] Winter SoE at [9.27]
[14] Cottrell SoE at [9.20]

not all NoRs were continuous, such that the transport outcomes at many locations were achieved entirely within the existing road reserve.

34. Ms Evitt referred us to the principles cited by the Board of Inquiry in the Upper North Island Grid Update Project in evaluating the alternatives assessment.[15] These are as follows:

    (a) The focus is on the process, not the outcome: whether the Requiring Authorities have made sufficient investigations of alternatives to satisfy themselves 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 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 the Projects involve closure of existing level crossings and construction of new bridges. 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.

35. Ms Evitt also advised that the Courts have determined that alternatives should be able to be retested in light of new information. Section 171(1)(b) does not set a deadline by which alternatives must have been considered for that consideration to be adequate. This is because the process under the RMA can be iterative, where circumstances change, and additional information becomes available after the notification of a NoR. Accordingly, in the context of the alternatives assessment and using MCA to evaluate alternatives, the MCA should be transparent or replicable.

36. Taking the above principles into account, Ms Evitt submitted that there was no *"credible expert evidence that raises any material deficiency in the process followed by Auckland Transport"*.[16] At this point we observe that the submissions we received on the assessment of alternatives tended to be at a site-specific level. These included

[15] Evitt opening submissions at [9.2] noting the reference to the *Final Report and Decision of the Board of Inquiry into the Upper North Island Grid Update Project,* Ministry for the Environment, Board of Inquiry, 4 September 2009 at [177]
[16] Evitt opening submissions at [9.7]

submissions on alternative methods to cross the NIMT or how a route could have been varied to avoid affecting or maintaining access to a specific site. We did not receive any principled analysis of why the assessment was inadequate at broader scale. We consider those submissions and the related expert evidence in the site-specific sections below and return to make a finding on section 171(1)(b) at paragraph 538.

Whether the Project is Reasonably Necessary to Achieve the Objectives

37. Ms Evitt made the following submissions on what is required of the Panel in this aspect of the recommendation:[17]

> *Section 171(1)(c) requires the Panel to 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.*
>
> *The High Court has described the threshold of "necessary" as falling somewhere between expedient or desirable on the one hand and essential on the other, with the use of "reasonably" qualifying it to allow some tolerance.[18] This definition allowed the Court to apply a threshold assessment that is proportionate to the circumstances of the case to assess whether the proposed work was justified to achieve the Project Objectives.*
>
> *What is required is 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.[19] When assessing reasonable necessity, the Panel cannot cast judgment on the merits of a requiring authority's objectives.[20]*

38. These submissions relied on established law in the cases footnoted below.

39. We have set out the Project Objectives in the section with that title above. Section 6 of the AEE for the TLC Project set out how the two NoRs met the Project Objectives by examining the congestion, severance and safety issues of the existing east-west crossings, all of which will be exacerbated by future growth in rail and traffic movements and demonstrating how the proposed upgrades respond to these issues through grade separation. The proposed extent of designation provides for the ongoing operation and maintenance of the proposed infrastructure as well as its construction and mitigation of environmental effects. As such, the extent of designation includes areas required for the construction-process such as laydown areas and construction yards. It also provides areas that may be utilised to implement recommended mitigation.

[17] Evitt opening submissions at [23.1]]
[18] *Queenstown Airport Corporation Limited v Queenstown Lakes District Council* [2013] NZHC 2347 at [93] – [96].
[19] *Bungalo Holdings Ltd v North Shore City Council* EC Auckland A052/01, 7 June 2001 at [66]
[20] *New Zealand Transport Agency v Waikato Regional Council* [2023] NZEnvC 055 at [76]

40. Similarly, Section 7 of the AEE for the South FTN Project identified the deficiencies in the current arterial network resulting from the reliance on private vehicles and the lack of provision for high-quality public transport and safe active mode facilities. Without intervention these deficiencies will be exacerbated by planned growth and increased travel demand. The proposed works include provision for bus priority measures along Great South Road, Weymouth Road, and Alfriston Road; as well as new and upgraded active mode facilities and intersection improvements along the full Project extent. The extent of the designations for the South FTN Project follows the same approach as for the TLC Project described above.

41. Auckland Transport and the Hearing Reports all conclude that the proposed designations are reasonably necessary for achieving the Project Objectives.[21]

42. There were no 'global' submissions challenging the reasonable necessity of any of the NoRs. However, the extent of the designation over their site was a matter of concern for several of the site-specific submitters and we address those concerns below. We draw a conclusion on the NoRs being 'reasonably necessary' at paragraph 542.

LOCATION SPECIFIC MATTERS – TLC PROJECT

Spartan Road Crossing (NoR 1): Silverfin Capital Ltd and Halls Refrigerated Transport Ltd

The proposal – active mode bridge crossing

43. NoR 1 provides for a new active mode bridge crossing of the NIMT at Spartan Road. Auckland Transport's evidence was that the optioneering process confirmed that Spartan Road cannot remain in its current form as the main access to the Takanini industrial area. The increase in level crossing barrier closure time resulting from greater train frequencies enabled by the City Rail Link is such that a grade-separated road connection is essential to the future viability of the industrial area. The proximity of the motorway interchange precludes a grade-separated road connection being provided at Spartan Road.[22]

44. The evidence for Auckland Transport also advised that closure of the Takanini level crossings, including Spartan Road, is also necessary from a rail network safety and capacity perspective. This is because incidents on one part of the rail network have both high direct consequences and wider impacts on the operation of the whole rail system. The presence of level crossings also limits rail line capacity both passively (due to inherent design impacts on rail signalling requirements and safety mitigations) and through incidents.[23] A system-wide approach is needed to address operational reliability, safety, and capacity requirements.[24]

[21] Cleary closing s42A comments at [11.3.6] and LaNauze s42A Hearing Report Section 5.6.
[22] Winter SoE at [7.16]; Winter Rebuttal SoE at [4.3]; Murray SoE at [5.10].
[23] Murray Hearing Summary at [5.23].
[24] Murray Hearing Summary at [5.21].

45. The relevant planning and policy frameworks do not support the retention or replacement of the existing at-grade level crossing at Spartan Road. For example:

(a) The AUP provides that the construction of new road and pedestrian rail level crossings on the rail network is a non-complying activity;[25]

(b) The GPS on Land Transport (2024-2034) provides that as part of enhancing safety, improvements to level crossings must be delivered, including *"separating road from rail in busy metropolitan networks"* [26] and

(c) The 2023 Auckland Rail PBC identified that removing level crossings was a critical part of the required strategy to address safety, reliability and capacity for the whole Auckland rail system.[27]

46. Accordingly, Auckland Transport does not consider that retention of the level crossing at Spartan Road is appropriate. However, in support of grade separated active mode crossing Auckland Transport's evidence was that:

(a) Demand for east-west active mode trips at Spartan Road is likely to grow over time, both because of intensification within and around the Takanini industrial area to the east of the NIMT and opportunities to connect directly with trip generators to the west of the NIMT, including the retail and service development at Waiata Shores;[28]

(b) There are clear opportunities to connect with the wider active mode network, including the SH1 Southern Path (which is the strategic active mode corridor connecting Takanini and Papakura along SH1) and the active mode facilities at the SH1 Takanini Interchange; and

(c) In the absence of an active mode crossing, pedestrians and cyclists wishing to cross the NIMT in the locality would be expected to divert a distance of 600m to the south via the planned Manuia Road crossing, which equates to 7 minutes of walking.[29] As explained by Mr Murray during the hearing, this is likely to disincentivise the use of active modes, which in turn would not achieve the TLC Project Objectives.

47. Auckland Transport also emphasised that the existing level crossings pose severe system-level safety and operational risks, and capacity constraints. Pedestrian fatalities occur at at-grade level crossings, even with modern safety features such as automatic gates.[30]

[25] AUP, Table E27.4.1.
[26] Draft Government Policy Statement on Land Transport 2024 at 19.
[27] Auckland Rail PBC at 24.
[28] Takanini Level Crossings Assessment of Alternatives at Table 7-13; Winter SoE at [7.30]; Murray Hearing Summary.
[29] Takanini Level Crossings Assessment of Alternatives at Table 7-13; Winter SoE at [7.30]; Murray Hearing Summary.
[30] Most recently in August 2023: Stuff NZ 'One dead after being struck by train in south Auckland', August 21 2023 < https://www.stuff.co.nz/national/300952796/one-dead-after-being-struck-by-train-in-south-auckland>.

Submitters' case

48. Silverfin Capital Ltd and Halls Refrigerated Transport Ltd are respectively owners and occupiers of land at 1 and 15 Spartan Road, part of which is within the designation boundary of the proposed active mode bridge crossing. The site provides onsite parking for a fleet of 70 purpose-built vehicles for line haul, short haul and metro services, 100 passenger vehicle carpark spaces in conjunction with 3950 m^2 of refrigerated storage and cool store, for storing and loading containers for domestic and international export.

49. The transport evidence from Mr Parlane (for Silverfin) and Mr McKenzie (for Halls) was that closing the existing level crossing has significant adverse transport effects requiring mitigation.[31] Mr Parlane considered that demand does not merit grade-separated active mode infrastructure to replace the level crossing, and that the existing at-grade crossing with automatic gates will suffice. If a grade-separated active mode crossing is considered necessary, Mr Parlane was of the view that a more physically compact alternative for an active mode bridge should be adopted.

50. Silverfin submitted that it is not sound planning to close the Spartan Road vehicle crossing and replace it with an active mode bridge, because there is little demand for an active mode bridge in this area.[32] Mr Parlane's evidence identified that current pedestrian use of the at-grade NIMT crossing at this location, while regular, is modest.[33] Mr Parlane considered that retention of the existing at-grade crossing will sufficiently provide for the likely level of demand on the basis that there will still be regular opportunities for pedestrians to cross the NIMT, and that the existing level of safety at modern gated at-grade pedestrian crossings is already high.[34]

51. Silverfin further submitted that the benefits of a grade-separated active mode bridge at Spartan Road do not justify the costs and noted that a benefit-cost ratio was not produced for Spartan Road in isolation from the remainder of the TLC Project.[35]

52. In response, Auckland Transport submitted that economic efficiency was considered at a combined 'system' level rather than for individual crossings. This was appropriate given that the disbenefits of level crossings are experienced at a system-wide level. The business case underwent regular scrutiny via standardised Te Tupu Ngātahi approval steps and decision gateways to ensure that a rigorous process was followed in arriving at the recommended options.[36]

53. Despite the above differences in principle on the future of the crossing, the parties explored several potential design iterations for the physical form of an active mode bridge. The lodged design included a switch-back ramp configuration with ramps arranged parallel to the NIMT, and largely accommodated in the north-eastern part of the

[31] Parlane SoE at [6.5]
[32] Silverfin Capital Ltd legal submissions at [3.4].
[33] Parlane SoE at [4.3].
[34] Parlane SoE at [4.3].
[35] Silverfin Capital Ltd legal submissions at [3.4].
[36] Murray Hearing Summary at [5.21]- [5.25].

Silverfin/Halls site. The final iteration contained in Appendix E shows the ramps in a similar configuration but relocated to be within the existing legal road. The northern part of the Silverfin/Halls site was still required for the road turning head and for temporary construction areas.

Great South Road right turn

54. A consequence of the closure of the level crossing was a change to the northbound traffic movements from the Silverfin/Halls site. There is currently no right turn from Spartan Road into Great South Road, so that the existing northbound journey from the site is initially east from the site over the level crossing, thence via Oakleigh Avenue and Manuroa Road to a light controlled right turn on to Great South Road which provides for a northbound access to the Southern Motorway, at an overall diversionary distance of 1.8km.

55. The proposed new route for heavy vehicles would be via a left turn into Great South Road, thence east along Manuia Road over the proposed bridge and around the proposed roundabout back west along Manuia Road to a light controlled right turn on to Great South Road and the motorway as existing. The overall diversionary distance for this journey is 1.7km. We note that light vehicles would be able to undertake a U-turn on Great South Road to access the northbound motorway onramp, thus avoiding the Manuia Road loop.[37]

56. Silverfin and Halls transport experts considered that the new diversionary route created significant adverse effects for the northbound journeys from the site.

57. Auckland Transport advised that they have actively consulted with NZTA, the Requiring Authority for SH1 and the area covered by the Great South Road/Spartan Road intersection, on the possibility of implementing a condition requiring a right turn from Spartan Road to Great South Road.[38] NZTA has concerns in relation to this right turn and is unable to commit to a right turn at this time. Auckland Transport also advised that there is also no legal jurisdiction for them to impose a condition on NZTA in relation to an NZTA designation. This was acknowledged at the hearing by Silverfin's counsel.

58. Although Auckland Transport's position was that providing a right turn is not necessary to mitigate adverse effects from closing the Spartan Road level crossing, it has proposed a condition on NoR 1 of the TLC Project to explore opportunities to improve access for northbound vehicles from Spartan Road to Great South Road as part of detailed design.

[37] Sang Rebuttal SoE, at [4.6]
[38] Sang Rebuttal Evidence, at [4.8] and [4.9]

Council s42A evidence

59. Mr Peake provided a review of both the active mode bridge designation and the consequential traffic effects for the network, including the right turn from Spartan Road. A summary of Mr Peake's advice is:

(a) He supported the overall move away from level crossings, given the increase in both rail and road traffic, noting the increased periods that active modes would not be able to cross the rail line, leading to increased risk of non-compliance.[39] He agreed with Auckland Transport that the benefits of the active mode bridge needed to be considered on a network wide basis;[40]

(b) Mr Peake concurred with the assessment in the ATE on the active mode bridges and responses provided by Mr Murray in response to questioning at the hearing.[41] He considered that the active modes bridge is required to meet the Project Objectives, including to provide mode choice for active modes to travel to nearby land uses such as employment, the shopping centre north of the Takanini Interchange and to the cycle path alongside the motorway.

(c) With respect to the matter of the right turn from Spartan Road to Great South Road, Mr Peake concurred with Ms Sang that there are potential safety and operational issues with the provision of the right turn movement from Spartan Road. He considered that without further investigation or assessment that it would not be appropriate to include the provision of the right turn as the mitigation measure.[42] He also noted that the intersection is within the NZTA designation jurisdiction.

(d) Mr Peake agreed with the inclusion of a condition for Auckland Transport to pursue the right turn matter during detailed design. He also recommended that a condition be included to require a safety and operational assessment of the diversion route for traffic from Spartan Road.[43] Auckland Transport's position on this second matter was that the condition was unnecessary as safety is required to be considered in the NIMP and safety audits and safe-system design is a standard part of Auckland Transport design practice.

Findings

The need for closure of the existing level crossing

60. We accept Auckland Transport's evidence that the optioneering process confirmed that Spartan Road cannot remain in its current form as the main access to the Takanini

[39] Closing Memo from M. Peake at [6.8]
[40] Closing Memo from M.Peake at [6.7]
[41] Closing Memo from M.Peake at [6.8]
[42] Memo from M.Peake, s42A closing at [6.21]
[43] Memo from M.Peake, s42A closing at [6.23]

industrial area and that closure of the Takanini level crossings, including Spartan Road, is also necessary from a rail network safety and capacity perspective.

The need for a replacement grade-separated active mode connection

61. We accept the evidence for Auckland Transport that there is a strong case to provide an active mode crossing at Spartan Road on the basis that:

    (a) demand for east-west active mode trips at Spartan Road is likely to grow over time;

    (b) there are clear opportunities to connect with the wider active mode network; and

    (c) in the absence of an active mode crossing, pedestrians and cyclists wishing to cross the NIMT in this location would be expected to divert a distance of 600m to the south via the planned Manuia Road crossing.

Location and form of active mode bridge: alternative solutions

62. We support the initiative from Silverfin/Hall that the bridge should be located wholly or largely within the legal road, and the response from Auckland Transport on redesign. We find in favour of the designation boundary as depicted in Appendix E. [44]Transport effects of closure of Spartan Road: provision for a right turn condition

63. We accept the evidence of Ms Sang for AT that the detoured route required for northbound trucks with the TLC Project in place does not represent an adverse effect on access compared to that expected future environment.

64. We support the proposed condition on NoR 1 of the TLC Project to explore opportunities to improve access for northbound vehicles from Spartan Road to Great South Road as part of detailed design.

65. We do not agree with Mr Peake that the relevant condition should be amended to require a safety and operational assessment of the diversion route for traffic from Spartan Road as such assessments are part of the NIMP. Spartan Road Crossing (NoR 1): New Zealand Steel Limited / Steltech Structural Limited

The proposal

66. As noted above, NoR 1 provides for the existing NIMT level crossing at Spartan Road to be closed with provision of a new active mode bridge crossing. The portion of Spartan Road to the east of the NIMT will be formed into a cul de sac adjoining the proposed active mode bridge. Steltech (a subsidiary of NZ Steel) is located at 16 Spartan Road adjoining the northern side of the proposed new cul de sac.

[44] We note that on 7 October, 2024, after the hearing had closed, we received a memorandum from Auckland Transport advising that an amended designation boundary had been agreed between the parties. We are not able to take that into account in this recommendation, but can we indicate that we would have supported this amendment.

67. Currently, trucks from the NZ Steel Glenbrook Steel Mill access the site via Great South Road and then turn left into Spartan Road. Trucks navigate the site in an anti-clockwise direction. Trucks exiting the site turn left onto Spartan Road if their outbound journey is to the north, for the reasons previously set out above in relation to the Great South Road right turn restriction.

68. Ms Sang described the changes to the existing journeys for trucks entering and exiting the site as follows:[45]

> *For trucks entering the site, they will be rediverted to use the Manuia Road bridge, Oakleigh Avenue and right turn into the site from Spartan Road. This is approximately 1km longer in distance. For existing [sic] trucks, accessing SH1 southbound will be shorter by approximately 350m as vehicles can now use the Manuia Road bridge instead of Manuroa Road. I note in both scenarios, trucks will no longer have to wait at the level crossings where barrier downtime will increase in the future, and average delays of up to 4 minutes may be experienced. In this context, I consider accessibility for the site remains relatively similar, with the additional 1km to be acceptable.*

69. To this description we note that for exiting northbound SH1 trucks the route is similar to, but shorter than, that currently, with the substitution of Manuia Road bridge instead of the Manuroa Road level crossing.

Submitter's case

70. Steltech is a highly specialised operation including the design and manufacturing of welded steel beams. As part of this, Steltech requires the use of specialised over-dimension vehicles for the transport of the steel beams from the site.

71. Steltech's primary concern is with ensuring maintenance of its accessway to the site, as circulation of its specialised vehicles have specific dimensional requirements to preserve this movement. Secondary concerns were raised about the location of the active mode ramp and conflict with vehicle movements, parking effects at the front of the site and about the risk of anti-social behaviour associated with the future users of the active mode bridge.[46]

72. Ms Lampitt also submitted that the extent of the designation over the Steltech frontage was not reasonably necessary in terms of section 171(1)(c) to achieve the Project Objectives for the Spartan Road active mode bridge. She stated that it was not clear from the application documents whether the extent of designation was for construction purposes or for design flexibility. In any event, she considered that the case had not been made for either reason. Ms Lampitt included a figure in her submission depicting

[45] Sang SoE at [10.70]
[46] Lampitt submissions at [6 to 8]

an amended designation boundary which required a much-reduced part of the Steltech frontage for the Project.

73. From the submissions and expert transport evidence presented during the hearing it is clear to us that significant effort had been expended by all parties in quantifying the access constraints presented by the active mode bridge proposal and identifying options to address these constraints, however no resolution acceptable to all parties was found.

74. The Steltech legal submissions included amendments to proposed conditions to address its concerns, including amendments to the future Outline Plan on access dimensions and separation distances between the access and the ramp, consultation with the landowners and occupiers of the site, parking provisions, site security, and amendments to the CTMP again including access dimensions.

75. Auckland Transport's closing legal submissions advised that since the hearing, the Project team has continued to refine the proposed designation and Project design adjacent to the Steltech site.[47] This alternative design, as depicted in Appendix E, shifts the NoR boundary away from the site's operational area, whilst allowing for the designation to tie-in to the existing driveway and any new gate that may be required in the future. The Project team also met with Steltech to discuss this revised design and their outstanding concerns. Auckland Transport's understanding is that the revised designation boundary assisted to resolve Steltech's concerns, but these concerns were not entirely resolved in the absence of Steltech's preferred conditions provided in their legal submissions.

76. In relation to conditions, Auckland Transport has also proposed an additional condition to ensure the Spartan Road cul-de-sac east of the NIMT is designed to ensure safe and effective vehicle access to the Steltech site once the Project is operational, as necessitated by its existing accessway and use of specialised vehicles. This condition is as follows:

> ***"Spartan Road East Design and Access***
>
> *The Outline Plan shall demonstrate how the cul-de-sac on Spartan Road east of the NIMT will be designed to:*
>
> *(a) Provide safe separation for users of the active mode bridge between the bridge stair and ramp landings and accessway to 16 Spartan Road; and*
>
> *(b) Provide safe and effective vehicle access to the properties accessing the turning head of the cul-de-sac, including for specialised vehicles accessing 16 Spartan Road up to a maximum vehicle length of 27.9m."*

[47] Evitt Closing Legal Submissions, at [8.24]

77. In order to address Steltech's concern regarding lack of consultation on CTMP matters Auckland Transport has amended the relevant proposed CTMP condition to require the CTMP to include (we note that this applies to all property access matters):

> *(vi) methods to maintain access to and within property and/or private roads where practicable, or to provide alternative arrangements when it will not be including details of how access is managed for loading and unloading of goods. Engagement with landowners whose access is directly affected shall be undertaken in accordance with condition 11(b)(viii);*

78. With the amended designation boundary and the additional conditions above, it was Auckland Transport's position that only three matters remain in contention. Its submissions on each of these is as follows:

79. Access to the Steltech site and parking during construction: Auckland Transport maintained the view that the proposed CTMP includes specific mechanisms that will ensure access and parking is maintained, or a suitable alternative is provided. The CTMP must expressly provide for methods to maintain access to and within properties, or to provide alternative access arrangements when not practicable. Ms Sang also explained in her primary evidence that details of impacted car parks at the construction phase will be managed in direct consultation with the landowner.[48] The conditions also require that the SCEMP identify methods to engage with stakeholders regarding access during construction. As an affected occupier / business operator, Steltech would also be engaged with on this issue.

80. Certainty about provision for the over-dimension route: Auckland Transport advised they understood Steltech now acknowledges that the proposed Oakleigh Avenue / Manuia Road roundabout will provide a suitable over-dimension route based on the tracking information provided. However, they seek certainty via an addition to the Project Description or Concept Plan to secure this outcome in the future.

81. Auckland Transport advised it does not consider it necessary to include a provision in the Project Description or the Concept Plan to provide this certainty. The business case and project design has proceeded on the basis that the roundabout will provide the over-dimension route for the Takanini Industrial Area. Ultimately, the Project cannot be successfully implemented in the future without Oakleigh Avenue / Manuia Road roundabout providing for the existing over-dimension route.[49]

82. Concerns about anti-social behaviour: As noted above, Steltech's submissions included safety concerns for pedestrians due to the active mode bridge terminating close to an accessway utilised by heavy vehicles. Steltech also considered that increased pedestrian activity raises the risk of antisocial behaviour. Auckland Transport has proposed a designation boundary adjustment which would reduce the extent on the Steltech site, consequently securing the southward design change (along with the

[48] Sang SoE at [10.52]
[49] Evitt Closing Submissions at [8.32-33]

proposed new condition). The remaining proposed designation extent is a temporary construction requirement associated with gate and fencing reinstatement and the permanent requirement would be negligible.

83. Auckland Transport also consider that in their view any safety and anti-social behaviour concerns associated with the Project will be appropriately mitigated through the proposed condition set. The ULDMP requires provision of details of how the project promotes a sense of personal safety by aligning with best practice guidelines such as CPTED principles.

Council s42A evidence

84. Mr Peake's evidence addressed several of the Steltech concerns. Mr Peake:

a) supported an additional site-specific access and circulation condition in relation to Steltech's specialised vehicles;

b) considered that the CTMP condition was sufficient to address access during construction;

c) proposed a site-specific condition on construction-related parking effects; and

d) noted that the alternative arrangement proposed by Auckland Transport addressed safety concerns for pedestrians and cyclists and considered a condition requiring separation from the heavy vehicle access was not necessary.

Findings

85. Our findings on the Steltech submission and the matters addressed by Mr Peake are as follows.

86. Extent of designation: The extent of designation has been reduced and we note that the extent depicted in Appendix E is very similar to that sought by Steltech in its submissions and evidence.

87. Ensuring appropriate long term access to the site: We are satisfied that the new proposed condition headed 'Spartan Road East Design and Access" as described above is appropriate to provide for long term access to the site.

88. Preparation of CTMP to include consultation with Steltech: This is now provided for through proposed CTMP condition.

89. Access and parking during construction: We accept the evidence of Auckland Transport that the proposed CTMP includes specific mechanisms that will ensure access and parking is maintained, or a suitable alternative is provided. We also note that the conditions require that the SCEMP identify methods to engage with Stakeholders regarding access during construction. As an affected occupier / business operator, Steltech would be engaged with on this issue. We do not agree with Mr Peake's view

that an additional sub-clause in the CTMP condition is required to address this effect, and further that the reduced designation boundary appears to much reduce effects on parking.

90. Provision for an over-dimension roundabout at Oakleigh Avenue / Manuia Road: We accept Auckland Transport's evidence that Steltech now acknowledges that the proposed Oakleigh Avenue / Manuia Road roundabout will provide a suitable over-dimension route based on the tracking information provided. We do not consider an addition to the Project Description or Concept Plan is necessary to secure this, based on the evidence of Auckland Transport. We also do not consider a site-specific condition with regards to ensuring that vehicles are able to re-circulate would be appropriate due to the unique nature of the vehicles involved as recommended by Mr Peake, noting that this recommendation was made prior to further engagement between Auckland Transport and Steltech on this issue.

91. Safety and anti-social behaviour considerations: With regard to safety of pedestrians and cyclists with the position of the ramps, we note Auckland Transport's proposed alternative arrangement of the ramps for the active mode bridge which provides separation to the vehicle crossing at 16 Spartan Road. We accept the proposed additional Outline Plan condition that addresses adequate separation between vehicles and the ramps and the safety of pedestrians and cyclists.

92. We accept the evidence of Auckland Transport that any safety and anti-social behaviour concerns associated with the Project will be appropriately mitigated through the proposed condition set. Also the ULDMP requires provision of details of how the project promotes a sense of personal safety by aligning with best practice guidelines such as CPTED principles.

Manuia Road Crossing (NoR 1) Multiple Submitters

The proposal

93. There is currently no existing east-west corridor / level crossing across the NIMT in this project area. The proposal includes:

a) construction of a new arterial road bridge across the NIMT accommodating two lanes (one in each direction) and separated active mode facilities;

b) construction of new arterial road corridors tying into either side of the bridge (east and west of the NIMT) accommodating two vehicle lanes (one in each direction) and separated active mode facilities;

c) retaining / abutment walls (either side of the NIMT);

d) reconstruction of the existing cul-de-sac at Hitchcock Road (east of the NIMT) to tie into the new intersection roundabout at Oakleigh Avenue / Manuia Road / Hitchcock Road and upgrade with active mode facilities and tie in works;

e) existing Manuia Road will be reconfigured into an access lane for remaining properties, tying in with the new Manuia Road corridor / bridge (west of NIMT); and

f) upgrade of the existing Great South Road / Challen Close / (new) Manuia Road intersection to provide for signalisation, footpath upgrades and tie in works with the existing roads.

94. Auckland Transport's opening submissions and evidence of Mr Winter[50] and Ms Cottrell[51], was that a crossing to serve the Takanini industrial area was an essential part of the TLC Project alternatives assessment as we have addressed above in the alternatives section. As noted in Mr Winter's rebuttal evidence:[52]

a) The projected increase in the level crossing barrier closure time resulting from greater train frequencies enabled by the City Rail Link (up to 70% of the peak hour at Spartan Road by 2031) means that the Takanini industrial area cannot be adequately served by the existing level crossings at Spartan Road and Manuroa Road. A grade-separated connection was therefore identified as essential to the future viability of the industrial area;

b) The location for a grade-separated road crossing to serve the Takanini industrial area was one of the anchor decisions in the optioneering processes. The Manuia Road crossing will provide this main point of access, including for freight and over-dimension vehicles. Road grade separation at Spartan Road was not feasible due to the proximity of the motorway interchange, and road grade-separation at Manuroa Road was not appropriate due to the high volume of heavy vehicles that would traverse a residential area as a result. Accordingly, the provision of a new crossing between Spartan Road and Manuroa Road was recommended, and this subsequently became known as the Manuia Road bridge;

c) The preferred location and alignment for the Manuia Road bridge between Spartan and Manuia Road was identified through two sequential MCA processes. The first was to identify the general location for the crossing and confirmed that Manuia Road was broadly preferred as it served the industrial area directly and was sufficiently far south to avoid conflicts at the motorway interchange. The second MCA was a more localised granular assessment to identify a specific alignment. Ultimately the processes resulted in the identification of a preferred alignment running in a straight line crossing perpendicular between the intersections of Manuia Road / Great South Road / Challen Close to the west; and the intersection of Oakleigh Avenue / Hitchcock Road to the east.

[50] Auckland Transport Opening Legal Submissions at [12.10]; Winter Rebuttal SoE at [4.3]
[51] Cottrell SoE at [8.1]-[8.4]
[52] Winter Rebuttal SoE at [4.3]; [4.11]-[4.13]

95. The second MCA considered a wide range of criteria in identifying the preferred location and alignment for the Manuia Road bridge. As noted in Mr Winter's hearing summary and discussed during the hearing, the key advantages of the preferred option were:[53]

a) optimal connections to existing intersections at either end of the bridge, in particular the ability to connect directly to the existing Oakleigh / Hitchcock intersection at the eastern end, and in doing so avoid the need to provide for multiple property accesses as 'legs' on the intersection;

b) the ability to achieve the necessary clearance over the NIMT as well as a straight-line crossing, which would have benefits in terms of cost and construction risk, as well as urban design benefits in terms of legibility, and the ability to delineate between industrial land use to the north and residential land use to the south; and

c) avoidance of the need to fully designate and acquire eighteen dwellings on Portrush Lane.

96. Auckland Transport advised that in response to the submissions made and engagement, further retesting of design refinements has been undertaken within the proposed designation boundary. The design and alignment of the bridge crossing and roundabout location in this area has been the subject of careful and considered attention leading into the hearing.

Submitter's case – Big Rock Commercial Ltd and Matthew Koppens Limited

97. Mr Koppens presented evidence for himself and his partner Denise Ibbett. He advised that the property at 26 Oakleigh Avenue is owned by Big Rock Commercial Ltd, of which he is the Director and Denise is a shareholder. Mr Koppens is also the owner/operator of Matthew Koppens Ltd – an earthmoving and drain laying business operating from the site, which has 1-2 employees with work throughout Auckland, but predominantly in the south and central parts of the region.

98. Mr Koppens advised that their building at 26 Oakleigh Avenue was purpose-built by his father in 2010, being a modern tilt-slab construction, designed with low maintenance costs and many features included specifically to suit his business. The building is divided into two parts, of which his business utilises two thirds with the remaining third being leased out. The Koppens have had an excellent long-term tenant, which is an essential source of secondary income when the economy is poor and times are tough. Consequently, Mr Koppens considered that the building and its location are essential in the running of his business, in terms of both efficiency and income, now and into the future.

99. Mr Koppens noted the following adverse effects on him from the proposed designation and his concerns with the NoR process:

[53] Winter hearing summary at [4.13]

a) the proposed bridge will require his entire property to be acquired by Auckland Transport;

b) Auckland Transport appear to rely on compensation through the Public Works Act as an acceptable solution to the designation of his land and building, and do not seem to otherwise account for the negative impact of the Project on landowners like himself;

c) in attempting to estimate a compensation payment for a like-for-like property in this area, he advised that he has been in contact with various experts in commercial real estate (both privately and along with an Auckland Transport representative) and has been told that there are very few to no alternatives;

d) consequently, it is likely he will have to move out of the area, operate from a building that doesn't suit his needs, including those of his tenant, or shoulder the extra costs of a new-build - possibly all three; and

e) the process has resulted in immense personal stress and anxiety, exacerbated by the long and vague time-frames for the project (including the 15 year lapse period).

100. Mr Koppens also considered that alternative routes and alignment options have not been considered thoroughly enough and that the situation of the landowners and use of the land required has not been appropriately assessed.

101. Mr Koppens' transport expert, Mr McKenzie proposed an alternative solution which proposes a further northwest shift to the Oakleigh Avenue roundabout, which could reduce impacts on the submitters' site.

102. In its closing submissions, Auckland Transport advised that the Project team has been unable to identify a feasible alternative design that would effectively avoid the submitters' site whilst also accommodating the necessary over- dimension requirements at the Oakleigh Avenue intersection, provide access to existing industrial sites, and accommodate compliant ramp gradients within the proposed NoR boundary.

103. Auckland Transport considers that Mr McKenzie's alternative design for the Manuia Road crossing is not feasible.[54] It considered that the design would make for a highly complex intersection with a number of movements into properties that other motorists may not anticipate. The access points to both 38 and 39 Oakleigh Avenue are gated due to security requirements, so vehicles wishing to access the properties would need to stop within the roundabout itself while gates are opened. The Project team remains of the view this would be a poor outcome, particularly for a freight / over-dimension route. There may also be NoR scope issues that arise given the shift in effects onto other adjacent properties.

[54] Evitt closing submissions at [9.5]

Discussion and finding

104. We acknowledge the significant effects on Mr Koppens arising from this NoR process and sympathise with him regarding the position he is in. We questioned Auckland Transport witnesses carefully at the hearing regarding the need for the proposed Manuia Bridge to be located such that it required full designation of Mr Koppens' site. We accept the expert evidence from Auckland Transport that it has been unable to identify a feasible alternative design that would effectively avoid Mr Koppens' site whilst also accommodating the various transport related requirements at the Oakleigh Avenue intersection. [55]

Submitter's case Tahua Partners Limited – Popeyes Restaurant

105. The Tahua site is at 106 Great South Road Takanini on the corner of Great South Road and Manuia Road. Tahua has recently established a drive-through restaurant (under the Popeyes brand) on the property.

106. Ms Redward's planning evidence for Tahua sought that the Project is modified to have a safe and legible vehicle access point from Manuia Road to Tahua's property similar to the existing arrangement. Tahua's property is accessed from Great South Road via a priority-controlled intersection and thence the existing Manuia Road. The Project proposes a 'new' Manuia Road to join Great South Road just to the north of the existing Manuia Road entrance. The existing Manuia Road in turn is reconfigured to be accessed from the 'new' Manuia Road rather than Great South Road.

107. Ms Sang considered that the key issue requiring resolution is certainty that a right-turn can be provided from the new Manuia Road into the existing Manuia Road for the Tahua Property (and neighbouring properties).[56]

108. Ms Sang noted that there is space within the designation to allow for a right turn bay on the new Manuia Road into the existing Manuia Road. In order to protect this outcome, Auckland Transport have recommended a new condition on NoR 1 for the TLC Project which requires that the Outline Plan demonstrate how a right turn bay can be provided into the existing Manuia Road for eastbound traffic, or alternative.

109. Auckland Transport have advised that Tahua Partners were satisfied with this proposed condition although they had an outstanding concern regarding engagement if the access cannot be delivered and request a specific advice note to this effect. Auckland Transport does not consider this advice note to be necessary because the proposed access condition will be engaged and require consultation if access to the site is to be altered.[57]

[55] We are pleased to note that since the hearing, Auckland Transport advised that it has continued to explore property acquisition options with Mr Koppens and aid in obtaining further independent advice.
[56] Sang rebuttal SoE at [4.41]
[57] Evitt closing submissions at [9.7]

Council s42A evidence

110. Mr Peake advised that whilst he was generally supportive of the proposed condition, he was concerned about the safe and efficient operation of the right turn and accordingly recommended an amendment to the proposed condition.

111. Auckland Transport did not accept Mr Peake's amendment for the following reasons as it considered that safety and operational considerations are part of any traffic design process and that any potential conflicts would be considered and managed accordingly.

Discussion and finding

112. We accept Auckland Transport's evidence that suitable access to the site can be provided and this is mandated by way of the proposed condition. We also agree with Auckland Transport that an advice note on access is not needed as this is addressed by the proposed property access condition. Further, we also accept Auckland Transport's reasons for not modifying the condition as recommended by Mr Peake.

Taka Street Crossing (NoR 1) Z Energy Ltd

The proposal

113. The Taka Street upgrade comprises closure of the existing level crossing and replacement with a new grade-separated road crossing (bridge) across the NIMT. It also includes construction of arterial road corridors tying into either side of the bridge and existing intersections (east and west of the NIMT). The new bridge and approaches will accommodate one vehicle lane in each direction and active mode facilities.

114. The Z Energy site is located on the southeastern corner of the signalised intersection of Great South Road and Taka Street. It has an attached Burger King Restaurant that has a drive through queuing lane that extends from the eastern edge of the Taka street access to the rear of the Burger King building.[58]

115. The site is affected by two NoRs. FTN NOR 1 proposes to designate 220m^2 of the site's Great South Road frontage. TLC NOR 1 proposes to designate approximately 755m^2 of the site's Taka Street frontage. Within these proposed designation boundaries, physical road upgrades are proposed (e.g. cycleways, footpaths, new road lanes, cut / fill), as shown in the General Arrangement Layout Plans for the respective NORs.

116. Prior to the hearing in response to submissions, and subsequent to expert conferencing between the parties, the proposed entrance from Taka Street was revised by Auckland Transport. The design now provides a separated access to Z Energy and the neighbouring sites to the east, including that of Oceania Healthcare's site, whilst also providing connections further east (to Takanini Road) and to the northern Taka Street access way.

[58] Trieu SoE for explanation of rebuild following fire at [35]

Submitter's case

117. Z Energy has three areas of concern as outlined by Ms de Groot in her submissions which we address as follows.[59]

118. Extent of designation – impacts on tanker standing position: Auckland Transport have advised that the Project team also identified further potential changes to the proposed designation boundary at the Z Takanini site in response to Z Energy's concerns that the boundary would cross the standing position of its tankers and constrain its ability to manage spills. During the hearing, Z Energy appeared to confirm that this boundary adjustment resolves this part of its submission.[60]

119. Ms Sang reviewed the tracking shown in Mr Brown's evidence and considered that the paths of vehicles do not traverse over the indicated permanent works.[61] She acknowledged that there is some uncertainty where the extent of the permanent works will be, as detailed design will be completed in the future. She is of the opinion that the Existing Property Access condition and the CTMP condition will be able to appropriately manage this so that suitable access is provided. The Existing Property Access condition requires the Outline Plan to demonstrate how a safe access will be provided. If the permanent works do extend into the path of the tankers, this will result in the access no longer being safe. She also noted that the designation boundary does not represent the edge of permanent works. We understand the relevance of this is that the designation includes areas of the site necessary for construction, but not afterwards.

120. Burger King drive-through length: Z Energy raised concerns regarding the reduction in length of the drive-through access lane for the Burger King restaurant. As a result, Mr Brown for Z Energy presented an alternative access arrangement for the site, which would require alterations to the proposed designation boundary (including full designation of the neighbouring church site).

121. Ms Sang's assessment was that the overall effect on the drive-through amounts to the loss of one to two queuing spaces, and that the space remaining could still achieve a drive through length comparable to other Burger King sites around Auckland.[62] Ms Sang noted she has not been able to observe how it operates as the Burger King is not currently operating.

122. The evidence of Mr Winter was that this effect did not reach a level of significance meriting further consideration of alternatives beyond those already assessed, that Z Energy's proposed alternative requiring additional land by way of mitigation is not reasonably necessary.[63]

[59] De Groot submissions from [21]
[60] Evitt closing submissions at [10.14]
[61] Sang rebuttal SoE at [5.2]
[62] Sang summary SoE at [4.2]
[63] Winter rebuttal SoE at [4.38]

123. Auckland Transport's closing submissions addressed the end-of-hearing position on the submission. Ms Evitt submitted that the RMA statutory framework only allows Auckland Transport to require land that is reasonably necessary to achieve the Project Objectives, which includes land to mitigate effects of Project works. In this case, Auckland Transport's experts have not identified any reasonable effects-based justification for the extension of the NoR boundary onto the adjacent church site. Auckland Transport therefore considers it has no statutory authority to require additional property in terms of section 171(1)(c). Even if it did, Z Energy's proposal faces several jurisdictional hurdles given the part of the church site it has identified for so-called mitigation purposes is outside the current NoR boundary and therefore, the scope of our section 171 recommendation powers for NoR 1.[64]

124. Impacts on parking: Z Energy's concerns around the loss of car parks (and consequently, its concerns around the extent of the proposed designation at the Z Takanini site) remain. Mr Brown advised that a revised parking plan was shown to Z Energy by Auckland Transport at an online meeting (17 May 2024) following expert conferencing that showed the provision of some parking around the southern edge of the new drive-through lane.[65] He considered that this plan was a useful starting point for resolving the loss of the eight spaces, but fell short in maintaining the number of spaces presently onsite and support Burger King operations, with three spaces still being lost.

125. The Burger King restaurant has an existing parking issue with the demand exceeding the available supply. Mr Brown advised that it had not been possible to use historical CCTV footage to quantify the high parking demand for parking - as this footage was destroyed in the fire. Historical data provided by Burger King had allowed him to determine the parking demand which for the early evening peak period is 20-22 vehicles.

126. Mr Brown explained that the site had 18 parking spaces in the immediate vicinity of the drive-through lane for staff and Burger King customer parking, however four of these were difficult to access, being on the outside of the drive-through, and generally not used, even by staff. He agreed that the indicative yield of Auckland Transport's revised parking plan would result in the loss of approximately three parking spaces.

127. Based on his analysis, Mr Brown's opinion was that the loss of any parking spaces from the site will have a significant and adverse impact on the operation of Burger King and the site as a whole. This wider impact would be expected to include the use by Burger King customers of areas that should be used by service station customers (including the refuelling lanes in the forecourt), and the use of other areas that are not appropriate for Burger King parking (such as in the location of the remote fills, in circulation areas of the site and at or close to accesses).

[64] Evitt closing submissions at [10.6]
[65] Brown summary SoE at [13]

128. Auckland Transport responded through evidence from Ms Sang and Mr Winter. Ms Sang considered that:[66]

> *there are opportunities to replace some of the impacted car parks on site. This includes reconfiguring the site which will likely impact 3 out of the 25 car parks onsite. I therefore do not consider there is a need to use the adjoining land to mitigate this and any impacts on operations and the resultant property value can be addressed through the PWA process.*

129. Mr Winter' evidence was[67]

> *I remain of the view that a net loss of three parking spaces is not a significant adverse effect in the context of a site that currently provides for 22 spaces overall and noting that the loss of parking can be compensated under Public Works Act mechanisms.*

130. In addition to, and based on, the above environmental effects, Ms de Groot submitted that Auckland Transport's consideration of alternatives was not adequate.[68]

131. Auckland Transport closing submissions advised that Z Energy has indicated that the loss of car parking could be so significant to the site that it may not re-open the Burger King, and that it may compromise the site operation as a whole. Whilst acknowledging that the PWA provides statutory remedies for compensation, Auckland Transport also indicated that it is open to working with Z Energy on these matters.

Council s42A evidence

132. Mr Peake's comments on the extent of designation – impacts on tanker standing position were:[69]

> *Mr Brown stated at the hearing that this issue would be resolved with the Requiring Authority's suggested designation boundary adjustment. Two options were available and Mr Brown and the Requiring Authority expressed a preference for Option 2. I support the boundary adjustment and also consider that Option 2 would be preferable due to the simpler form of the boundary.*

133. Mr Peake considered that the reduction in the length of the drive-thru lane did not amount to an adverse effect due to the Project as the overall length of queue space is not materially changed within the site before queues reach the road reserve.[70]

134. Mr Peake's summary comments on parking were:[71]

[66] Sang summary SoE at [4.3]
[67] Winter summary SoE at [4.25]
[68] De Groot submissions at [27]
[69] Peake closing memo at [6.53]
[70] Peake closing memo at [6.54]
[71] Peake closing memo at [6.64 and 6.65]

The Requiring Authority considers that the Land Use Integration Process would enable the landowner to work with the Requiring Authority to develop a revised arrangement. However, from the work undertaken to date, a workable solution to avoid loss of car parking has not been found and thus, even if further work was to be undertaken in accordance with the condition there is no certainty of a solution. In that case the Public Works Act process would apply.

I consider that there is no certainty of a physical solution to avoid loss of car parking. Loss of parking would increase the frequency of excess demand for parking compared to the current situation and the effects may affect the safe and efficient operation of the Z-Energy site if customers park in inappropriate locations within the site. This could be addressed through the purchase of 7 Taka Street, although I acknowledge that this is outside of the NoR process.

Discussion and finding

135. Extent of designation – impacts on tanker standing position: We accept the evidence of Ms Sang that the Existing Property Access condition and the CTMP condition will be able to appropriately manage this so that suitable access is provided.

136. Burger King drive-through length: We accept the evidence of Ms Sang that the overall effect on the drive- through amounts to the loss of one to two queuing spaces, and that the space remaining could still achieve a drive through length comparable to other Burger King sites around Auckland. We also accept Mr Winter's evidence that this effect did not reach a level of significance meriting further consideration of alternatives beyond those already assessed and that Z Energy's proposed alternative requiring additional land by way of mitigation is not reasonably necessary. We also note Mr Peake's evidence that he did not consider the reduction in the length of the drive-thru lane is an adverse effect due to the Project.

137. Impacts on parking: The revised Auckland Transport parking plan of 17 May 2024 results in a loss of parking of at least three spaces (acknowledging that refinements to that plan might result in some changes to this number). Mr Brown and Mr Peake are of the view that this shortfall is a significant adverse effect. The Auckland Transport transport expert Ms Sang and planner Mr Winter dispute that characterisation. We have considered how best to evaluate the loss of three carparks and consider that this needs to be assessed in both a relative and absolute way.

138. In relative terms, the three car parks are to be lost from a total of 18 carparks. Mr Brown described four of the 18 as difficult to access and generally not used, but we will nevertheless count them in the total. Mr Sang considered the total number as 25 carparks however this adds the Z service station operation carparks, and we do not accept this as a valid total. Nor do we accept Mr Winter's total of 22 carparks. We find that three carparks is a significant loss relative to a total of 18 carparks.

139. In absolute terms, which we consider to be the actual effect on the Burger King operation from the loss of three carparks, Mr Brown provided data on lunchtime and evening usage for average and peak days. In terms of the usage at these times, only the parking demand on the average lunchtime would be unaffected by the loss of three parks (18 minus 3 being less than the 16 carparks demanded). We have considered whether Burger King is actually in a situation of 'over-development', in other words its current activities are too much for this site in terms of parking demand, and that three less car parks is not significant in this excess demand scenario. Mr Brown provided some evidence of this as part of current activities. However, we nevertheless consider that for current operations the loss of three carparks is a significant loss in absolute terms.

140. Based on this finding we consider that the loss of land due to TLC NoR 1 is at a level of significance as to make the site unworkable at or near current activity levels. Consequently, the loss of land is not able to be remedied through the application of the PWA to part purchase of the site. We therefore find that, pursuant to s171(1)(c), consideration of alternatives has not been adequate and that the site should be fully designated.

Walters Road Crossing (NoR 2) Multiple Parties

The proposal

141. NoR 2 at Walters Road proposes the closure of the existing level crossing and its replacement with a new multi-modal bridge crossing. The notified designation boundary affected a large number of properties on each side of the NIMT and consequently attracted a significant number of submissions. In response to submissions, the Project team revisited its options assessment and identified a further refined option for the Walters Road bridge alignment which would meet the Project objectives while also substantially dealing with the alignment and interface concerns. The parties involved included Takanini Village and Tonea Properties (NZ) Ltd (TVL and Tonea), plus Carters Building Supplies Ltd and Mead Trusts Holdings Ltd, Mitre 10 Mega Takanini Ltd, the Arborfield Trust and Takanini Home and Trade Limited.

142. Counsel for Auckland Transport and for the above parties provided us with a joint memorandum on 19 April 2024 describing and depicting a new agreed alignment. In summary that alignment involved:[72]

    (a) Realignment of the proposed Walters Road bridge to the south of the existing Walters Road alignment between Great South Road (to the west) and Arion Road (to the east). This realignment achieves a physical separation of at least 15 metres between the southernmost point of 30 Walters Road and the northern edge of the proposed bridge structure, whilst integrating with existing intersections at Great South Road and Arion Road to the west and east respectively.

[72] Joint memorandum of counsel regarding revised boundary alignment in relation to Takanini Level Crossings – NoR2 (Walters Road) 19 April 2024 at [2.3]

(b) Retention of the existing (at-grade) Walters Road alignment between Great South Road and the North Island Main Trunk (NIMT) railway to maintain access to properties to 6, 12, 20, and 20A Walters Road, and 230 Great South Road.

(c) Provision for an access road 'loop' connecting the existing Walters Road and Tironui Road to the west of the NIMT to maintain the connectivity of properties along the north of Walters Road (between Great South Road and the NIMT) to the wider road network, and to ensure vehicular access is provided to any residual land within the designation boundary to the south of the existing Walters Road.

The design did not preclude future reinstatement of a single-lane left-in access to the Takanini Town Centre at 30 Walters Road.

143. The design outcomes described above resulted in the full removal of the designation from 6, 12, 20, and 20 A Walters Road, and 230 Great South Road, and the partial removal of the designation from 30 Walters Road. The memorandum also included specific design and access requirements for the Outline Plan.

144. The agreement reached in the memorandum left a small number of matters outstanding to be addressed at the hearing, all of which related to the proposed conditions on the designation as discussed below. The interests of the parties referred to above were represented by counsel and experts engaged by TVL and Tonea.

145. We note that Sunlight Holdings Limited and South Auckland Marine Limited initially prepared a joint case with TVL and Tonea but did not agree to the proposed Walters Road realignment described above.

146. The outstanding matters to be addressed related to:

(a) the need for a site-specific condition regarding Arion Road / Walters Road access;

(b) engagement during management plan development; and

(c) the appropriateness of a geotechnical condition.

<u>The submitters' cases</u>

147. The first matter above was identified in the JWS on traffic attended by Auckland Transport, Council, TVL and Tonea transport experts as matters not agreed. Mr Hills records in the JWS that a specific condition is appropriate due to the importance and scale of the site, together with the limited access opportunities. Mr Hills supported his position in evidence noting that such is the importance of access to 30 Walters Road from Walters Road via Arion Road, both in terms of the local road network options and overall traffic movements, that it warranted a specific mention in the CTMP condition to address potential closure of the access.

148. The matter of engagement in (b) was addressed for TVL and Tonea in submissions by Mr Brabant. There was a general desire from the submitters for greater clarity and engagement on construction and operational effects.

149. The matter of the geotechnical condition in (c) was addressed in evidence for TVL and Tonea by Mr Beaumont. Mr Beaumont has significant experience with geotechnical investigations, design and monitoring in relation to the compressible peat soils in the Takanini Village locality. His evidence gave examples of the special measures to be taken into account for these conditions in building foundation design, such as piling for the proposed bridge in proximity to the existing village buildings. Based on the risk represented by these adverse soil conditions Mr Beaumont supported site-specific conditions in the Outline Plan.[73]

150. Sunlight Holdings Limited and South Auckland Marine Limited presented a statement at the hearing that continued to seek that NoR 2 be declined and that the impacts on their land at 1 – 3 Walters Road are removed. The statement included a description of the boat sales operation on the site that gave context to these requests and the alternative relief of greater certainty over timeframes and a commitment by Auckland Transport for early acquisition of the site.

Council s42A evidence

151. The Council provided evidence from Mr Peake and Mr Shorten on the transport and geotechnical matters above respectively. In each case, the Council witnesses supported the submitter's position on the need for site-specific conditions to address the potential effects.[74,75] Mr Shorten provided revised wording for the conditions proposed by Mr Beaumont.

Auckland Transport response

152. Auckland Transport witnesses addressed the outstanding matters in their rebuttal and summary statements. In relation to the matter of access to 30 Walters Road from Walters Road via Arion Road ((a) above), Ms Sang's opinion was that an additional clause was not necessary and that the issue can be suitably addressed by a qualified person preparing the CTMP in the future. On the general matter of engagement ((b) above) during implementation in terms of construction and operation matters as raised by Mr Brabant and addressed in evidence in more detail by Ms Kurzeja, Mr Scrafton considered that it was likely that TVL and Tonea would be involved in the development of the CNVMP, the CTMP and the UDLMP, thus providing sufficient opportunities to be informed and influence the implementation effects.

153. In relation to the additional geotechnical conditions, Mr Scrafton's primary reason for not supporting the imposition of these conditions was that they relate to future regional plan

[73] Beaumont SoE at [50]
[74] Peake Closing Memo 7 June 2024 at [8.5]
[75]

consenting processes where the design is detailed and geotechnical risks can be quantified. Mr Scrafton referred to Policy E11.3(6) of the AUP-OP on earthworks in relation to effects on the stability and safety of surrounding land, buildings and structures. Having viewed that policy we consider that E11 is more relevant to earthworks and soil conservation, whereas Policy E2.3(23), in relation to the dewatering effects of groundwater on buildings, is more likely to come into play for consents for bridge piling. That matter aside, they are both policies relating to regional consents.

Findings

154. The need for a site-specific condition regarding Arion Road / Walters Road access – we accept Mr Hills' characterisation that this is a significant access point for Takanini Village in terms of the local network and traffic numbers. However, the test is whether this significance warrants a site-specific condition in the CTMP. Whereas the design components that formed part of the memorandum for the alternative bridge alignment demanded explicit recognition and description, we consider that the access condition did not address a matter that was sufficiently different from the many property access scenarios that would arise during implementation of the NoRs. Consequently, we find in favour of not including a site-specific condition.

155. Engagement during management plan development – we find in favour of not including any site-specific references to engagement for the submitters. The reasoning for our finding here is consistent with that immediately above. TVL and Tonea are the most significant property-owning entities for engagement by Auckland Transport in the implementation of NoR 2. We accept Mr Scrafton's view that TVL and Tonea will be engaged in several of the engagement/management plan processes, the precursor for which is the identification of stakeholders in the SCEMP condition. We have reviewed the concerns raised by Ms Kurzeja but find that these can be addressed adequately by the various existing management plan wording.

156. The appropriateness of a geotechnical condition - it did not appear that the Auckland Transport witnesses on the geotechnical conditions, being Dr Burr, Mr Mason and Mr Scrafton disagreed with the risk assessment from Messrs Beaumont and Shorten, but that there was a more appropriate time to address the matter, that being during regional consents. We agree with that position.

157. Overall finding – We support the revised Walters Road multi-modal bridge design and commend the parties for working together to find a solution that largely resolved the concerns of most submitters. Residual concerns have been addressed above, except for Sunlight Holdings Limited and South Auckland Marine Limited. The revised design did not address the concerns of these parties, for whom the designation still takes in all their land and operations. Consequently, if the designation is confirmed in due course, they will be reliant on Auckland Transport and PWA processes to achieve greater certainty for their future. We note in the closing submissions that Auckland Transport is open to further discussions with the submitters regarding early acquisition of their property.

LOCATION SPECIFIC MATTERS – SOUTH FTN PROJECT- MULTIPLE PARTIES

Weymouth Rail Bridge/Alfriston Road Intersection (NoR 3)

The proposal

158. The replacement of the Weymouth Rail Bridge and upgrade of the Weymouth Road/Great South Road/Alfriston Road intersection as proposed by South FTN NoR 3 was the most complex aspect of the South FTN Project due to technical details of the project and the nature of the land uses and property interests in the locality. Collectively, the parties produced a great deal of evidence and legal submissions and required a significant amount of hearing time for the matter to be considered. Prior to the hearing, various solutions were provided by the parties regarding the proposed works and discussions took place on multiple occasions. The parties' experts also participated in expert conferencing to identify matters of agreement, to gain a better understanding of the requirements of the Project and constraints, and to discuss the details of alternatives.

159. For context on this matter, we note the following parties, their respective property interests and the proposed designation boundary extents, all of which are depicted on Figure 1:

a) The Southmall site is located north of Weymouth Road between the NIMT and Great South Road. It has a vehicle entrance to Weymouth Road mid-block (and other entrances further north and west via Great South Road, Station Road and Selwyn Road);

b) The KFC site is located on the southwestern corner of the Alfriston intersection with entrances from both Weymouth Road and Great South Road;

c) The Z Manurewa site is located on the southeastern corner of the Alfriston intersection with entrances from both Alfriston Road and Great South Road

d) The McDonalds site is located on the northwestern corner of the Alfriston intersection, with access from Great South Road (and internally from Southmall)

e) The lodged designation extent included full designation of the KFC site and the McDonalds site, and partial designation of the Southmall site and the Z site.

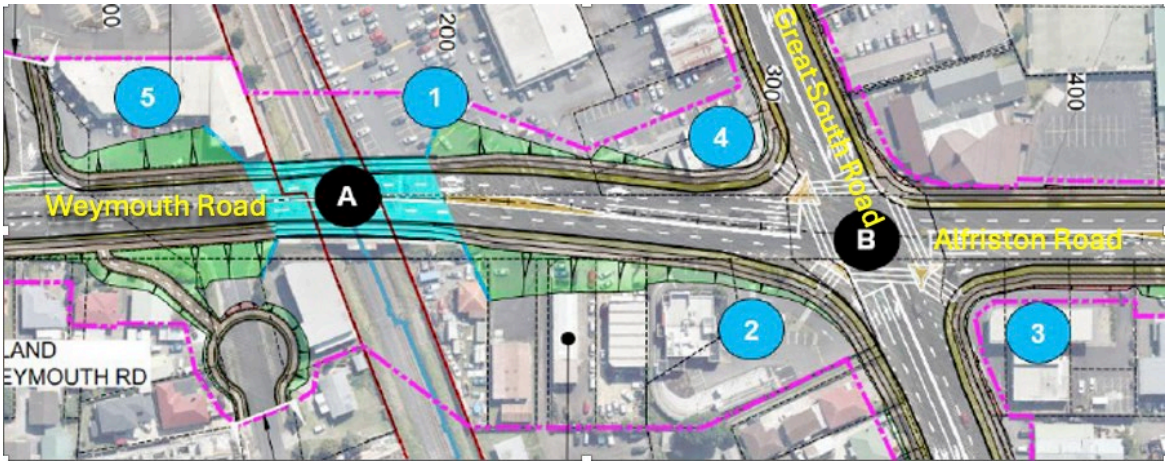

Figure 1: A= Weymouth bridge B= Alfriston intersection
1= Southmall; 2= KFC; 3= Z Manurewa; 4 = McDonalds; 5= 11 Weymouth Road retail complex

160. Following the production of evidence by Auckland Transport and the parties, the Project Team reconsidered the designation extent and existing flexibility for potential bridge alignment options in the lodged design. It consequently confirmed that a southern alignment provided the optimal outcome in terms of the space necessary to provide for Southmall's access requirements – in particular, the need to provide for left-in, left-out, and right-in movements, and for exiting trucks, whilst also reducing impact on other submitter properties. In this regard, a southern alignment also affords the opportunity to reduce the designation extent at the McDonalds site and the retail complex at 11 Weymouth Road. The revised alignment also ensured that properties south of Weymouth Road could be properly accessed. A site-specific property access condition was also proposed to provide for this outcome.

Submitters' cases with section 42A and Auckland Transport responses

161. Southmall – National Trading Company of New Zealand Limited (NTC) is the property owner of a New World supermarket located within Southmall. The NTC submissions raised concerns regarding the removal of the site's Weymouth Road access, the removal of carparking, the extent of land take and construction effects.

162. NTC acknowledged that the southward shift in the Weymouth bridge alignment was an improvement on the original bridge design, however remained concerned that the right turn out manoeuvre was not provided for (noting that this intersection currently has full vehicle access) and that the access was not signalised, as proposed by Mr Parlane. While acknowledging that the proposed designation does not preclude a signalised intersection as acknowledged by Mr Parlane during expert conferencing, Ms Devine submitted for NTC that certainty as to the future treatment of the access needs to be obtained now. She referred to a recent Environment Court decision that illustrated the shortcomings in relying on a future outline plan process for such a significant design feature.[76]

[76] Devine submissions at [3.14b] reference to *Barclay Management (2013) Ltd v City Rail Link Limited* [2024] NZEnvC 043

163. Mr Parlane proposed an alternative intersection design that was signalised and provided for a right turn out. In support of this design NTC considered:

a) It was critical to maintain full access to the core of the Manukau Town Centre and the Weymouth Road exit is important for traffic heading west;

b) The Selwyn Road entry/exit to Southmall is not secured as a long-term access point, particularly in the event of the four-tracking of the NIMT, at which time the bridge to Selwyn Road would need replacement;

c) The signalised intersection would mitigate the potential safety effects of requiring west-bound exiting traffic to cross multiple lanes of oncoming vehicles, improve visibility for that manoeuvre;[77]

d) The intersection can be signalised, notwithstanding the proximity of the Great South Road lights;

e) A signalised intersection requires a smaller land take, which would be more efficient in a highly constrained town centre location.[78]

164. Mr Edwards response to the Auckland Transport proposals was that he would have "significant concerns about adverse traffic effects that would be generated by the Project if a design like either of the RA concept designs (notified or amended) were to be implemented". We summarise Mr Edwards position as follows:

a) While he accepted that Mr Mason had demonstrated compliance with the Safe Stopping Sight Distance design speed, he considered that a longer stopping distance was required for new infrastructure, particularly with the down-hill grade and anticipated traffic volume;

b) Traffic turning right in or out of the Southmall access would need to move across two or more lanes. Auckland Transport have not precluded the right turn out as part of its design;

c) The new intersection creates a cross-roads with the new access to properties on the south side, generating the potential for vehicles travelling in each direction across the lanes of traffic;

d) He supported a signalised intersection as this would mitigate both the sight distance and turning-through-queues hazards introduced or exacerbated by the Project;

[77] Parlane SoE at [3.11]
[78] Devine submissions at [3.13b]

e) Whilst the relatively close spacing between intersections was not ideal, he considered that the new signalised intersection could be made to operate satisfactorily with the existing one at Great South Road.

165. Auckland Transport's closing submissions stated that its experts *"cannot support the alternative design proposed by Mr Parlane"* for reasons which we summarise being:

a) reduced arterial efficiency, as the all-movements intersection will be more complex to integrate with the Great South Road signals;

b) reduced bus lane efficiency, as the signalised intersection would "likely" need both lanes for west-bound general traffic, preventing a bus lane which is a fundamental objective of the Project;

c) they disagreed that the intersection required signalisation to mitigate short sight distances; and

d) the pedestrian crossing provided for by the signalised intersection is not needed.

Discussion and findings

166. The proposals for an upgraded rail bridge and Alfriston intersection are arterial projects tasked with achieving the Project Objectives we have set out above at paragraph [23], amongst them connectivity, safety, efficiency, improving travel choice and integrating with and supporting existing development. While arterial roads have as their prime function the efficient transport movements, where they pass through centres of activity such as Southmall they must also provide efficiently and safely for access to the land use within those centres. As a consequence, there will necessarily be a trade-off between the various Project Objectives we have recognised.

167. Auckland Transport made a significant contribution to achieving the Project Objectives with the southward shift of the bridge allowing a reduction in the extent of designation on the retail complex at 11 Weymouth Road to the west of the NIMT and to the McDonalds site as depicted in Appendix E. We find in favour of that designation boundary amendment.

168. We have considered the intersection alternatives proffered by Auckland Transport and NTC. The former emphasises the efficient functioning of the South FTN arterial network. The Auckland Transport case was that its option was superior in terms of arterial efficiency including the use of the arterial for buses, although we note that the bus lane shortcomings of the NTC alternative referred to in the closing submissions were tentative, not supported in evidence, and a probable matter for final design.

169. The NTC alternative had a greater focus on maintaining safe and convenient access to the site, but nevertheless providing for improved arterial function. The Weymouth Road access is an important access to the Southmall site, currently operating as an all-movements access. Irrespective of the future of the rail bridge access to Selwyn Road, we consider that the loss of the all-movement access at Weymouth Road is significant. More importantly, we find that the signalised intersection at Weymouth Road addresses safety concerns in relation to right turning movements, additional movements to and from the new 'fourth leg' of the intersection and potentially sight distances to the west. On the latter point, the evidence was not conclusive, however we choose to err on the precautionary side, as recommended by Mr Edwards. On the matter of whether a pedestrian crossing is provided as part of this intersection, we tend to agree with Auckland Transport that this should not be provided, with a more useful location being on the western side of the NIMT.

170. Auckland Transport emphasised that the designation boundaries, as amended, could provide in the future for either a prioritised or signalised intersection. For other sections of the NoRs considered in this recommendation we have left such design options for the future and final design as Auckland Transport suggest. However, in this case we consider that the transport effects of the project should be addressed now. Auckland Transport submitted that "*the need for a right-out turn is not an effect associated with the Project"*. We find that the loss of the right-out turn is a probable adverse effect of the project and one directly associated with the Auckland Transport design option.

171. We find that a signalised design option should be depicted in Schedule 1 of the South FTN conditions for NoR3 based on Figures 2 and 3 of Mr Parlane's summary statement (without pedestrian crossings over Weymouth Road) as the Concept Plan at a clear scale, and that a consequential amendment is to be made to the proposed access condition.

172. McDonalds – The designation boundary as lodged included all of the McDonalds site, which the company had submitted in opposition to. As noted, the southern bridge alignment allowed the designation to be removed from the site. Mr Parkinson for McDonald's confirmed to the hearing that the revised NoR 3 boundary is a significantly improved alignment and should be preferred to the originally notified alignment.[79]

173. Ms Evitt advised in the closing submissions that Auckland Transport had met again with McDonald's representatives and that McDonalds concerns about property access from Great South Road have been addressed and that this will be retained, and that boundary treatments will be addressed at final design through the ULDMP and PWA, if necessary.

[79] Parkinson summary SoE 31/5/24 at [5]

Finding

174. As noted above, we find in favour of the reduced designation boundary over the McDonalds site. Further, that the residual concerns on boundary treatments and reinstatement are well able to be addressed through the ULDMP.

175. Restaurant Brands Ltd – KFC Manurewa - The KFC site was fully designated by South FTN NoR 3 as lodged. Mr Malone presented legal submissions for the company introducing the case and also addressing statutory matters, which we address elsewhere in this recommendation. Mr Westhuizen had prepared an alternative road design for the Weymouth Road access to Southmall, based on amended Auckland Transport design, which he presented at expert conferencing on the matter. The key difference in the alternative design was the arrangement of right turn lanes and median islands on Weymouth Road that enabled the KFC site and accesses to be retained.

176. The Auckland Transport experts attending expert conferencing on this submission recorded the following concerns with Mr Westhuizen's proposal:[80]

a) The reduced safety and capacity of the shortened (opposing) right turn bays on Weymouth Road;

b) The right turn movements in and out of the reinstated KFC site on both Weymouth Road and Great South Road; and

c) The ability to construct the works on the northern site of the KFC site that allows adequate operation of the drive through.

177. While alternative access solutions for KFC were considered at the hearing, the Auckland Transport concerns remain and Ms Evitt advised in her closing submissions that the full designation of the KFC site was required in order to meet the functional requirements of Project.[81] She also noted that there was still the potential to reconfigure the KFC operation within the residual site and that Auckland Transport were willing to discuss the matter.

Finding

178. The Auckland Transport concerns expressed above are determinative of our finding on this matter. Further, we consider that those concerns would not appear to be addressed by the adoption of a signalised intersection. Accordingly, we find in favour of the designation remaining over the whole KFC site.

179. Notwithstanding that finding we consider that a further consideration of site entries and drive-through circulation, potentially involving a left turn in from Weymouth Road and the utilisation of the future new road to the west by KFC may provide a solution.

[80] JWS Planning and Transport South FTN NoR 3 at [3.10]
[81] Evitt closing submissions at [12.20]

180. Z Manurewa – The Z Manurewa site is affected by both South FTN NoR 1 and 3. The key remaining issues for the site, mainly relating to NoR 3, are the impact of the designation on Z Energy's existing underground fuel tanks and the compromised access to the site for Z Energy's fuel tanker. We note that the Z Energy submission addressed other concerns and that Auckland Transport had addressed these in part by a reduced designation boundary. Ms de Groot addressed the substantive remaining issues in her legal submissions and referred to the statutory tests, which we address elsewhere in this recommendation.

181. In relation to the extent of designation on the Z Energy fuel tanks, we received operational evidence from Mr Trieu about the location and aged state of the fuel tanks which would make them unsuitable for relocation.[82] There did not appear to be dispute between Auckland Transport and Z Energy that the tanks would need relocation, but the details and phasing of this, including potential short-term relining of the existing tanks, was a matter for future decisions. Auckland Transport acknowledged that it was an operational decision when and where Z Energy relocated the tanks within its site, but nevertheless it considered that it was appropriate for it to include sufficient land within the designation to mitigate the effect on the existing tanks through relocation.

182. On the matter of the right turn for fuel tankers to the site from Alfriston Road, Mr Brown's evidence explained that the right turn from east-bound tankers was an existing situation however the South FTN upgrade would mean that the turn was across three lanes into the site. The site configuration of accesses and tank location required that the access point be from Alfriston Road. Mr Brown described the right turn for a tanker as a high-risk situation. [83] Mr Trieu also considered that a left turn in was also unsafe due to the swept path requirements of the entering tanker. Mr Brown had undertaken a survey of vehicles using this right turn manoeuvre and concluded that it was well used.

183. The right turn matter was the subject of expert conferencing at which all attendees agreed that the proposed property access condition would consider methods to mitigate the transport safety effects. Notwithstanding that agreement, differences of opinion remained and Mr Brown expressing reservations about leaving the matter for a future design decision. Mr Edwards considered that there was potential for the right turn in to be banned in the future. Mr Brown's recommendation in evidence was that the number of lanes be reduced to lower the risk.

184. The closing position of Auckland Transport was well-summarised by Ms Evitt, characterising the probable nature of the right turn movement and the traffic conditions of the time of delivery. These considerations supported its view that the property access condition was the appropriate method by which to arrive at an acceptable solution.

[82] Trieu summary SoE at [20].
[83] Brown SoE at [131]

Findings

185. In relation to both residual concerns we find in favour of Auckland Transport position that the proposed conditions should be relied upon to provide solutions to these concerns. We agree that for the period between confirmation of the designation and construction that Z Energy will be able to utilise section 176 and the LIP condition to engage with Auckland Transport on the fuel tanks and that the property access condition is an appropriate method for the right turn matter.

Porchester Road Intersections (NoR 4): Zabeel Investments Limited, the D E Nakhle Investment Trust and Alda Investments Limited

The proposal

186. NoR4 proposes upgrades to Porchester Road between Alfriston Road and Walters Road to accommodate general traffic lanes, active mode facilities (i.e. walking and cycling facilities), and intersection upgrades. Not all of the upgrades required the widening of Porchester Road and the upgraded alignment was generally centred over the existing vested road.

Submitter's case

187. Submitters identified individually as Zabeel Investments Limited, the D E Nakhle Investment Trust and Alda Investments Limited (the Nakhle interests), but which were related entities and presented a combined case, have property interests at 164-166 and 354 Porchester Road. The submissions for each property focussed on the extent of the designation, however the land use and circumstances for each property were different.

188. Mr Nakhle's evidence was that Alda Investments had secured resource consents for two four-level apartment blocks containing 42 residential units on 164-166 Porchester Road, on the corner of Walters Road. Existing dwellings had been demolished and the site prepared for building. The company had signed a 10-year lease agreement with the Ministry of Housing and Urban Development/Salvation Army to provide social housing on the site. In relation to 354 Porchester Road, owned by Zabeel Investments Limited, Mr Nakhle advised that the site currently accommodates a Placemakers operation, a Mobil service station and a recently completed high-end logistics warehouse. Zabeel also proposed the development of a fast-food outlet on the site.[84]

189. Mr Nakhle detailed his concerns about the encroachment of the designation on land that was 'live-zoned' and was being actively developed in both cases for urban uses in accordance with the zoning.

[84] Nakhle SoE at [2.4 and 4.3]

354 Porchester Road

190. The Nakhle interests and Auckland Transport had engaged in expert conferencing for both properties. The JWS for that conferencing session indicated that little progress had been made at either location.[85] However, by the time the matter came before us, both parties had undertaken investigations to support compromise positions for 354 Porchester Road.

191. The centralised location of the upgrades over the existing alignment had been questioned by the Nakhle interests, which favoured an eastward translation of the proposal away from its urban zoned and developed land into the Future Urban Zone. Auckland Transport's rebuttal of that translation was that it would require the replacement of significant existing stormwater infrastructure on the eastern side of Porchester Road. The location of the road was a conceptual design factor that the Nakhle interests did not pursue at the hearing, instead concentrating on the refined design parameters around the Auckland Transport alignment. Further, for the Nakhle interests, Mr Church had ascertained a designation boundary with a more limited encroachment into 354 Porchester Road that would provide for either the dual-lane roundabout as proposed by Auckland Transport, or a signalised intersection, which he supported.

192. A difference between the parties remained in the extent of road cross-section beyond the kerb line and the construction area for the intersection. Whereas Auckland Transport's design required an aggregate of 6.8m to accommodate the berm and active mode corridor, Mr Church considered that 5.5m was sufficient. On the matter of construction works and the tie-in of these works with on-site requirements, the difference was between 6m required by Auckland Transport and 2m supported by Mr Church. We understand the difference here to lie in the understanding of the local topography. In its closing submissions, Auckland Transport identified that a 'squared-up' boundary extent of 4.5m-5.5m was possible. The difference between the parties was depicted in Appendix F to the closing submissions.

Council s42A evidence

193. Mr Edwards, for the Council, also provided comment and analysis in relation to two matters. Firstly, Mr Edwards supported the signalised intersection as being more efficient and appropriate for the future operating environment, particularly in relation to bus prioritisation and the safety of active mode users. Secondly, Mr Edwards favoured the road cross-section alternative put forward by Mr Church, with a 1m front berm being sufficient.

[85] JWS Transport South FTN NoR 4 dated 7 May 2024

Finding

194. Appendix F depicts a now very minor difference between the parties. Having agreed that the centroid of the intersection should be the same as the existing intersection, the extent of the designation to accommodate either a two-lane roundabout or a signalised intersection is dependent on the width of provision needed beyond the kerb line. We accept the centralised location of the upgrades over Porchester Road and find that the Auckland Transport designation boundary provides more flexibility for the consideration of future options on both the intersection design and active mode/berm dimensions. That flexibility also accommodates Mr Edwards' concerns. We consequently support the 'yellow line' on Appendix F.

195. It appears likely from the Nakhle interests' evidence that its land will be developed before the road upgrade. As Ms Evitt submitted in the closing submissions, if that occurs then the various RMA and PWA provisions and procedures described in Mr Ham's evidence come into play to compensate the Nakhle interests. We observe that, as part of those processes, the final design may also be revisited.

164-166 Porchester Road

196. The differences between the parties for 164-166 Porchester Road were also narrow for consideration at the hearing. This was based on more detailed work from Auckland Transport and explained by Mr Mason in both his primary and rebuttal evidence. Noting the general explanation for a designation width that allows for upgrade construction works to tie in with land development in his primary evidence, Mr Mason considered that the designation boundary needed to encroach into the Nakhle Group property. The encroachment did not affect any of the consented buildings but allows for minor regrading with the property and potential replacement of fences. Mr Mason also anticipated that "*the final designation boundary will be generally drawn back to the existing property boundary on completion of site works".*

197. Mr Church agreed that the designation boundary will avoid consented buildings but considered that if the front berm width was reduced to 1m on all legs of the intersection, this would obviate the need for any designation boundary encroachment on to the property. Mr Church had noted this reduction at another location within the proposed NoRs. In response, Mr Mason disagreed that a generalised reduction to berm width was appropriate, given the multiple functions that a berm area is required to serve.

Finding

198. We find in favour of that the Auckland Transport designation boundary, as modified by Mr Mason and shown in Appendix E.

Great South Road- Drury Section (NoR 2)

The proposal

199. NoR 2 enables the upgrade of a 520m section of Great South Road in Drury between Waihoehoe Road and the SH1 Drury Interchange. The NoR provides for two general traffic lanes per direction, walking and cycling facilities, replacement of the Hingaia Stream bridge, localised provision for stormwater treatment raingardens, and an extension of one existing culvert. The four-lane arterial cross-section is used as the basis for concept design.

Submitters' cases

200. Broshmik Investments Limited and Dunford Family Trust have raised similar concerns for their land at 260 Great South Road.

201. Interface between Auckland Transport designation and existing designation: Broshmik and Dunford have both raised concerns about the impact of NoR 2 on their properties alongside KiwiRail's existing designation for Drury Train Station. We understand that both sites are fully designated by KiwiRail, whereas NoR 2 seeks a partial designation of these sites.

202. Auckland Transport acknowledges the difficulty that two designations impacting their properties will have placed on these landowners. It also appreciates that with two designations, it can be unclear to the landowner where each Requiring Authority is responsible. For both submitters, it is understood that it is likely that their properties will ultimately be fully acquired as part of the KiwiRail designation.

203. Dunford Family Trust – retaining walls vs batter slopes: The submitter's evidence presented by Mr Campbell was that the designation extent will impact the entire Great South Road frontage at 1/260 Great South Road and includes either temporary access or acquisition of land for a batter slope.[86] This will reduce the limited yard area, storage and security fencing as well as removing public parking. Further, that the proposed 10-year timeframe for the works to occur, if funded, does not provide adequate certainty for the landowner, and will disrupt both businesses operating at the property.

204. To minimise the disruption and impact on the Dunford Family Trust as landowner, the submitter sought that:

a) Detailed design for the proposed works and land requirement is provided within 12 months following confirmation of the proposed designation;

b) That design includes use of retaining walls as opposed to the need of batter slope;

[86] Campbell SoE for Dunford Family Trust, at [7]

c) The extent of the designation remains at the legal boundary for 1/260 Great South Road, and

d) Designation includes provision for public parking that is vital for the future amenity and changes in the immediate Drury area.

205. The Auckland Transport response was that it is not appropriate to confirm the use of a retaining wall at this stage, because a retaining wall may not be the best option for this site.[87] Mr Mason's rebuttal evidence explained that the proposed designation extends approximately 2.3m into the property, except for the southwestern end where additional culvert works are required.[88] As the level difference is likely to be less than 500mm, a retaining wall solution may not be the best option as it would increase the area of permanent acquisition required. Ultimately, given the concept level of the design, the implementation of either a retaining wall or embankment is a design decision best done at the time of implementation, following engagement with the landowner.

206. Auckland Transport further advised that during future design stages of the Project there may be also opportunities to better utilise the land at the Dunford site, with Mr Mason confirming that the indicated fill into the vegetated area would include a culvert head wall, with opportunities to pipe this and level the ground above.[89] However, this is a matter that would be determined at the regional consenting phase, in consultation with the landowner.

207. Broshmik Investments Ltd and William Rudsits – development of watercourse area: Mr Campbell, for the submitter addressed the future development of the watercourse area as follows[90]. Previous development plans for the watercourse area included land use consent to connect two existing culverts with 35m of new culvert and backfilling the gully. However, these plans had been placed on hold, due in part to the Drury Central Railway Station designation impacting part of the site.

208. The proposed designation extends a batter slope into the gully and significantly impacts the site. The batter slope would require temporary access onto the land for extending an existing culvert. Mr Campbell's submission was that the works should also consider the landowners long term goal and allow for the connection of the existing two culverts with a new pipe and filling in the gully to an agreed level. He further submitted that the proposed 10-year timeframe for the designation does not provide adequate certainty for the landowner. It would disrupt the existing ability to lease the land or for any businesses wishing to operate from the property.

209. Broshmik Investments Limited sought that:

[87] Evitt closing submissions at [14.5]
[88] Mason rebuttal SoE at [6.25].
[89] Evitt closing submissions at [14.6]
[90] Campbell SoE for Broshmik Investments Ltd, at [6]

a) The proposed designation allows the option for connecting culvert pipes and filling the gully to an agreed level with the landowner;

b) Detailed design for the designation and upgrade is provided within 12 months following confirmation of the proposed designation; and

c) The existing vehicle access at 2/260 Great South Road is retained and a provision for public parking vital for the future amenity and changes in the immediate Drury area is included as part of our recommendations.

210. Auckland Transport confirmed that it will be required to reinstate services and stormwater solutions to address the impacts on the gully.[91] Subject to any obligations on behalf of KiwiRail, once Auckland Transport commences its works, part of Auckland Transport's responsibilities will include provision for replacement stormwater pipes.

211. In a general response to parking matters, Ms Sang advised that, regarding the removal of on-street parking along the corridors, the corridors in the South FTN Project are arterial corridors which have a primary function of providing for through movement and access. Improvement in public transport and active modes will provide opportunities to reduce reliance on travel by private vehicle. In addition, there are opportunities to park on surrounding side streets albeit this may be less convenient for some motorists. In this context, she considered that the removal of car parking on arterial corridors was acceptable where efficiency or safety of main movements would be impacted.[92]

Council s42A evidence

212. The reporting officer's comment was that the issues raised by the submitters are 'edge condition' issues and are adequately addressed within the ULDMP condition which ensures property interfaces will need to be designed in greater detail for the final design and outline plan of works. Importantly the project should attempt to take the least area of land possible to ensure the safe construction of the Hingaia bridge and associated works near the above properties.[93]

Discussion and findings

213. We accept the evidence of Auckland Transport that given the concept level of the design, the implementation of either a retaining wall or embankment is a design decision best done at the time of implementation, following engagement with the landowner. This will be achieved through the ULDMP condition.

214. Regarding the submitters' request that detailed design for the designation is provided within 12 months following confirmation, we note the advice from Auckland Transport that detailed design will not be carried out until there is demand for the project to be delivered and funding is confirmed. This date is uncertain, hence the proposed 10 year

[91] Evitt closing submissions at [14.8]
[92] Sang SoE at [10.115]
[93] SFTN s42A report at [10.4]

lapse period for the NoR. Discussion of the need for the 10-year lapse period is discussed elsewhere in this recommendation.

215. In relation to the future provision of public parking on Great South Road we accept the evidence of Auckland Transport that removal of on-street parking on arterial corridors is acceptable where efficiency or safety of main movements would be impacted such as along the arterial corridors in the South FTN Project.

216. With respect to the maintenance of property access we consider that this is provided for by the proposed condition on business property access which requires that the affected landowner is consulted prior to the submission of the future Outline Plan.

217. Regarding Broshmik Investments Ltd request for connecting culvert pipes and filling the gully to an agreed level with the landowner, Auckland Transport has confirmed through its closing submissions that it will be required to reinstate services and stormwater solutions to address the impacts on the gully. We also note from Auckland Transport engineering evidence that construction-related earthworks, construction of bridges, culverts, pavement, drainage and stormwater infrastructure, and services relocation, where required, have been considered and provided for in the indicative design for each NoR.[94]

EFFECTS ON THE ENVIRONMENT

Mana whenua

218. Mana whenua are partners in SGA/Te Tupu Ngātahi. Mr Scrafton described the engagement undertaken with mana whenua at each stage of the process.[95] This began in 2018 at an Auckland programme wide level with all 19 Auckland iwi being invited to engage and to prepare a CVA for the Takanini Projects. Of these iwi, Ngāti Te Ata Waiohua and Te Ākitai Waiohua prepared a CVA for both Projects. Ngāti Tamaoho provided a CVA for the South FTN Project and Ngāti Whanaunga for TLC Project. The CVAs have been taken into account on each NoR as relevant.

219. Proposed conditions of specific relevance to mana whenua interests include the Cultural Advisory Report (to inform the future design stages), the Mana Whenua Kaitiaki Forum, participation in the ULDMP and HHMP (for the South FTN only), and a Cultural Monitoring Plan to identify monitoring during the construction phase.

220. There were no submissions received from any mana whenua group or submissions that raised matters relating to effects on Māori culture or values. We consider that this outcome reflects the extent of early engagement with mana whenua and the ongoing opportunities for involvement accorded by the proposed conditions.

[94] Busnardo SoE at [6.1]
[95] Scrafton SoE at Section 6

Property Access

Access during construction

221. A significant number of submitters[96] raised concerns regarding access to their properties during construction. We note that access issues for NZ Steel and Silverfin Capital have been addressed earlier but these are also generally encompassed within this section.

222. Evidence from Ms Sang and Mr Murray[97] advised that the CTMP and SCEMP provide appropriate mechanisms to ensure that potential adverse effects on property access is managed. The CTMP will include methods to maintain access to and within properties and private roads where practicable. If it is not possible to maintain access to a property during construction, the CTMP will provide methods for alternative access arrangements. In addition, the SCEMP requires methods and timing to engage with landowners and occupiers whose access is directly affected.

223. The Council have also recommended amendments and additions to the proposed conditions for both Projects addressing access to properties during construction.[98]

Impact on long term access post-implementation

224. Long term access was also a submission point for a significant number of submitters.[99] The matter was the subject of expert conferencing during which various submitters raised site-specific concerns regarding proposed access arrangements to their sites, and how this would be managed through the proposed conditions. All experts agreed that the existing property access condition should:

a) be triggered by impact on any one vehicle access;

b) achieve consultation with affected landowners and occupiers where their access will be impacted;

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[96] TLC Project: Takanini Business Association Incorporated (NoR 1 #04, NoR 2 #03); P Savidan (NoR 1 #12); R Scarlett (NoR 1 #15); NZ Steel Limited (NoR 1 #20); Silverfin Capital Limited (NoR 1 #21); Carters Building Supplies Limited and Mead Trust Holdings Limited (NoR 1 #39, NoR 2 #05, NoR 2 #19); Mitre 10 Mega Takanini Limited, The Arborfield Trust, Takanini Home and Trade Limited (NoR 1 #40). (NoR#2_20), N Brownlee (NoR 1 #27).
South FTN: D Evans (NoR 4 #21), Pathmavathey Govender (NoR 1#19), John Patrick Beck (NoR 2#03), BJ Wallace Trust & SJ Wallace Trust (NoR 4#14), NoR 3#19, NoR 3#09, Ministry of Education (NoR 1#27, NoR 2#11, NoR 3#36, NoR 4#22)

[97] Murray Primary Evidence at [9.8]; Sang Primary Evidence at [8.9].

[98] Takanini Level Crossings Section 42A Report at 64-65; Technical memorandum of Martin Peake at 23, 35-37; South FTN Section 42A Report at 91; Technical memorandum of Wes Edwards at Section 12.

[99] TLC Project: A Singh (NoR 1_02); Takanini Village Limited and Tonea Properties (NZ) Limited (NoR1_37, NoR2_17); Carter Building Supplies (NoR 1_06; NoR 2_05); J Downer (NoR 1_07); Oceania Healthcare Limited (NoR 1_11); P Savidan (NoR 1_12); DDI Takanini Investments Limited (NoR 1_17); NZ Steel Limited (NoR 1_20); Silverfin Capital Limited (NoR 1_21); A Stewart (NoR 1_28); Halls Transport (NoR 1_29); Vertex Lubricants (NoR 1_31); Durmast Holdings Limited (NoR 1_32); South Auckland Marine Limited and Sunlight Holdings Limited (NoR 1_38; NoR 2_18); Kāinga Ora – Homes and Communities (NoR 1_43); G Holmes (NoR 2_03); J and S Bhaduri (NoR 2_13); Z Energy Limited (NoR 2_22).
South FTN: Binay (NoR 1_02); H Patel (NoR 1_23); Restaurant Brands Limited (NoR 3_27); G Purcell (NoR 3_28); D Evans (NoR 4_21); S and J Fleming (NoR 4_18);

c) achieve safe and effective access for the site as a whole and including where there are multiple existing access points;

d) achieve safe, effective and efficient operation of the transport network; and

e) realise opportunities for mutually agreed reconfiguration.

225. Ms Kurzeja and Mr Hills were of the view that that the condition should consider efficient access to, and within, a site recognising there could be flow-on implications from changes to vehicle access.

226. All experts also agreed that there are opportunities to refine the wording of the current condition to make these outcomes clearer and Mr Scrafton provided some amendments in this rebuttal evidence.

227. Fire and Emergency New Zealand (FENZ) was concerned about the South FTN Project reducing its front concrete apron at the Manurewa Fire station at 225 Great South Road Manurewa, with attendant adverse effects on appliance response to incidents, safety and possible damage to station doors. Mr Busnardo100 advised that as the existing carriageway is proposed to be narrowed and the active modes corridor widened, his view was that the Project will slightly increase the size of the apron. Further, mitigation measures such as safety signs and line-marking can be installed to ensure that usage of the concrete apron will safely integrate with the proposed active mode corridor. This will be dealt with as a matter of detailed design at the time of implementation.

Council s42A evidence

228. Both Mr Edwards and Mr Peake had attended the expert conferencing session. In closing comments, Mr Edwards recommended changes to the existing property access condition.[101] Auckland Transport did not support these changes however, as noted above, it has since proposed an additional business zoned land condition which addresses some of the matters raised. Mr Peake's closing comments on conditions were that he supported the minor revisions in Mr Scrafton's rebuttal evidence.[102]

Post-hearing conditions

229. Ms Evitt submitted in closing that effects on individual property accesses are challenging to address at this stage because:[103]

a) the Projects require long-term designations, and the timing of their implementation is dependent on various factors including when the Projects will be funded;

[100] Busnardo summary statement at [4.8]
[101] Edwards closing memo at [6.10]
[102] Peake closing memo at [5.15]
[103] Evitt closing submissions at [11.5]

b) once the timing for implementation is confirmed, a detailed design process will need to be undertaken to confirm the precise nature of future access to the affected sites;

c) in this context, the detailed consideration of individual vehicle access is best undertaken at the time of detailed design and implementation, when the greatest certainty is available. This is also when any applicable PWA process will be underway; and

d) this approach has influenced the proposed designation boundaries to ensure that flexibility to reinstate driveways has been maximised.

230. Notwithstanding the challenges, Auckland Transport have proposed a new existing property access condition for business zoned land, which will apply in the alternative to the general access condition, acknowledging additional issues such as servicing, goods loading and unloading potential effects on circulation and in some instances multiple access points. Where property access will be altered by the Project, there is still a requirement to provide safe access. However, the condition expressly articulates further matters to be considered, such as the role and function of existing access points, (including for loading and unloading of goods), and maintaining effective and efficient access to the site. The current requirement to consult with landowners and occupiers whose vehicle access to their property will be altered by the Project will remain as provided for in the SCEMP.

231. Ms Evitt confirmed that there is no intention to permanently close existing accessways, and this outcome is secured through the existing property access conditions.[104] Further, works on private property cannot progress until proper authorisation to utilise that property is obtained under the PWA. Mr van der Ham's evidence was that this typically entails direct discussions with landowners about access to land as well as reinstatement and compensation. Ms Evitt also advised that it is committed to working with affected landowners and occupiers whose access is directly affected to ensure access is maintained, or a solution is reached where it cannot be.

Discussion and Findings

232. We acknowledge the collaborative effort of all parties to develop appropriate access conditions. We find that Auckland Transport's proposed modified existing property access condition and the new business property access condition respond appropriately to the outcomes of expert conferencing.[105] We find in favour of these conditions. We also accept Mr Busnardo's evidence that the FENZ concerns related to access at the Manurewa Fire Station will not eventuate.

[104] Evitt closing submissions at [11.6]
[105] See JWS Transport and Planning South FTN NoR 4 dated 9 May 2024

Traffic management during temporary closure of rail crossings

Submissions

233. Several submitters raised concerns regarding the wider network effects of temporarily closing rail crossings to vehicles during construction, especially between Spartan Road and Subway Road.[106]

234. The evidence of Ms Sang and Mr Scrafton advised that these issues will be directly addressed through the Construction Traffic Plan.[107] Ms Sang's evidence noted that the proposed CTMP condition requires that Auckland Transport includes the following information:[108]

a) Methods to manage effects of temporary traffic management activities on traffic;

b) Identification of detour routes and other methods to ensure the safe management and maintenance of traffic flows, including consideration of pedestrians and cyclists;

c) Details of minimum network performance parameters during the construction phase, including any measures to monitor compliance with performance parameters; and

d) Details of any measures proposed to be implemented in the event the thresholds identified above are exceeded.

235. We note that the final condition set has an additional CTMP condition which specifically addresses the sequencing of rail crossings and potential cumulative transport effects on the network.

Auckland Council s42A comments

236. Mr Edwards considered that new conditions are required to avoid significant adverse effects associated with closure of any bridges during construction. These conditions include a number of requirements and controls including preparation of a detour capacity assessment related to Otūwairoa Stream /Slippery Creek Bridge (FTN-1), Hingaia Stream Bridge (FTN-2) and Bridge Reconstruction (FTN-3).

Discussion and finding

237. We note that Auckland Transport have added to the CTMP conditions to address mitigation of potential cumulative traffic and transport effects on the transport network.

[106] M Koppens and D Ibbett (NoR 1 #10), Silverfin Capital Limited (NoR1 #21), Halls Transport (NoR1 #29); NZ Steel Limited (NoR 1 #20).

[107] Sang SoE at [10.74]; Scrafton SoE at [19.5].

[108] Sang SoE at [8.9]

We consider that this is sufficient and the additional detail requested by Mr Edwards is not necessary, noting the evidence of Mr Murray on this as follows.[109]

> *"The approach adopted to the CTMP condition has been focussed on the outcomes sought and the considerations to be included in the management plan, and has deliberately avoided specifying locations, specific assessment methods, construction sequencing or suitable time periods. This focus on the outcomes and considerations is to avoid the assessments being limited to only the specific items, whilst allowing for the future context and innovative construction methods to be explored."*

Parking

Parking during construction

238. Several submitters[110] raised concerns regarding loss of on-site and off-site parking as a result of construction of the Projects.

239. Ms Sang provided a comprehensive response to submitters regarding impacts on parking for the Projects. In summary[111]:

a) There will be a temporary impact on parking for some sites due to the Projects;

b) Where on-street parking is affected, alternative parking is available on adjacent local roads;

c) For the South FTN Project, removal of parking on arterial corridors (during construction but also in the long-term) is appropriate because the works will provide improvements in public transport and active modes. Therefore, there will be opportunities to reduce reliance on travel by private vehicle; and

d) The final details of impacted car parks will be confirmed through future detailed design phases, in coordination with the landowner. Where final designs could impact on property value or operations (during construction but also in the long term), these will be addressed as part of the property discussions under the PWA.

240. Mr Scrafton also considered that the CTMP will appropriately manage the provision of parking during the construction period, noting that the plan will be confirmed closer to the

[109] Murray summary SoE at [6.4]

[110] TLC: Takanini Business Association (NoR 1 #04, NoR 2 #03); On Track Trust (NoR 1 #28); Vertex Lubricants (NoR 1 #31); Aintree Group Limited (NoR 1 #15); Halls Transport (NoR 1 #29); Takanini Village Limited and Tonea Properties (NoR 1 #37, NoR 2 #17); Carters Building Supplies Limited and Mead Trust Holdings Limited (NoR 1 #39, NoR 2 #19); Takanini Business Association Incorporated (NoR 2 #03).
South FTN: Broshmik Investments Limited (NoR 2 #01), Dunford Family (NoR 2 #02); Blue Snow Limited (NoR 2 #03); Active Electrical Supplies (Drury) (NoR 3 #06), Pathmavathey Govender (NoR1#19); Broshmik Investments Limited (NoR 2 #01), Dunford Family (NoR 2 #02); Blue Snow Limited (NoR 2 #03); Active Electrical Supplies (Drury) (NoR 3 #06), Pathmavathey Govender (NoR1#19).

[111] Sang SoE at [10.48] and [10.114]

time of implementation and reflect the land use or activities located adjacent to the NoRs at the time.[112]

241. For these reasons, Auckland Transport considers that the concerns in relation to parking during construction will be appropriately mitigated.

Permanent loss of on-site parking once operational

242. Some submitters and their experts have raised concerns about the permanent loss of parking once the Projects are operational.[113] This is especially in relation to business sites such as the Takanini Town Centre for the TLC Project.

243. Mr van der Ham addresses these concerns in his rebuttal evidence.[114] Auckland Transport will compensate the owner for the value of car parks if they are acquired permanently. If carparks are for the exclusive use of a tenant, the tenant will also be compensated for loss of the use of the car park.

244. Ms Evitt submitted that Auckland Transport has clear statutory obligations under the PWA to ensure that any permanent loss of parking is appropriately compensated.[115] It therefore considers that any concerns regarding potential loss of parking once the Projects are operational will be sufficiently addressed.

Loss of on-street parking

245. As noted above, Ms Sang's evidence was that removal of on-street parking on arterial corridors is anticipated as part of significant transport upgrades, noting that a key benefit of the Projects is that the works will provide for active mode and public transport upgrades, thus providing opportunities to reduce reliance on travel by private vehicle.

Council s42A evidence

246. The above recommendations are based on the evidence of Mr Peake as follows:

247. Mr Peake's evidence was that the effects on parking both during construction and operation have not been adequately addressed in the conditions.[116] Mr Peake responded to the evidence of Auckland Transport as follows:

a) With regards to the effects of parking due to construction (i.e. workers), Mr Murray[117] considered that a specific condition is not necessary as the CTMP condition manages this effect. However, Mr Peake noted that this condition does not require any measures to avoid, remedy or mitigate the effects of construction traffic parking on surrounding roads, it only requires the size and location of

[112] Scrafton SoE at [19.3]
[113] Kurzeja SoE on behalf of Takanini Village Ltd and Tonea Properties (NZ) Ltd at [15]
[114] Van der Ham Rebuttal SoE at [5.3]-[5.8]
[115] Evitt opening submissions at [11.22]
[116] Peake closing memo at [6.77] to[6.81]
[117] Murray SoE at [12.5(e)]

parking areas to be identified. Mr Peake did not consider that this is sufficient to manage the potential effect of construction workers parking on-street affecting the safe and efficient operation of the surrounding roads.

b) Regarding the reinstatement of on-street parking post-construction, Mr Murray[118] and Ms Sang[119] did not consider that a condition is required. Their reasons included that parking on arterial roads is not required and that the Auckland Transport parking strategy supports this position. However, Mr Peake was of the view that parking may be appropriate in some circumstances, including on arterial and non-arterial roads, taking into account road operational requirements and function, land uses and safety requirements.

c) For on-site parking affected by the project, Mr Murray[120] did not consider that a condition is required in this respect as the PWA addresses this issue. Whilst the PWA will ultimately apply, Mr Peake considered that a condition that requires Auckland Transport to liaise with affected landowners / occupiers in this regard prior to relying on the Act would ensure landowners and occupiers are appropriately consulted, particularly where changes to parking may affect the operation of businesses. The effect of parking has been raised as a concern by submitters. He acknowledged that the suite of conditions does require liaison with submitters but considered that loss of parking is an effect that would need to be addressed for some landowners or occupiers.

d) Ms Sang's evidence re on-street parking was:[121]

"The TLC Project will remove all existing on-street parking spaces within the NoRs and there will be no on-street parking on the grade-separated bridges. In the context that the removal of on-street parking is for the provision of safer walking and cycling facilities and the primary function of the TLC corridors is for people movement, I consider on-street parking to be of lower priority and its removal to be acceptable. I also note that the removal of on-street parking on major transport corridors is anticipated and encouraged by AT's Parking Strategy."

248. Auckland Transport has not accepted the above-described changes recommended by Auckland Council to the ULDP and CTMP conditions re parking for the reasons provided in their evidence as set out above.

249. The above review of parking matters by Council's transport specialist consultants resulted in the following suggested amendments to conditions:[122]

a) Amendments to the ULDMP plan to require:

[118] Murray SoE at [23.2 (e)]
[119] Sang SoE at [8.18] and [10.50]
[120] Murray SoE at 12.2 (d)
[121] Sang SoE at [8.18]
[122] Evitt closing submissions Appendix B Council conditions mark-up

(i) Off street parking required to be reinstated, where able, to meet operational and resource consenting requirements in consultation with landowners/occupiers (TLC NoR1 and NoR2).

(ii) On-street parking required to be reinstated, where appropriate, taking into account adjacent land uses, safety and operational requirements (TLC NoR1 and NoR2)

b) An additional sub-clause to the CTMP for it to include:

(i) Methods to manage parking related to construction activities (including construction workers) to mitigate effects on the safe and efficient operation of surrounding roads. (TLC NoR1 and NoR2)

(ii) Identification of alternative parking where on-site parking is reduced by construction. (TLC NoR1 and NoR2)

Discussion and findings

250. Having examined the Auckland Transport final conditions, we agree with Mr Peake's evidence that these conditions are not sufficient to manage the potential effect of construction workers parking on-street affecting the safe and efficient operation of the surrounding roads.

251. We also agree with other points of Mr Peake's evidence that support the need for amendments to the ULDMP and the CTMP to address parking. We accordingly find in favour of the condition amendments listed above in paragraph 249.

Submission by Papakura Local Board on Transport

Underpasses vs overbridges at vehicle crossings

252. The Local Board submitted on a preference for underpasses, suggesting that the relative costs of the options should not be the only driver in identifying a preferred option. Auckland Transport have advised that various criteria were considered as part of the MCA undertaken, with potential construction and land requirement costs being just two of several matters that were considered.[123] Following the MCA undertaken by the Project team, underpass options were ruled out for various reasons, in particular user safety concerns and geotechnical considerations.

253. In response to the Papakura Local Board suggestion that the open space area created above an underpass could be utilised for recreational type uses, Auckland Transport have advised that an underpass option would not afford the opportunity for any useable open space area due to NIMT requirements.[124]

[123] Evitt closing submissions at [3.14]
[124] Evitt closing submissions at [3.15]

Impacts of the South FTN Project on Chisholm Corner and the Central Park Cenotaph

254. The Papakura Local Board raised concerns at the hearing on these matters which Auckland Transport advised had been addressed by Auckland Transport in evidence and prior engagement.[125]

255. Auckland Transport evidence on these matters is as follows:

256. Papakura War Memorial (Cenotaph): There is insufficient space within the existing road corridor to provide the desired active mode path facility without impacting the Central Park Cenotaph. In order to provide for the active mode path facility, the designation needs to extend beyond the road corridor in the vicinity of the Papakura War Memorial (Cenotaph). However, the cut batters shown on the General Arrangement drawings for NoR 1 do not extend into the landscaped boundary of the cenotaph, with impacts on trees limited to the removal of one Weeping Elm tree.[126]

257. Chisholm Corner: The designation boundary extent is also required in this location to enable the Project to take place. An embankment is required as there is a level difference between the edge of the corridor and the ground. However, the designation extent enables different design solutions to be investigated at detailed design stage to reduce the Project's impact on the site. Mr Busnardo also noted that the existing slopes on the site exceed the modelled gradients, so reintegration with the existing ground contour is likely possible. In terms of potential impacts on the flagpole, Mr Busnardo confirmed relocation of the flagpole within the designation is expected, but there is an opportunity at detailed design for the works to be amended.[127]

Auckland Council s42a Comment

258. Mr Kinnoch's closing memo continued to express concerns about options that had been considered for the active path and modifications to the flagpole. [128]

259. In relation to the War Memorial Cenotaph, Mr Windwood considers the potential effects of the Project can be adequately managed through the use of a HHMP.[129]

Discussion and finding

260. We consider the outstanding issues for the Cenotaph and Chisholm Corner advised by Mr Kinnoch have been satisfactorily addressed through the evidence of Mr Busnardo. We also note Mr Windwood's view that potential effects on the Cenotaph can be managed through the HHMP.

[125] Evitt closing submissions at [15.45]
[126] Busnardo SoE at [10.8]
[127] Busnardo SoE at [10.10] & [10.11]
[128] Closing Memo Mr Kinnoch at [3.5]
[129] SFTN s42a Report at [4.11.3.1]

261. We accordingly find that impacts of the South FTN Project on Chisholm Corner and the Central Park Cenotaph will be avoided or are able to be mitigated to the extent practicable.

Cycleways

262. The South FTN Project will deliver improved walking and cycling facilities, 27km of improved cycle network including separated facilities across most of the corridors resulting in improved protection for vulnerable road users, and consequently, a reduction in injury crashes.[130]

263. Mr Murray explained that the constraints on the existing road networks have resulted in the outcomes sought for the South FTN Project being focused on the provision of high-quality bus and walk/cycle networks that provide both alternative travel options and provide improved access to the critical rail corridor.[131]

264. Several submitters have questioned the need for the proposed cycle lanes or expressed concerns re safety.[132] In particular, the following concerns were raised:

a) They consider there is an existing low number of cyclists and there will be insufficient demand/utilisation of the proposed cycling facilities with one submitter requesting to see the existing usage of cycle lanes in Auckland.

b) Questions whether a shared path should be considered instead of segregated walking and cycling facilities.

c) Safety risk at driveways

d) Lack of continuity of cycleways

265. A submission on the TLC Project from Kainga Ora requested provision of safer, more direct and more attractive connections for walking and cycling, in particular at Takanini Railway Station, Manuroa Road and Taka Street. They suggested amendments to the ULDMP condition that sought walking and cycling connections that were more direct, efficient and inclusive. We have addressed the directness and inclusivity of access in relation to the Spartan Road bridge crossing submissions in paragraphs 46 and 63 above.

266. Auckland Transport's response to the submission issues on cycling was that the existing cycle facilities (where available) are substandard (i.e. the existing cycle lanes on Alfriston Road are not separated, providing no physical separation between a cyclist and a car).[133] For many amateur cyclists, this feels unsafe and hinders cycling which is a likely

[130] Sang SoE at 9.2 (a) (i)
[131] Murray SoE at [7.2]
[132] D&M Bowmar & J Thompsett, C.Hoew, M. Goyal, H. Kalra, A. Hora, P. Singh
[133] Sang at [10.101] to [10.103}

contributor to the low volume of cyclists currently. The South FTN Project provides separated cycle lanes which will help promote its uptake as they are safer.

267. Ms Sang also noted that in regard to the cyclist numbers in Auckland, review of data from 26 sites across Auckland shows 3.0 million cycle movements in the 2022/2023 financial year. In addition, where investment has been made, there has been an increase in cycle movements. For example, the opening of Section 1 of the Glen Innes to Tamaki shared path saw a 150% increase when comparing March 2022 with March 2023 data. As such, although there may be limited cyclists on the South FTN corridors now, the provision for better facilities will encourage its uptake.

268. With respect to the consideration for shared paths, Auckland Transport evidence is that these have been explored as part of the DBC; a separated cycle way is seen as the industry standard with shared paths not being an approved type of facility under Auckland Transport's Transport Design Manual. A separated facility is therefore preferred and will provide improved safety outcomes for cyclists.

Council s42A evidence

269. Following his initial identification of concerns about cycling provisions, Mr Edwards set out his remaining concerns in his closing comments as follows:[134]

a) he considered the proposed offset between the cycle path and the property boundary is substantially less than the minimum distance recommended in any design guideline, and consequently not consistent with the Safe System Approach;

b) he accepted that the proposed paths do have some overall safety benefit, but considered the safety benefits attributed to the proposed cycle paths have been overstated;

c) his recommended amendment to the ULDMP condition will go some way in addressing this issue for those properties that will have changes made by the Project to fences and boundary planting, at least initially; and

d) he accepts that there is space within the proposed designation for Auckland Transport to implement an alternate design that may provide better safety outcomes.

270. Mr Edwards recommended an amendment to the ULDMP condition that sought avoidance of adverse effects on pedestrian and cyclists as part of property frontage reinstatement.

271. The s42a report also recommended changes to the ULDMP in relation to safe access for pedestrians and cyclists to rail stations.

[134] Edwards closing memo at [5.129] to [5.132]

272. These amendments were not supported by Auckland Transport.

273. Mr Mason considered that the proposed off-road cycle facility does not create an adverse safety effect but provides a much safer cycle facility than the existing on-road facility for cyclists of all abilities. Consequently, he disagreed with Mr Edwards' that the Project has adverse safety effects.[135] The reasons for his view were:

a) there are currently limited existing cyclist facilities, requiring cyclists of all abilities to travel in the road in close proximity to general traffic as well as the need to negotiate parked cars;

b) the Project includes a 2m wide off-road cycle facility with a typical offset from the property boundary to the travel path of at least 3m, which is considerably greater than the current offset to the footpath where inexperienced cyclists travel;

c) cyclists have right of way at driveways and it would be the responsibility of the driver to check their way is clear and the proposed offset would allow the driver to observe an approaching cyclist;

d) the existing berms are generally quite narrow, and the existing footpaths are close to the property boundary so the existing intervisibility between drivers and inexperienced cyclists using the footpath is minimal; and

e) he considered the risk associated with inexperienced cyclists travelling on the road and sharing the bus lane would be greater than the risk associated with vehicles leaving the driveways.

274. Mr Murray did not support the railway station access condition as it would duplicate an existing condition on the interface between walking and cycling and the public transport infrastructure.

Discussion and finding

275. We accept the following key aspects of Auckland Transport's evidence:

a) existing cycle facilities (where available) are substandard and many amateur cyclists feel unsafe. The South FTN Project provides safer, separated cycle lanes which will help promote cycling uptake.

b) although there may be limited cyclists on the South FTN corridors now, the provision for better facilities will encourage its uptake and a separated cycle way is preferred as it seen as the industry standard; and

c) proposed cycleways are necessary and will provide improved safety outcomes for cyclists.

[135] Mason SoE at [1.10]

276. We also accept the evidence of Auckland Transport that their proposed conditions relating to cycleways are appropriate and do not need amendment.

Network Utilities

277. There are several network utilities located within and around the proposed designations. To address potential effects on network utilities Auckland Transport proposed that two conditions be included in the designations. These are the Network Utility Operators and Auckland Council (Section 176 Approval) and the NUMP.

278. The first of these conditions provides for network utility operators with existing infrastructure located within the designation to undertake activities specified in the condition without the requirement for written approval from Auckland Transport as otherwise required under section 176 of the RMA.

279. The proposed NUMP will be prepared in consultation with the relevant network utility operator and is considered an appropriate tool to set out a framework for protecting, relocating and working in proximity to existing network utilities during construction.[136] These details are best worked through with utility providers closer to the time of construction once the detailed design for the Projects is underway and the construction methodology and timing is confirmed.

280. We also note the provision in the LIP condition which provides for works co-ordination between Auckland Transport and network utility operators.

Submissions

281. Several network utility operators made submissions in support of the NUMP condition. Telecommunications submitters have sought to be named in the proposed NUMP condition to ensure they are engaged with during the preparation of the management plan.[137]

282. Mr Horne on behalf of the Telecommunications submitters further sought an amendment to the NUMP condition on all the NoRs to specify that coordination with other Network Utility Operators should be considered "during further project stages including detailed design" where practicable.

283. Mr Scrafton considered the addition of "during detailed design" to be appropriate reflecting the agreed amendments reached on other Te Tupu Ngātahi Projects.[138] He did not consider that the addition of "further project stages" is necessary as the existing drafting of clause (d) is clear that as part of the NUMP, opportunities to coordinate future work programmes with network utility operators (which includes the Telecommunication providers) during detailed design is considered. In addition, as noted, the LIP condition

[136] Scrafton SoE at [30.3]
[137] The Telecommunications Submitters (NoR1_08; NoR2_07); The Telecommunications Submitters (NoR1_14; NoR2_04; NoR3_14; NoR4_11).
[138] Scrafton SoE at [30.6]

requires that a record of engagement is maintained of any requests made by network utility operators to co-ordinate the forward work programme, and the ULDMP condition requires that details are provided of how the Projects have responded to matters identified through the LIP condition process.

284. The submission by Watercare Services Limited [139] requested the addition of a Network Utility Strategic Outcomes Plan (NUSOP) to the proposed conditions. The Auckland Council Section 42a review recommended the addition of the NUSOP on both Takanini Projects. Mr Scrafton considered that the objectives set out in the NUSOP are already adequately addressed in the proposed NUMP condition and accordingly considered the additional NUSOP condition to be a duplication of processes.[140]

Finding

285. We consider that proposed Network Utility Operators and Auckland Council (Section 176 Approval) and NUMP conditions are appropriate to facilitate liaison with network utility providers and minimise adverse effect of the Project on network utilities.

286. We accept the evidence of Mr Scrafton that a NUSOP condition would be a duplication of the processes set out in the proposed Network Utilities Plan condition and thus unnecessary.

Stormwater

287. Provision is made for the future mitigation of potential stormwater effects arising from the Project (retention/detention and stormwater quality) within the proposed designation boundaries. This is based on a stormwater philosophy developed for the Project in partnership with Mana whenua.[141]

288. The stormwater design philosophy for the Project seeks to achieve the following objectives:

a) provide stormwater treatment and retention/detention for new impervious surfaces;

b) re-use and re-purpose existing infrastructure where possible;

c) enhance with green infrastructure and incorporate with urban design; and

d) provide treatment of existing surfaces where possible, including where existing runoff mixes with new, prioritising high loading areas such as intersections;

289. The above approach sets out the overarching stormwater management philosophy and rationale for proposed stormwater management treatment across the project areas in the context of relevant stormwater related statutory requirements. This approach will be

[139] Watercare Services Ltd (NoR1_41; NoR2_21); Watercare Services Ltd (NoR1_29; NoR2_13; NoR3_37; NoR4_23).
[140] Scrafton SoE at [30.9]
[141] AEEs for various NoRs at section 9.4

further developed through the detailed design process and future regional consenting for stormwater.

Submissions

290. There were several submissions on stormwater, which in some cases overlap with concerns about flooding. We address flooding separately, after the stormwater section. The submissions on stormwater are set out as follows together with responses as relevant from Auckland Transport, Auckland Council or from the Panel.

291. B & F Papers Ltd and Aintree Group Ltd: Clarification was sought by both submitters about whether a modified stream channel either near or crossing submitters' properties at 33 and 39 Oakleigh Avenue respectively will be impacted by the project.

292. Mr Kirkman advised that the channels referred to by the submitters will not be affected by the works, and that the channels were mentioned in the AEE for context and a description of the local area only.[142] More generally he explained that improvements to existing culverts capacity, and provision of new stormwater infrastructure which improve ponding and stream flow in the area will be designed to manage the changes in runoff behaviour caused by changes in the road configuration. The design will not redirect any catchments nor cause any effects outside of that permitted by the designation conditions. The design upon which this NoR is based will not alter or affect the stormwater system on 33 or 39 Oakleigh Avenue.

293. Dealership Properties Ltd: The submitter has a resource consent currently in progress at 106 to 162 Great South Road, Takanini. It is concerned that the proposed designation conflicts with it. Mr Scrafton advised that the ULDMP ensures that the future design of the Project must integrate with adjacent land uses.[143] He also noted the development plans of various submitters are likely to precede the construction of the Projects as they are either in the process of development or have obtained the necessary consents.

294. KiwiRail: Prior to the start of detailed design, and throughout the design process, KiwiRail requires ongoing dialogue and engagement to resolve the following issues:

a) Future swale and overland flow solutions will require a co-ordinated approach by Auckland Transport and KiwiRail.

b) At Spartan Road the major drainage swale/overland flow path in the rail corridor may conflict with the footbridge. This needs to be considered in future design work including the provision of drainage infrastructure to prevent overland flow into the rail corridor.

[142] Kirkman SoE at [11.3&11.4]
[143] Scrafton SoE at 27.31

295. The Council stormwater reviewer noted that he agreed with this submission and that it could be managed by the proposed LIP condition.[144]

296. Z Energy: Submission made in respect of stormwater matters at service station sites at:

a) Z Takanini at 166 Great South Road (the corner of Great South Road and Taka Street), which is affected by both TLC NoR 1 on its northern frontage (being part of the Taka Street grade separation); and South FTN NoR 1 on its western frontage (being part of the Great South Road FTN route); and

b) Z Manurewa at 228 Great South Road (the corner of Great South Road and Alfriston Road), which is affected by South FTN NoR 3 on its northern and western frontages (being on the intersection of the Great South Road and Takanini FTN routes).

297. Auckland Transport's evidence in response for the Z Takanini site noted that the oil-water separator, the key stormwater feature of interest on the site, is located on the Great South Road frontage and only potentially affected by the South FTN works, and not the TLC works.[145] The oil-water separator may potentially be affected by South FTN given it appears to fall within the proposed designation extent. The separator can likely integrate with the proposed works, and is unlikely to require relocation, Further, as the separator is of critical importance in enabling the service station to manage the environmental effects of its stormwater discharges, Auckland Transport will likely need to work with Z Energy to reconfigure the drainage layout of the site in the event that the works cannot integrate with the existing separator location. Reconfiguration is considered to be feasible.

298. For Z Energy's Manurewa site, the submission raises similar issues regarding the impact of the proposed works on the oil-water separator located in the north-eastern part of the site within the proposed designation boundary. Again, Auckland Transport will likely need to work with Z Energy to redesign the drainage layout of the site if these impacts are confirmed at the detailed design stage and this is feasible.

299. The Project team has undertaken design refinements along the Alfriston Road frontage of Z Energy's Manurewa site following the receipt of submissions. These design refinements have sought to confirm the feasibility of relocating underground storage tanks on the site. The design refinements also appear to result in the permanent works extent being removed from the oil-water separators, which would mean that the need to redesign the site drainage layout is potentially avoided.

[144] Sunich Stormwater and Flood Hazards Technical Assessment at Appendix 1
[145] Kirkman SoE at [11.26] to [11.29] and Busnardo SoE at [9.4] and [9.9]

300. The above matters appear to have been addressed to the satisfaction of Z Energy as they are not outstanding or residual issues as advised in Z Energy's legal submissions.[146]

301. Broshmik Investments Limited and William Rudsits: Mr Campbell, on behalf of Broshmik, raised concerns at the hearing about the Project's impact on the site's stormwater pipe, and whether Auckland Transport will reinstate the pipe as part of its obligations.[147] This submission has been addressed specifically above.

302. H. Patel, 64 and 66 Great South Road Manurewa and 1 Grande Vue Road Manurewa: The submitter was concerned that increases in impervious surface area and associated changes to flows have not been adequately assessed for their site.

303. Auckland Transport's advice was the stormwater management approach has been designed to a concept level and employs raingardens at this location to manage treatment and detention with the potential for "rainsmart" / "Aquacomb" (or similar) underground tanks to manage attenuation if required beneath the pedestrian paths.[148] The management of stormwater runoff changes are regional consenting matters (not district), and accordingly will be developed further when the project design is more advanced and the relevant resource consent is applied for.

304. D & N Smith: The submission referred to the stormwater retention pond proposed on their land at 52 Popes Road, noting that they are not sure why a pond is needed. They also raise safety concerns over the deep open channel next to a new footpath. The submitter also requested that:

a) The open channel on the east side of Porchester Road to be filled in and piped to the Papakura Stream;

b) The Papakura Stream be widened and straightened as a long-term solution to enable growth in the area; and

c) The stormwater pond be moved to the rear of the property to an area beneath transmission lines if possible.

305. Auckland Transport responded that the proposed stormwater pond is needed to manage the effects of increased impervious area caused by the widened road.[149] Additionally, the pond will provide stormwater quality improvement to the stormwater runoff originating from the road. This is required by Auckland Council as part of their engineering development standards and the AUP:OP. Typically, a stormwater pond should be located in the most downstream part of the catchment it is providing management for

[146] Z Energy Ltd submissions at [6]
[147] Auckland Transport Closing legal submissions at [14.7]
[148] Kirkman SoE at [11.25]
[149] Kirkman SoE at [11.4] to [11.7]

and as close to the road as possible, to minimise the land disturbance and maximise the gradients on the pipes connecting the road to the pond.

306. Auckland Transport further noted that the channel on the eastern side of Porchester Road also serves to manage groundwater in the area. Filling in this channel and replacing with a pipe will prevent groundwater from draining and may led to elevated groundwater levels and less stable land, especially in the wetter than normal winter months.

307. In response to the submitter's request that the Papakura Stream be widened and straightened, modifications to the Papakura Stream are not something that Auckland Transport has control over. This is a matter for Healthy Waters and to date Auckland Transport has not received advice that they are planning on modifying the stream to improve flood or flow capacity.

308. The proposed wetland could be relocated to the zone beneath the transmission lines as the submitter has noted. However, a new deep open channel would be needed to divert the existing Porchester Road road-side channel around the outside of the new stormwater management pond so the connection from the road does not cross over with this channel. This alternative would result in a much larger land take from the landowner at 52 Popes Road and would be a poorer outcome.

309. BJ Wallace Trust and SJ Wallace Trust 296 Porchester Road: The submission stated that there is no upstream flow onto this landholding, and it has a consented stormwater solution for its full development. Auckland Transport agreed with this statement.[150]

310. The submitter stated that its consents provide for utilising the front yard to convey, treat and attenuate (including peat recharge) the stormwater from the site. This will be predominantly achieved through planted swales but will also require manholes and pipes. Auckland Transport agreed and noted that they have reviewed the approved consent documents that confirm this.[151]

311. The submitter considered that Auckland Council are seeking to utilise their consented stormwater management area for a temporary construction area. They requested that stormwater infrastructure be installed by Auckland Council and be reinstated when they give effect to the designation should it be damaged though construction. The submitter requested that the Porchester and Popes Road designs need to avoid new stormwater flow diversion to their site. Further, the Q100 flow should continue to be conveyed over Popes Road to the overland flow path to the north of the property.

312. Auckland Transport confirmed that what was sought by the submitter is the present approach to meet the proposed designation conditions and that would be addressed

[150] Kirkman SoE at [11.30]
[151] Kirkman SoE at [11.31]

during site reinstatement and typically dealt with under the PWA, as explained in the evidence of Mr van der Ham.[152]

313. B. Kuriakose, 2- 17 Portrush Lane: The submitter wanted to know whether the blue triangle on the designation map indicated water. He was also concerned with existing mosquito problems associated with standing water in industrial land that is filled with pipes and other machinery. He requested that if the pipes are not going to be removed that it be sprayed with a mosquito repellent or the same.

314. The Panel has not seen any written evidence from Auckland Transport addressing this submission. We note the blue triangle on the General Arrangement Layout Plan for NoR 1 shows a proposed stormwater treatment /attenuation device on designated land abutting some Portrush Lane properties.

315. As part of Auckland Council s42A reporting Mr Sunich advised that that some design matters for the stormwater attenuation devices were clarified during pre-lodgment discussions with the RA. This included advice that standing water is not anticipated to occur at the proposed stormwater devices.[153]

316. In his closing s42A comments Mr Sunich stated that the matter of clarification regarding the attenuation devices will lead to mosquito issues has been resolved.

317. We note that the industrial land adjacent to Portrush Lane which appears to be the area of concern to Mr Kuriakose is designated for a stormwater device, which will require removal of existing pipes and machinery.

Council s42A evidence

318. Comments on the TLC NoRs from Mr Sunich were:[154]

> *"My assessment considers flood hazard and overland flow path effects during construction as well as the long-term effects of operating roads. Where appropriate I have also commented on management of operational stormwater discharges from the project, however this matter is largely out of scope currently and will be subject to future regional plan resource consent applications and assessment reflecting the stormwater management related rule sets in the Auckland Unitary Plan (AUP). Notwithstanding this it is important to consider that suitable land area will be available within the designation to construct and operate the stormwater management devices receiving runoff from the carriageway impervious surfaces."*

319. For the South FTN NoRs, Mr Sunich noted that the Requiring Authority has proposed a suite of stormwater management devices for each NoR route that he considers to be in line with current practice to address the effects of stormwater runoff from the impervious surfaces (e.g. stormwater contaminants, hydrology mitigation, flood peak flow

[152] Kirkman SoE at [11.32]
[153] Sunich Stormwater and Flood Hazards Technical Assessment at Appendix 1
[154] Sunich Stormwater and Flood Hazards Technical Assessment, for the s42A report, at [4.0]

attenuation). Mr Sunich noted that this has included provision within each designation boundary to construct and operate the management devices (e.g. treatment and attenuation wetlands).[155]

320. In his closing memos on stormwater and flooding for the TLC and SFTN NoRs Mr Sunich advised that all issues raised in his s42A technical memos have been adequately addressed.

Finding

321. We find that Auckland Transport has adequately addressed the concerns raised by submitters on stormwater matters and has made provision within each designation for future construction of stormwater management devices to manage the stormwater effects of future roads enabled by the designations. The proposed conditions, including the LIP condition will assist in engaging property owners in future implementation.

Flooding

Construction effects

322. Mr Kirkman addressed potential construction effects on flooding.[156] He advised that the potential flooding effects arising from construction of the Project will vary across the whole Project area, depending on the stage of construction, the extent of floodplain occupation, the capacity of new cross-drainage structures, the magnitude of the rainfall event that generates the flooding, and the coincidence of the these occurring at the same time.

323. Construction timeframes for projects of this nature (projects without large earth moving elements) are generally short and the likelihood of an extreme magnitude rainfall event occurring during a construction stage is much less than the same magnitude rainfall event occurring after construction.

324. Based on the above, Auckland Transport's recommendation in order to avoid, remedy or mitigate construction flooding effects, the constructor must prepare a Construction and Environmental Management Plan (CEMP) that addresses flood risk and provides staged controls to manage flood risk.

Operational effects

325. Mr Kirkman's evidence was that potential flooding effects arising from the operation of the Project across the whole project area include:[157]

[155] Sunich Auckland Council memorandum (technical specialist report to contribute towards Council's section 42A hearing report), South FTN NoRs Stormwater and Flood Hazard Technical Assessment, 28 February 2024
[156] Kirkman SoE at [9.2] and [9.3]
[157] Kirkman SoE at 9.4

a) The potential for worsened flooding on existing properties/buildings due to the Project earthworks (flood storage displacement) and overland flowpath (OLFP) diversion; and

b) Worsened flooding due to incremental changes to impervious areas caused by an increase in road area.

326. To avoid or minimise the above effects a flood hazard condition is proposed. The following measures will be implemented to achieve the outcomes of the proposed flood hazard conditions for each project area:[158]

a) maintaining existing road levels within the corridor at OLFPs and floodplains;

b) channelising existing OLFPs to discharge under the proposed bridges to increase capacity and reduce flood effects.

c) adding new culverts or pipe systems to manage changes to flood levels and increased road heights (i.e. substituting the loss of flow over the road for more flow capacity under the road);

d) adding more live storage capacity at the upstream end of culverts through localised excavation - this compensates for the culvert headwater effects to maintain a neutral flood hazard on upstream land; and

e) integrating development stormwater design requirements with adjacent development or wider upgrades to public infrastructure upstream and downstream of the proposed corridor.

327. As part of the proposed works the Hingaia Stream bridge will also be upgraded to provide for the 1 in 100-year flood.

Submissions

328. The submissions on flooding are set out as follows together with a response from Auckland Transport, Auckland Council or from the Panel.

329. Takanini Village Ltd and Tonea Properties Ltd: The submission stated there will be adverse impacts on existing service connections to the Takanini Town Centre at 30 Arion Road, including water, fibre, gas, power and impacts on stormwater networks both piped and overland flows.

330. No concerns about flooding were noted in expert evidence provided on behalf of this submitter.

[158] Kirkman SoE at 9.5

331. For Auckland Council, Mr Sunich advised that Auckland Transport has prepared mitigation for this area which he agrees with and it will be subject to further detailed design through performance outcomes in the flood hazard conditions.[159]

332. Zabeel Investments Limited 354 Porchester Road: The submitter has raised a number of concerns regarding NoR 4 as follows:

a) The Flood Hazard Effects Report prepared by Auckland Transport provides no specific assessment for the length of Porchester Road between the Papakura Stream bridge and Popes Road, despite there being a 200m³/s flow at that point, a large portion of which flows across Porchester Road and into the subject site;

b) It is not possible to alter the western side of Porchester Road without significantly and adversely affecting the flood levels, conveyance of overland flows and floor level freeboards on Zabeel's property;

c) There is no confirmation that the conditions on flood levels could be achieved; and

d) Conveyance and treatment on Popes Road and the west side of Porchester Road by swales is unnecessary due to the presence of Auckland Council's new wetland in this area.

333. Mr Kirkman responded to the submitter's concerns as follows:[160]

In response to the submitter's concern regarding the assessment of the area along Porchester Road between the Papakura Stream bridge and Popes Road, the submitter has conflated the flowrate in the Papakura Stream and that in the flowpath along Porchester Road. For clarity, the Papakura Stream has been modelled to flow at 286m³/s in the 100-year event with 3.8º climate change and fully urbanised catchment (as presently zoned in the AUP:OP). The channel along Porchester Road (on the eastern side of the road between Popes Road and Papakura stream) is modelled to flow at 60m³/s in the same rainfall event as described for the Papakura Stream. This is still a very significant rate of flow and exceeds the channel capacity.

In response to the submitter's concern about flooding impacts along the western side of Porchester Road, Auckland Transport, I disagree that modifications to the western side of Porchester Road are not manageable without causing significant adverse effects. On the contrary, Auckland Transport have concluded that modifying the eastern side of Porchester Road would cause the more significant changes to conveyance as this is where the primary drainage channel is located. Modifications to the western side will still require careful ground grading to prevent adverse effects but it is an exaggeration to suggest that changes to the ground are highly sensitive to flood effects.

[159] Sunich Stormwater and Flood Hazards Technical Assessment, for the s42A Report, at Appendix 1
[160] Kirkman SoE at [11.19] to [11.23]

In response to the submitter's concern regarding flood levels being achieved, I consider that sufficient design and modelling work has been undertaken to ensure the flood hazard outcomes can be achieved within the designation boundary. Specific design measures to confirm compliance with conditions to be met is a confirmation step best suited for a later design stage, when the design is further refined.

Finally, in response to the submitter's concern regarding conveyance and treatment along Popes Road, the conveyance swales along Popes Road to the immediate west of Porchester Road can be removed and replaced with a catchpit and pipe system that flows to a new wetland at the end of Porchester Road. Corresponding changes to the proposed designation boundary have been proposed as a result since lodgement. I disagree that the new Auckland Council wetland has the capacity to treat the runoff from the road portion of this sub-catchment. However, I do agree that the existing Auckland Council wetland is capable of taking the catchment from 296 and 354 Porchester Road. I have confirmed this during a site visit where I observed the road catchment as separate from the private land drainage in separate channels.

334. D. Evans 311 Porchester Road: The submitter is concerned the proposed stormwater pipe will stop at the boundary of their property at 311 Porchester Road, Takanini, changing course and moving to a surface flow conveyance along the existing road front with the fill batter, raising a concern about surface flooding. The submitter seeks that the underground stormwater pipe continue on the same path, rather than change line and become an open drain.

335. Mr Kirkman advised that the submitter's driveway at 311 Porchester Road is where an existing stormwater pipe discharges into a deep existing channel.[161] There is no proposed new stormwater pipe at this location. The widened road will fill the existing channel, and so the proposed designation provides for a replacement channel. The reinstated channel will need safer slopes than the existing channel. The designation shown reflects this as a wider land requirement for the same depth channel. Access to the submitter's property will be provided for through the proposed designation conditions.

336. D. Nakhle and F. Ali and Alda Investments Limited: The submitter recognised that flooding of structures appears to be avoided. However, the submitter considered there is no such assurance in the NoRs that flooding or ponding of the apartments' carpark area will be avoided. The submitter also asserted that the TLC Project should not enable any increase in flood hazard on any sites.

337. Mr Kirkman's response to the submitter requesting an assurance that flooding or ponding on the apartment carpark area be avoided, is that they cannot offer such assurance as this is out of Auckland Transport's control.[162] The site owned by the submitter already has an overland flowpath running through it, and it will presently

[161] Kirkman SoE at [11.35]
[162] Kirkman SoE at [11.7]

experience flooding in extreme rainfall events. The flooding originates from the catchment to the east of the submitter's site, along Walters Road, and flows over Porchester Road. The project works can, at best, avoid increases in peak flood levels on the carpark as a result of the Project as described in the proposed designation flood conditions for the Project.

338. Mr Kirkman did not agree that the Project could guarantee 'no increase' in flood hazard for a site.[163] He noted that it is not possible to change a road shape that controls a flow path and have absolutely no impact on flooding. A small change may result from the road changes within the NoR, and the question is, how much change constitutes an effect. The designation flood hazard conditions seek to find a balance between allowing some flood level changes to give flexibility in the road design and limiting the flood level changes so they have less than minor effects and do not result in a worsened outcome to flood sensitive land uses.

339. K. Dasgupta: The submitter is concerned that the intent of the flood hazard conditions will not be achieved through construction, that the flood risk to local residents is not a priority, and that the design has insufficient provisions to adapt if the flood outcome is not achieved. The submitter also raised concerns over the construction works and the possibility for unexpected flood behaviour.

340. Mr Kirkman agreed with the submitter that the safety and concerns of the local residents should be prioritised.[164] The intent of the flood hazard conditions proposed as part of NoR 2 is to protect the local residents and their residential buildings from flood impacts.

341. He further agreed that flood effects arising from construction works can be unpredictable given the constantly changing nature of a construction site and that special consideration should be given to flow path and flood management through this phase.[165] To manage this flooding risk during construction, a CEMP is required and will be updated if new effects are identified. This requirement forms part of the proposed designation conditions.

342. J and S Bhaduri: Mr Kirkman's comment on this submission was that it raises "risk of flooding" in their submission summary but did not elaborate on this in any more detail.[166] As with other submissions, Mr Kirkman advised that flood hazard risks will be adequately managed via the proposed designation conditions.

343. For Auckland Council Mr Sunich noted Auckland Transport has prepared mitigation for this area which he agrees with.[167] He also noted the submitter's property is not within the flood plain as shown in Auckland Council Geomaps and lies adjacent to a dry detention pond which is an Auckland Council stormwater asset.

[163] Kirkman SoE at [11.8]
[164] Kirkman SoE at [11.10]
[165] Kirkman SoE at [11.11]
[166] Kirkman SoE at [11.12]
[167] Sunich Stormwater and Flood Hazards Technical Assessment, for the s42A Report, at Appendix 1

Council s42A evidence

344. In his closing s42A memo for the NoRs Mr Sunich advised that there were no outstanding matters, including the flood hazard conditions proposed by Auckland Transport. We note that Auckland Council's final recommended flood hazard condition included addition of an advice note. Auckland Transport rejected the recommended addition of an advice note as the purpose of the flood hazard condition is clear from the proposed updated wording of the flood hazard condition.[168]

Discussion and finding

345. We accept the evidence of Auckland Transport that potential flood hazards arising during construction can be satisfactorily avoided or minimised by way of implementation of the CEMP.

346. We also accept the evidence of Auckland Transport that ongoing flood hazard associated with or resulting from operation of proposed roads within the proposed NoRs will be satisfactorily avoided or minimised by way of implementation of Auckland Transport's recommended flood hazard conditions. Further, we agree that an advice note to the flood hazard conditions, as suggested by Mr Sunich on behalf of Auckland Council, is not needed as the purpose of the flood hazard condition is clear from the proposed wording of Auckland Transport's recommended condition. We also note that regional consents will be needed for diversion of stormwater associated with the detailed design of proposed roads and earthworks which can be expected to include appropriate consideration of and conditions to address flood hazard.

Noise

347. Ms Wilkening's predictions and proposed mitigation for construction noise and vibration and then traffic noise are summarised in the following passages.[169]

Construction noise and vibration

348. Construction noise and vibration effects for the TLC and South FTN Projects are similar. Both are transport infrastructure projects that generally move along an alignment, except for bridge construction.

349. For both Projects, overall, predicted noise and vibration levels for most of the works will be able to comply with the relevant daytime criteria, which means that effects are generally acceptable inside neighbouring buildings. The construction vibration criteria in the proposed conditions are very similar to AUP:OP vibration criteria. Where high noise activities are likely (e.g. demolition of close by buildings, piling of bridges or retaining walls, and earthworks), these activities would generally occur for short periods only close

[168] Evitt closing submissions at Appendix B
[169] Wilkening at [1.7] to [1.12]

to any one building, extending over a few days at most, before moving along the alignment or being completed.

350. Bridge construction will occur for an extended period and require night-time works where the bridge in question crosses major transport routes such as the NIMT rail line or SH1. These bridges are:

a) TLC NOR1 Spartan Road, Manuroa Road, Manuia Road and Taka Street;

b) TLC NoR 2 Walters Road; and

c) SFTN NoR 3 Weymouth Road and Alfriston Road.

351. Management measures must therefore consider the effects on nearby residents with the potential offer of temporary relocation should that be necessary.

352. Ms Wilkening considered that, overall, effects can be managed through the application of management and mitigation measures through a CNVMP and Schedules. Such measures should be implemented as a matter of good practice and are the baseline for most circumstances, irrespective of compliance with the noise or vibration criteria.

Traffic Noise

353. Noise effects have been predicted at all PPFs.[170] PPFs include:

> *"dwellings (including those that have building consent but are not built yet), educational facilities and their playgrounds within 20m of any school building, boarding houses, retirement villages, Marae, hospitals with in-patient facilities and motels/hotels in residential zones."*

354. Any potential future dwellings that are not yet consented are not PPFs. Given the current well-developed character of the Project area, Ms Wilkening considered that her predictions for the existing PPFs will also cover the area of future additional development. Businesses and industrial operations are not PPFs, as they are not considered noise sensitive and are often noise generators in their own right.

355. Ms Wilkening recommended the implementation of low noise road surface across all NoRs.[171] This mitigation will also benefit any future sensitive receivers. In addition, a small number of PPFs in FTN NoRs 3 and 4 may benefit from improved boundary fences, and TLC NoR 1 Manuia Road would benefit from a noise barrier on the west side of the bridge and bridge embankment adjacent to Portrush Lane. Whether these barriers are the BPO would be determined and confirmed at the time of detailed design to integrate with the future environment.

[170] TLC Assessment of Traffic Effects at [3.2]
[171] Wilkening SoE at [1.17]

356. For both the TLC and South FTN Project, overall, Ms Wilkening predicted that the change in noise level will be minimal due to the traffic generation itself.[172] Where dwellings are intended to be removed to make space for the Project, the remaining PPFs would still receive noise levels within Category A (the preferred noise criteria category). However, a small number of PPFs would receive a noticeable noise level increase and noise levels within Category B. For these PPFs, mitigation in addition to the low noise road surface (e.g. the use of a boundary fence) will be reassessed during detailed design.

357. As required by the conditions, any PPFs receiving noise levels in Category C will need to be investigated for building modification mitigation.

358. For the vast majority of PPFs the noise level changes due to the Project will be insignificant (ranging from +2 to -2 dB).[173]

359. Only a small number of PPFs (27 PPFs in the TLC Project and 15 PPFs in the South FTN Project) would receive a noticeable to significant noise level increase. Overall, Ms Wilkening predicted that the Projects will result in no noticeable change to the environment, and for a number of PPFs in an improvement in noise level. This is mostly due to the use of low noise road surface.[174]

Submissions on Noise and Vibration Effects

360. Ms Wilkening assessed the submissions on noise and vibration in her evidence responding to the submissions by topic. Her evidence responded in particular to the following matters:

a) Construction noise and vibration effects, in particular the level of noise generated, and mitigation sought. Construction noise and vibration appears to be the primary concern for the TLC Project; and

b) Traffic noise effects from due to the road edges moving closer to houses.

361. In addition to these matters, her evidence also provided a response to specific matters raised by individual submitters where required. We summarise her responses to submissions with reference to her evidence in chief, unless noted otherwise.

TLC Project submissions

362. Ms Wilkening reviewed 29 submissions from 22 distinct submitters discussing noise and/or vibration from the TLC Project.

[172] Wilkening SoE at [1.18]
[173] Wilkening SoE at [1.20]
[174] Wilkening SoE at [1.21]

363. Construction noise and vibration effects - Most submitters[175] raised general concerns about construction noise and vibration effects, particularly the anticipated noise levels when works are close by.

364. Ms Wilkening's noise and vibration assessment was based on a worst-case scenario which assumed equipment will be operated as close to neighbouring houses as possible within the designation and the equipment generating the highest noise and vibration levels is used in this location. In reality, equipment may not actually be operated this close to buildings, and equipment choices may mean that a lower noise emitting plant is used. But even if this equipment was used in such a location, the high noise levels are not expected to be frequent or for a long duration as the works move along the alignments, except where there is bridge construction. The designation widths for the bridge construction means that in most instances, sensitive receivers are at a distance that Ms Wilkening considered noise levels received are reasonable.

365. Where an exceedance was predicted at any receiver that exists at the time of construction, the effects will be addressed through mitigation and management measures developed under the framework of the CNVMP and, where required, Schedules. In many instances management will require consultation with affected receivers, as set out in the CNVMP conditions.

366. The CNVMP conditions require that a building condition survey be carried out if an infringement of the vibration criteria is predicted in advance of construction works, and where vibration levels cannot be reduced sufficiently by using a different construction methodology.

367. CNVMP and Schedules - Several submitters, while being concerned about potential noise and/or vibration levels, nevertheless support the use of CNVMPs.[176] Ms Wilkening agreed that the implementation of CNVMP and Schedules are a responsive and appropriate measure to manage noise and vibration effects during construction, with the input from affected parties.

368. Two submitters were concerned that the management plans (including the CNVMP and Schedules) are provided to Council for information only, but not for certification.[177] That is incorrect in relation to both the CNVMP (which will be provided to the Council as part

[175] Takanini Business Association (NoR1_04 and NoR2_03), Portsmouth Family Trust (NoR1_07), Oceania Healthcare (NoR1_11), On Track Trust (NoR1_28), Vertex Lubricants (NoR1_31), Ministry of Education (NoR1_36 and NoR2_16), Takanini Village Ltd and Tonea Properties (NoR1_37 and NoR2_17), Sunlight Holdings Ltd and South Auckland Marine (NoR1_38 and NoR2_18), Carters Building Supplies Ltd and Mead Trust Holdings Ltd (NoR1_39 and NoR2_19), Mitre 10 Mega (NoR1_40 and NoR2_20), K Dasgupta (NoR2_04), Portrush Lane Home Owner Group (NoR02_06), Van Den Brink 254 Ltd (NoR2_08), Alda Investment (NoR2_10), D Nakhle and F Ali (NoR2_11), J and S Bhaduri (NoR2_13).

[176] Takanini Business Association (NoR1_04 and NoR2_03), On Track Trust (NoR1_28), Vertex Lubricants (NoR1_31), Van Den Brink 254 Ltd (NoR2_08), Kainga Ora (NoR1_43 and NoR2_23).

[177] Alda Investments (NoR2_10), D Nakhle and F Ali (NoR2_11).

of the Outline Plan) and Schedules (which will separately be provided to the Council for certification).

369. Two submitters asked to have input into the CNVMP during its preparation.[178] Ms Wilkening advised that, normally, the CNVMP will be prepared by the contractor, with input from specialists, and provided to Council as part of the Outline Plan. Engagement and input from residents and stakeholders will be sought for the preparation of Schedules. Schedules are required where there are predicted or measured exceedances of the noise and/or vibration criteria. The conditions require that at that time, there will be consultation with the affected parties to determine the BPO mitigation and management.

370. In addition, the Ministry of Education[179] would like to see management of construction to avoid high noise and/or vibration levels during study and exam periods. Ms Wilkening agreed that such management should be discussed and implemented as far as practicable, noting that there are no schools currently near any of the TLC project areas.

371. The submission from Portsmouth Family Trust related to a large childcare centre at 18 Manuroa Road.[180] Ms Wilkening advised that the works for the Manuroa Road active mode bridge are less intense than for new road bridges, and that the outdoor play areas are located away from the works. However, she agreed that engagement with the childcare centre will need to occur at the time of construction to ensure operations are not significantly affected by construction noise.

372. Oceania Healthcare at 9-13 Taka Street sought mitigation and management during construction to protect the amenity of its retirement village residents.[181] Ms Wilkening's assessment had determined that there is a high potential for exceedances of the noise standards at this location. Therefore, one or more Schedules will be required, to be prepared through implementation of the CNVMP, to respond to the retirement village's concerns and determine how to best manage effects to achieve a reasonable outcome for the retirement village and the construction contractor.

373. Excluded from assessment - Two submitters are concerned that they have not been included in the construction noise and vibration assessment. The two addresses are at 33 Oakleigh Avenue[182] and 37-39 Oakleigh Avenue,[183] at the eastern end of NoR 1 Manuia Road. Both properties are businesses. The closest building at 33 Oakleigh Avenue is some 70 metres from the potential closest construction site. At that distance, Ms Wilkening advised that compliance with the daytime noise standards can be achieved without additional mitigation.

[178] Halls Transport (NoR1_29), Ministry of Education (NoR1_36 and NoR2_16).
[179] Ministry of Education (NoR1_36 and NoR2_16).
[180] Portsmouth Family Trust (NoR1_07).
[181] Oceana Healthcare NoR1_11.
[182] B&F Papers Ltd (NoR1_12).
[183] Aintree Group (NoR1_15).

374. At 37-39 Oakleigh Avenue, a new building is being constructed adjacent to the boundary that was not in place when the Auckland Transport assessment was undertaken. The building appears to have no openings facing the road and be of solid concrete precast panels. Construction at the Oakleigh Avenue roundabout would be immediately beside the building. While external noise levels may be high, the concrete panels suggest that should people occupy the space inside the new building, the sound level reduction will be at least 30 to 35 decibels (potentially more). Ms Wilkening advised that this means that noise levels in the building would be well within reasonable levels during the construction of the roundabout.

375. Notwithstanding the above assessment, Ms Wilkening advised that when the CNVMP is being prepared at the time of detailed design, any existing buildings will be taken into consideration and management and mitigation designed to respond to the environment as it exists at the time.[184]

376. Night-time and long weekend works - Several submitters expressed concerns about the potential impact from night-time works and works over long weekends.[185] Ms Wilkening advised that night-time works (and those over long weekends) will generally be limited to works that cannot be reasonably undertaken at other times. This is predominantly the case for the installation of bridge decks across the NIMT. These works can only be undertaken during a Block of Line (BOL), when no trains are running. Such times are limited and often involve weekends or nights to reduce rail disruption.

377. The submitters sought conditions to ensure the minimum practicable impact in terms of noise and vibration effects. Ms Wilkening noted that all submitters except Mr K Dasgupta are businesses. The night-time noise standards for businesses are higher than that during the day as there are generally no people on site to be affected.

378. Ms Wilkening noted that the sensitivity of the receiving environment will be considered when determining the BPO mitigation and management during detailed design, e.g. residentially used sites will receive higher protection from night-time noise than businesses.

379. Vibration effects on buildings - Some submitters were concerned about construction vibration causing damage to the buildings.[186] Ms Wilkening's evidence was that the Auckland Transport vibration predictions are highly conservative, allowing for a 100% safety margin. The conditions provide for building condition surveys prior to and after high vibration activities to ensure that any damage can be clearly attributed to construction works and rectified.

[184] Wilkening SoE at [9.17]
[185] Takanini Village Ltd and Tonea Properties (NoR1_37 and NoR2_17), Sunlight Holdings Ltd and South Auckland Marine (NoR1_38 and NoR2_18), Carters Building Supplies Ltd and Mead Trust Holdings Ltd (NoR1_39 and NoR2_19), Mitre 10 Mega (NoR1_40 and NoR2_20), K Dasgupta (NoR2_04).
[186] Portrush Lane Home Owner Group (NoR2_06), Alda Investments (NoR2_10), D Nakhle and F Ali (NoR2_11).

380. Ms Wilkening noted that all bridge piles are intended to be bored which is the least vibration inducing piling method.

381. One of the submitters is concerned about the structural integrity of the land (i.e. not a building).[187] Ms Wilkening that this matter would be addressed through the resource consent rather than this NoR should the need arise.

382. Traffic noise effects - Six submitters raised concerns about traffic noise effects in relation to the TLC Project.[188] One submitter's property is inside a designation and will be acquired. The dwelling will be removed and therefore does not represent a PPF.[189]

383. Noise from bridges and ramps - Two submitters are concerned about traffic noise from elevated structures (e.g. a bridge or ramp). One of the properties from which a traffic noise submission has been received is a pipe installation business at 22 Oakleigh Avenue.[190] Businesses are not PPFs as they are generally noise producers in their own right and are less noise sensitive than dwellings or schools. The predicted traffic noise level at the building with the bridge in place is approximately 60 dB LA_{eq}(24h). The business is in the Light Industry zone, with 24-hour noise limits of 60 dB LA_{eq}. Overall, the road will not generate unreasonably high noise levels at this business.

384. The other submitter is at 3 Arion Road, which is 40 metres from where the Walters Road bridge would meet the existing ground level.[191] The dwelling is double storey. It will be partially shielded from the bridge by the medical centre on the corner of Walters and Arion Roads. At the dwelling, Auckland Transport predicted the noise level to remain the same now to the design year with the bridge constructed, i.e. the Project will have no adverse effects on the PPF.

385. Future development - Two submissions relate to the same address: 164-166 Porchester Road adjacent to NoR 2 – Walters Road.[192] It is understood that the site has a resource consent to construct 42 residential units, but that no building consent has been obtained for the development.

386. Auckland Transport has not specifically predicted noise levels at the potential future units on the site. The previously existing dwellings at 164, 164A and 166 Porchester Road were included in the predictions. While these dwellings are now demolished (and therefore not PPFs), the predictions give a good indication of the noise levels expected at any future dwellings on the site. The previous dwellings were set back from the road, and all predicted to receive noise levels in Category A (64 dB LAeq(24h) or less) with the TLC Project in place.

[187] Portrush Lane Home Owner Group (NoR2_06).
[188] M Koppens and D Ibbett (NoR1_10), H2O Pipelines Ltd (NoR1_27), Alda Investment (NoR2_10), D Nakhle and F Ali (NoR2_11), J and S Bhaduri (NoR2_13), Kainga Ora (NoR1_43 and NoR2_23).
[189] M Koppens and D Ibbett (NoR1_10).
[190] H2O Pipelines Ltd (NoR1_27).
[191] J and S Bhaduri (NoR2_13).
[192] Alda Investment (NoR2_10), D Nakhle and F Ali (NoR2_11).

387. Ms Wilkening advised that the TLC Project is not predicted to have a significant impact on the noise levels received at the site – levels are predicted to remain similar without and with the TLC Project when comparing the Do-nothing and Do-minimum noise levels and including other roads in the vicinity.

388. The submission requested that mitigation is implemented at the time of TLC Project construction. This is already proposed, with low noise road surface being installed at the latest within 12 months of Project completion. The surfacing on the roundabout will be dense asphalt surface, which would be installed at the time of construction. Ms Wilkening thus considered that the appropriate mitigation will be implemented at the correct time.

389. The noise level contours provided in the Auckland Transport noise assessment report enable the developer to plan if they would like to include additional façade design when applying for building consent, to offer an appropriate internal noise environment for future residents.

390. Ms Wilkening's opinion was that for new houses establishing close to existing roads, the best time to include relevant mitigation is at the time of building construction. She advised that the additional cost for providing façade upgrades to achieve 40 dB LA_{eq}(24h) inside is between zero and 2% of the whole built cost, a negligible increase.[193] On the other hand, retrofitting building modification can be more expensive to carry out and be significantly more intrusive to residents.

391. She considered that both Auckland Transport and developers should implement the mitigation measures most practicable within their realm in order to achieve a good outcome for new residents, both in their homes and in terms of transport choices. In her opinion, the structural mitigation proposed for the TLC Project (i.e. low noise road surface and a barrier at Manuia Road) is appropriate.

392. The submission pointed to discrepancies between the traffic volumes used for the TLC and South FTN Projects. Ms Wilkening noted that the change in traffic volume makes no material difference to the outcome of the assessment.

393. Kāinga Ora - In addition to her responses to the general matters raised by submitters, as discussed above, Ms Wilkening provided the following response to specific matters raised by Kāinga Ora in relation to traffic noise.[194]

394. The submission stated that for the TLC project, 32 Kāinga Ora properties are considered PPFs, with five expected to receive traffic noise levels above 55 dB LA_{eq}(24h). Ms Wilkening noted that noise levels in Appendix B of her Operational Noise Technical Report record the noise levels for traffic noise from the Project roads only (i.e. excluding other roads in the vicinity that remain unchanged by the Project). This means that while

[193] Acoustic Engineering Services "*Cost of traffic noise mitigation measures*", Memorandum for Waka Kotahi, dated 12 June 2020.
[194] Kainga Ora (NoR1_43 and NoR2_23).

the Project road may cause noise levels above 55 dB LA_{eq}(24h), other roads may already generate much higher noise levels at the same house. This is reflected in the "change in noise level" assessment she had undertaken.[195]

395. Ms Wilkening had reviewed current and future noise levels at the Kāinga Ora properties, including all roads in the vicinity. This situation most closely reflects what people will experience, i.e. what the combined traffic noise level is from the Project roads and other roads.

396. For all Kāinga Ora properties the Project team identified, she found that the existing noise levels are already above 55 dB LA_{eq}(24h). Existing noise levels at the Kāinga Ora properties fronting the road range from 64 to 68 dB LA_{eq}(24h), due to a combination of traffic noise from the Project roads and other roads. Kāinga Ora properties one row back often receive noise levels above 55 dB LA_{eq}(24h) and the Project roads will not result in any significant increases to those levels.

397. The submission referenced external noise levels of 55 dB LA_{eq} (24h) and internal noise levels of 40 dB LA_{eq} (24h) to evidence provided on behalf of Auckland Transport by Ms Claire Drewery in relation to Private Plan Change 51 (PC51). The submission noted that activities exposed to noise levels above 55 dB LA_{eq} (24h) may require noise mitigation to address potential adverse health effects.

398. Based on its interpretation of Ms Drewery's evidence, Kāinga Ora sought that traffic noise levels are effectively "internalised", with traffic noise not exceeding 55 dB LA_{eq} (24h) at the designation boundary. If that cannot be achieved, then Kāinga Ora seeks that all houses receiving internal noise levels of more than 40 dB LA_{eq} (24h) (i.e. not only PPFs receiving noise levels within Category C) receive building modification mitigation (e.g. mechanical ventilation, improved joinery or glazing or similar measures).

399. Ms Wilkening distinguished the TLC project, which is one relating to upgraded (and new) roads being designated, as having a different noise approach to that of PC 51, which is a proposal for development next to existing or new roads. In the Drury Arterials hearing it was acknowledged by all directly affected parties that there is a shared responsibility to deal with the effects of traffic noise. This generally involves the road controlling authority providing low noise road surface, while neighbouring developers ensure that houses are suitably designed. Ms Wilkening considered this to be an appropriate approach here also. The TLC Project already proposes low noise road surfaces, and a barrier where it will be effective and appropriate.

400. Secondly, she made the observation that the existing ambient noise environment adjacent to all parts of the TLC project is already elevated because of the existing roads and the NIMT, so the present situation is not comparable to the greenfield situation at PC51. Existing traffic noise levels are much higher than 55 dB LA_{eq} (24h) for most Kāinga Ora dwellings (as discussed already above). She considered that it would be

[195] Takanini Level Crossings, Assessment of Traffic Noise Effects, October 2023, sections 3.2 and 3.3 explain which roads are included in which modelling scenarios

unreasonable and unrealistic to require the Project to achieve an outcome which is well below existing noise levels.

401. Ms Wilkening considered that if Kāinga Ora is concerned about noise levels above 55 dB LA_{eq} (24h), then it is its responsibility to rectify that (existing) situation by upgrading its existing housing stock.

South FTN Project submissions

402. Ms Wilkening reviewed 34 submissions from 25 distinct submitters discussing noise and/or vibration from the South FTN Project.

403. Construction noise and vibration effects: Most submitters raised general concerns about construction noise and vibration effects, particularly the anticipated noise levels when works are close by.[196]

404. These general concerns have been discussed above for the TLC project. Ms Wilkening confirmed her view that the proposed CNVMP and Schedules provide an appropriate framework to ensure the appropriate management and mitigation of construction and vibration effects of the South FTN Project. We address more specific issues below.

405. Vibration effects on buildings*:* Several submitters were concerned about construction vibration causing damage to buildings.[197] Ms Wilkening advised that all vibration predictions are conservative, adding safety margins during the predictions by selecting highest vibration inducing equipment, the most transmitting soil type and placing the equipment closest to the designation boundary. This means that the buildings noted in Appendix B of the construction noise and vibration assessment represent the widest envelope of effects.

406. For all predicted exceedances, the first step will be to determine the appropriate management and mitigation measures to reduce the vibration impact at the time of construction. This is done through the CNVMP and, should residual infringements remain, the Schedules. In addition, the conditions require building condition surveys prior to and following high vibration activities that are predicted to be at or above the Category B daytime vibration levels.

407. Ms Wilkening advised mitigation measures for vibration generally revolve around the choice of compaction equipment. There are several options to choose such as using non-vibratory equipment or smaller vibro equipment. The detailed choice of management

[196] M du Plessis (NoR1_15), Restaurant Brand Ltd (NoR1_22 and NoR3_27), H Patel (NoR1_23), Ministry of Education (NoR1_27, NoR2_11, NoR3_36 and NoR4_22), R Singh (NoR3_01), G Khamis (NoR3_13, NoR4_03, G and A Goldring (NoR4_07), Alda Investments (NoR4_16), D Nakhle and F Ali (NoR4_17), S and J Fleming (NoR4_18).

[197] M du Plessis (NoR1_15), Telecommunication companies (NoR2_04), R Singh (NoR3_01), A Khamis (NoR3_10 and NoR4_04), J Khamis (NoR3_11), Accessible Properties (NoR3_25), A Singh Hora (NoR4_10), Alda Investments (NoR4_16), D Nakhle and F Ali (NoR4_17).

measure will occur at the time of detailed design when the BPO can reasonably be determined as the appointed contractor is able to provide the required detail.

408. We note that the property at 59C Alfriston Road[198] owned by Accessible Properties is now included in the designation.[199] Only dwellings at 59, 59A and 59B Alfriston Road will remain occupied. These houses are well set back from the works and road.

409. Some of the submitters are concerned that the demolition of neighbouring houses may cause high vibration levels. Generally, demolition of residential buildings does not cause high vibration levels. New Zealand houses are relatively light weight, and their demolition does not require significant effort. Demolition will also be covered by the noise and vibration standards set out in the conditions.

410. Ms Wilkening considered that the conditions will appropriately manage any vibration effects to avoid any damage to buildings, including structural damage.

411. The telecommunication companies were concerned about the potential of vibration impacts on their infrastructure (e.g. the Spark data centre at 23 Popes Road). The centre is adjacent to NoR 4 and accommodates an administration block and car park fronting Popes Road. The layout of the site means that the data centre is located more than 50 metres from the closest construction area. At that distance, Ms Wilkening considered that vibration levels can easily comply with the relevant vibration criteria and predicted a conservative vibration level of around 1.5 mm/s PPV, well below any level that could cause adverse effects on the operation of the centre. The administration block will be assessed like any other office.

412. Ms Wilkening noted that Spark supports the recommended construction vibration standards and the CNVMP as management methodology.

413. Ministry of Education: As with the TLC Project, the Ministry of Education would like to see management of construction to avoid high construction noise and vibration levels during study and exam periods.[200] The South FTN Project is in close proximity to a number of school properties, particularly Manurewa East School adjacent to NoR 3, Alfriston College adjacent to NoR 4 and Papakura Normal School abutting NoR 4.

414. The school buildings of Alfriston College are somewhat removed from the works (about 50 metres) as playing fields are located adjacent to the road. Manurewa East School has some buildings within 25 metres of the works of the tie in with Scotts Road which will be relatively minor. Papakura Normal School is immediately beside the works on Walters and Porchester Roads.

[198] Accessible Properties (NoR3_25).
[199] Wilkening Rebuttal Evidence, at [4.2)
[200] Ministry of Education (NoR1_27, NoR2_11, NoR3_36, NoR4_22).

415. Ms Wilkening advised that Papakura Normal School is already identified as a potentially affected receiver in Appendices A and B of the assessment report. This means that there will be consultation when Schedules are prepared. In addition, the stakeholder engagement that is sought by the Ministry will likely also include communication in relation to construction noise and vibration, even if it does not affect the operation of a school.

416. Sensitive receivers*:* Accessible Properties in Alfriston Road is a service provider for limited mobility tenants.[201] This means that these residents cannot simply "remove themselves" from the construction noise by leaving the house and going to work or another place. The submitter seeks advance notice of high noise activities due to the sensitivity of the tenants. Ms Wilkening considered that the CNVMP should take account of receivers such as this with specific requirements that are identified at detailed design. In addition, given that these dwellings have already been identified as receiving noise levels that may exceed the criteria, a Schedule will be required. At the time of Schedule preparation, there will be consultation in advance of the works, which enables the formulation of appropriate management and mitigation measures.

417. The submitter also sought the low night-time noise and vibration criteria apply from 6pm to 8am, extending the time when no noisy construction work can be undertaken by 2.5 hours. Ms Wilkening considered it inappropriate to pre-determine the mitigation that will be applied at the time of construction several years in the future. Any such arrangements would, if appropriate, be included in the schedules that will need to be prepared for the property.

418. Traffic noise and vibration: There were 22 submissions from 18 submitters that discuss traffic noise.

419. Change in traffic noise: Many of these submitters were concerned that traffic noise will get louder and commented that existing levels are already elevated.[202]

420. The assessment report showed that for the vast majority of PPFs, noise levels will remain similar or reduce. Only a small proportion of the PPFs are predicted to experience a noise level increase – mostly where front row houses are removed.

421. Ms Wilkening advised that while for three of the submitters the South FTN Project is predicted to result in noise level increases of 2 to 4 dB (representing small changes), others receive a noise level increase independently from the South FTN Project or no noise level increase (and in fact a noise level reduction). The overall effect of the South FTN Project on this group of submitters is neutral.

[201] Accessible Properties Ltd (NoR3_25).
[202] C Howe (NoR1_16), P Govender (NoR1_19), P and S Chand (NoR3_09), A Khamis (NoR3_10 and NoR4_04), J Khamis (NoR3_11), P and P Umaria (NoR3_18), G and A Goldring (NoR4_07), A Singh Hora (NoR4_10), S and J Fleming (NoR4_18).

422. Omitted PPFs: Three submissions noted that their sites have not been assessed as PPFs based on the latest information.[203]

423. For two sites (23 and 23A Great South Road, and 31 Great South Road) the sites hold unimplemented building consents. Ms Wilkening advised that this has now been rectified and the outcome as described in the assessment report does not change.[204] For all eight areas within SFTN NoR1, the trigger levels are not met, which means that the effects are too small to require assessment and mitigation.

424. Intermittent traffic noise: Some submitters expressed concerned about intermittent traffic noise such as from heavy vehicle traffic or cars braking and accelerating, whereas the noise predictions for the Project focused on noise from flowing traffic.[205]

425. Ms Wilkening's response was that heavy vehicle noise is generally louder than noise from light vehicles. With the increase in overall traffic volume, it is also likely that heavy vehicle traffic is more frequent, however, this will not be a result of the South FTN Project.

426. Engine braking can also be an annoyance for neighbouring residents. Good road design, including early indication of roundabouts, can reduce the need to use engine braking. While observance of "no engine braking" signs is not mandatory, the signs may help in reducing braking events. There are also other considerations such as safety that would take precedence over noise effects.

427. Cars accelerating or braking are a common part of urban and suburban traffic. The South FTN Project does not appear to cause any additional reason to brake (e.g. no additional intersections or traffic lights). Ms Wilkening therefore does not consider the concerns raised to be a Project issue in relation to noise generation.

428. Traffic vibration: One submission noted that current truck passes cause perceptible traffic vibration in the house, and that there is concern that the Project will result in higher traffic vibration levels.[206] Ms Wilkening advised that there is no proposal to widen the road in the vicinity of this dwelling. The Project will provide for a cycleway and footpath, but not result in traffic moving closer or traffic vibration increasing.

429. Kāinga Ora: The submissions by Kāinga Ora on the South FTN Project mirrored those on the TLC Project and these submission points have accordingly been addressed above.[207]

430. In relation to the South FTN Project, Kāinga Ora noted that there are many properties it administers in the Project areas, and that 44 are expected to receive noise levels above 55 dB LA_{eq}(24h). As for the TLC Project, the Project team prepared maps showing

[203] N Chander (NoR1_03), Y Yang (NoR1_06).
[204] Wilkening SoE at [8.59]
[205] Binay (NoR1_02), P Govender (NoR1_19), H Hemant (NoR4_02).
[206] A Singh and S Grewal (NoR4_08).
[207] Kainga Ora (NoR1_31, NoR2_14, NoR3_39, NoR4_24).

where Kāinga Ora properties are located. All properties fronting the Project roads except one currently receive noise levels above 55 dB LA_{eq}(24h), from the existing roads. The proposed Projects have generally no noise effect on these properties.

431. The only exception is 2/70 Great South Road (in NoR 1-A-B), where the house fronting the road will be removed to make space for the Project. Here, the existing noise level at the back house is predicted to increase from 52 to 59 dB LA_{eq}(24h), at the most exposed part of the south façade. Most of that façade is effectively shielded by a garage. This noise level is well within Category A. This is the only Kāinga Ora operated dwelling where the noise level is predicted to increase from below 55 dB LA_{eq}(24h) to above 55 dB LA_{eq}(24h). A barrier is unlikely to be practicable as the dwelling is elevated above the road.

432. Ms Wilkening remained of the opinion that the proposed conditions suitably manage and mitigate traffic noise levels through the most appropriate avenues available to Auckland Transport.

Council s42A evidence

433. Mr Runcie advised that all the matters raised in his s42A technical reports had been addressed in Auckland Transport's evidence.[208] However, there were several outstanding concerns where Mr Runcie has proposed amendments to conditions on which agreement had not been reached. These amendments are the same for both the TLC and SFTN projects. These are described as follows with Auckland Transport's response to Mr Runcie's comments and recommended amendments.

434. TLC and SFTN condition on project information: Mr Runcie noted that Auckland Transport can provide noise contours to assist developers with building specifications or setbacks and that these will be available through the LIP process.[209] He considered that this would require developers to know that they are on land potentially exposed to higher levels of road noise and to actively seek out and engage with Auckland Transport in order to obtain this information. He accordingly recommended that information on the project website or virtual information source include traffic noise contours.

435. Ms Evitt rejected this recommendation in the closing submissions noting that the traffic noise contours will be available through the LIP process.[210]

436. Construction vibration standards condition: Mr Runcie commented that the measurement standard referred to in the construction vibration condition (ISO 4866:2010) does not align with the standard adopted in the Auckland Unitary Plan (DIN 4150-3:1999 and he recommended a change to better align the conditions with the Auckland Unitary Plan and the standard referenced in relevant Waka Kotahi guidance.[211] Ms Wilkening

[208] Runcie Closing Memorandum (TLC Project) and Runcie Closing Memorandum (South FTN Project)
[209] Runcie Closing Memorandum (TLC Project at [3.23]) and Runcie Closing Memorandum (South FTN Project, at [3.26])
[210] Auckland Transport Closing legal submissions at Appendix D
[211] Runcie Closing Memorandum (TLC Project, at [3.4]) and Runcie Closing Memorandum (South FTN Project, at [3.5])

responded that as both standards are appropriate she does not consider a change necessary.[212]

437. Mr Runcie also recommended that the Category B night-time criterion is reduced to 1 mm/s PPV.[213] Ms Wilkening's response was that this would make no meaningful difference to the management of night-time construction sites as noise will be the controlling factor when preparing a Schedule to the CNVMP. She did not consider any condition change is necessary.[214]

438. Low Noise Road Surface condition: Mr Runcie acknowledged that well-constructed and maintained roads are typically sufficient to avoid adverse vibration effects at adjacent properties.[215] However, he raised concern in his review regarding the lack of a specific requirement for this within the conditions and how that impacts on the ability to rely on the outcome anticipated in the assessment over the life of the roads. It is his suggestion that the conditions include a requirement for the road surface to be designed, implemented, and maintained to be smooth and even. This would be through an addition to the proposed Low Noise Road Surface condition as follows:

> *The road surface shall be designed, implemented and maintained to be smooth and even to avoid adverse vibration generated from traffic passing over uneven surfaces.*

439. Auckland Transport's response was that road surfaces are designed to the Auckland Transport Code of Practice Road Pavements and Surfacing (soon to be updated by the Auckland Transport Design Manual) which determine smoothness, roughness values and other technical requirements, such as texture of the road surface for minimum skid resistance to be safe for road users.[216] Given the road surface specifications are outlined in the Auckland Transport Code of Practice, Auckland Transport disagrees with the recommendation to include a condition that road surfaces be smooth and even. Auckland Transport ultimately needs to rely on its Code of Practice to construct roads that will be safe for users and avoid unintended consequences (such as vehicle skidding).

Discussion and findings

440. We note that Ms Wilkening has comprehensively addressed submissions on noise.

441. With respect to the outstanding matters in Mr Runcie's s42A reporting regarding wording of several noise related conditions we comment on these as follows.

[212] Wilkening, SoE at [11.2]
[213] Runcie Closing Memorandum (TLC Project, at [3.3]) and Runcie Closing Memorandum (South FTN Project, at [3.4])
[214] Wilkening, SoE at [11.3]
[215] Runcie Closing Memorandum (TLC Project at [3.7] and Runcie Closing Memorandum (South FTN Project, at [3.11])
[216] Miln SoE at [9.2] and [9.3]

442. TLC and SFTN condition on project information: Mr Runcie's concern was that provision of noise contours information be made available through the general project information condition. We note that the LIP condition requires that the LIP process is set up after confirmation of the designation and before the start of construction. Its purpose is to encourage and facilitate the integration of master planning and land use development activity on land directly affected or adjacent to the designation. There will be a nominated contact person who will be available to engage with a developer for the purposes of responding to requests for information regarding design details that could assist with land use integration.

443. We agree with Auckland Transport that it will be sufficient for the traffic noise contours to be available through the LIP process, and so make this information available to developers. Mr Runcie's recommended change to the project information condition is not needed.

444. Construction vibration standards condition: Mr Runcie noted the construction vibration condition (ISO 4866:2010) does not align with the standard adopted in the Auckland Unitary Plan (DIN 4150-3:1999 and he recommended a change to better align the conditions with the Auckland Unitary Plan and the standard referenced in relevant Waka Kotahi guidance.

445. We accept Ms Wilkening's response that as both standards are appropriate a change is not necessary.

446. Mr Runcie also recommended that the Category B night-time criterion is reduced to 1 mm/s PPV. We accept Ms Wilkening's evidence that this would make no meaningful difference to the management of night-time construction sites as noise will be the controlling factor when preparing a Schedule to the CNVMP. We accordingly consider any condition change to be unnecessary.

447. Low Noise Road Surface condition: Mr Runcie concern was the lack of a specific requirement for roads to be well-constructed and maintained within the conditions and how that impacts on the ability to rely on the outcome anticipated in the assessment over the life of the roads. Accordingly, he proposed an amendment to the proposed Low Noise Road Surface condition.

448. We note Auckland Transport's response that road surfaces are designed to the Auckland Transport Code of Practice Road Pavements and Surfacing which determine smoothness, roughness values and other technical requirements. We agree with Auckland Transport that it needs to rely on its Code of Practice to construct roads that will be safe for users and that the recommended addition is not necessary.

449. In conclusion overall we find that the proposed noise related conditions are sufficient and appropriate to address noise effects during construction and operation of the roads enabled by the designations.

Ecological Effects

Existing environment and ecological effects

450. We have described the existing environment for all NoRs in paragraph [12], noting that it comprises the existing urban environment of Takanini and Papakura, with some Future Urban Zone areas in the east. Ms Davies' evidence on terrestrial and freshwater ecology reflected this urban environment. She described the environment for the TLC Project area has having generally exotic terrestrial habitats of Low ecological value, with two wetland adjacent to the Manuia Road project area being modified natural inland wetlands. The environment for the South FTN Project has terrestrial habitats of Low to Moderate ecological value. Nevertheless, the potential presence of At Risk native bird species within the identified wetlands and the existence of habitat types potentially supporting long-tailed bats and skink species within the South FTN Project area were reasons for assessing the ecological effects of the Projects.

451. Ms Davies' conclusions for the TLC Project were that there were no District Plan ecological effects assessed as being Moderate or higher and therefore no mitigation was required. For the South FTN Project, the ecological effects on native lizards, relating to vegetation removal, was assessed as Moderate, and consequently a mitigation plan was developed in the form of the proposed pre-construction lizard survey and the contingent LMP.

Council s42A evidence

452. Mr Chapman's review of the ecological assessment concluded that the assessment for both the TLC Project areas and South FTN Project areas appropriately evaluated potential adverse effects and avoids such effects through the concept design. For the TLC Project there were no adverse terrestrial ecological effects requiring management through designation conditions.

453. Mr Chapman's South FTN Project review identified several concerns of which only the matter of future ecological surveys remained unresolved at the close of the hearing. This matter had two elements. Firstly, that, given the extended lapse period proposed for the NoRs, future surveys are needed to account for the presence of mobile fauna in different locations to that ascertained by the application surveys in 2023. Mr Chapman recorded in his closing comments for the South FTN Project that Ms Davies had explained how her assessment had indeed incorporated adequate consideration of future ecological changes possible within the lapse period(s), including the potential for adverse effects on birds and bats. On that basis, Mr Chapman had accepted that an Environmental Management Plan was not required, and an LMP would be adequate to manage the Project's adverse ecological effects in relation to District Plan provisions.

454. The second element is confined to the potential for lizards to have moved habitat from those identified in the 2023 surveys. Mr Chapman proposed an amendment to the pre-construction lizard survey condition to account for this potential movement.[217]

455. We note the agreement between the parties, including Ms Bootsma, that the advice note (now following the LMP conditions) that refers to future regional consents may include requirements for additional monitoring and management plans.[218]

Submissions on Ecological Effects

456. There were no submissions on ecological effects.

Finding

457. In summary we find that the Projects' limited interface has been appropriately identified and that, except for one residual concern of Mr Chapman's, the proposed conditions are appropriate.

458. We have considered the recommendation from Mr Chapman which proposed a preliminary visual assessment of potential lizard habitats within the Stage of Work area prior to undertaking any lizard surveys. The Auckland Transport condition is limited to the nine locations shown in Schedule 5. We accept Mr Chapman's opinion that given a long lapse period, these may change over time. The addition of a preliminary visual survey does not appear to be an onerous task, and one that is appropriate adopting a precautionary approach to the identification and protection of these animals within what is apparently a degraded urban environment.

Heritage Effects

Existing environment and heritage effects

459. Ms Glover had carried out an archaeological and heritage assessment of both Project areas and provided evidence of her findings and recommendations. She found no likely effects on archaeology or heritage for the TLC Project.

460. For the South FTN Project area, she identified several potential effects. In relation to archaeological effects, she recommended that an authority to destroy or modify be applied for from HNZPT for four registered archaeological sites and generally for unrecorded sites and features. Ms Glover advised the following approach to monitoring pursuant to an HHMP:

> *Archaeological monitoring will take place during construction around the recorded sites (listed above) and any other high-risk areas to be identified in a Historic Heritage Management Plan (HHMP), in order to mitigate the effects of works.*

[217] Chapman South FTN Closing Comments at [4.1]
[218] Davies SoE at [11.7]

Archaeological material and features will be recorded, sampled and analysed as appropriate following standard archaeological best practice.

461. We note that the HHMP extends beyond recorded sites to any other high-risk areas, thus envisaging additional investigations at the time of implementation. We consider this to be appropriate given Ms Glover's advice on the lack of archaeological research in the area.

Submissions on historic heritage

462. HNZPT lodged a submission opposing South FTN NoR 1, focussing on two matters and expressing concern that there:

(a) *had not been adequate assessment of the notable trees (individual/groupings) for their historic heritage values.*

(b) *was a lack of assessment and mitigation of the built heritage values although it was clearly expressed there would be modification and or the destruction of features within the extents of the Papakura Old Central School (NZAA R12/1154 and AUP 14.1 Schedule #02830) and the Papakura/Karaka WWI Memorial (AUP 14.1 Schedule #02801 and CHI#16003).*[219]

463. Prior to the hearing, Ms Morris for HNZPT tabled a statement advising that, based on the additional expert evidence provided by both the Council and Auckland Transport, she concluded that the requirements of the HHMP would adequately mitigate adverse effects on historic heritage.

Section 42A Council evidence

464. We received evidence and reviews from Ms Eaves on all heritage, Mr Windwood on built heritage and Mr Fynn on the heritage values of notable trees. We note here the cross-over of subject matter for trees, which potentially have both cultural heritage and natural heritage (botanical) values. The latter values are addressed in the following section.

465. Ms Eaves provided a thorough review of the Auckland Transport assessment, the HHMP condition and submissions. She was satisfied with the assessment and advised that *"overall effects of the proposed designation on the historic heritage (archaeology) resource are considered minimal if suitable conditions are included with the decision."* Ms Eaves also considered that the HHMP was appropriate in its application to all four South FTN NoRs.

466. Mr Windwood's review commented on the heritage management of both buildings/structures identified in the HNZPT submission and considered that the proposed HHMP condition would be appropriate. He did not agree with the HNZPT submission on these matters.

[219] Morris tabled statement dated 17 April 2024

467. Mr Fynn's initial review expressed concerns about potential adverse effects on the heritage values of trees. He considered that the "*tree management plan, needs to ensure, wherever practicable, that all notable trees are to be retained, pruning and works within their protected root zones are such that the form and structure of their canopies and the roots and growing environments for those trees are not disturbed, and with appropriate methodologies and control measures".*[220] Subsequently Mr Fynn had followed the Auckland Transport response to his concerns and in his closing comments accepted that the HHMP and TMP would work in tandem to achieve the outcome identified above.

Finding

468. We find that effects on heritage by the proposed NoRs have been satisfactorily assessed and that the proposed HHMP, and TMP as relevant, will adequately manage potential effects on the heritage buildings and features identified and any other sites currently unknown but discovered as a result of future implementation.

Urban Design and Landscape/Visual Effects

The proposal: TLC Project

469. We address these two related matters together because they address similar aspects of the interface between the Project and the environment and, more practically, because both urban design and landscape/visual effects are addressed in terms of project implementation through the ULDMP.

470. Mr Linford advised that he had been involved throughout the Project's development including input to initial optioneering, business case and route refinement processes. Following that he had undertaken a UDE for the TLC Project that provided a detailed examination of the urban design considerations and inputs as well as an evaluation and identification of future transport and land use integration opportunities for the Project. The evaluation was based on the guidance and principles established in the programme wide document – Te Tupu Ngātahi Design Framework. Recommendations based on that evaluation related to a range of outcomes including environmental and social matters, built form, movement, and land use. Mr Linford's evidence included appendices which contained a summary of the recommended urban design outcomes and opportunities for each NoR.

471. During these activities, Mr Linford had become very familiar with the rail crossing environments. In that context he noted that the future environment, within which the Project would be implemented, would feature urban intensification in response to established policy and future plan changes.

[220] Fynn review in Section 42A report at [7]

472. Mr Linford referred to Bridging the Gap as being 'definitive' in its preference for bridging where grade separation is required. He also informed us that he had taken advice from a CPTED certified practitioner on the key challenges created by an underpass environment. Whilst we were not able to test this aspect of evidence directly, we were able to review the seven CPTED qualities.[221]

473. We have reviewed the UDE recommendations and consider that they provide a useful 'checklist' of matters to be addressed in the Urban and Landscape Design Management Plan, the key means by which urban design outcomes are to be achieved and opportunities are recognised at the time of implementing each NoR in the future.

474. Mr Jones provided a landscape assessment of the TLC Project components in accordance with the guidelines of his profession[222], as well as other relevant design guidance documents such as *Bridging the Gap*.[223] Mr Jones was engaged to undertake a review of the completed layout and arrangement for the Project, although he noted in his summary statement that post-lodgement he was engaged in design refinement.

475. Mr Jones had undertaken a LVEA of each NoR crossing to understand the potential landscape character and visual amenity effects associated with the construction and operational phases of the Project. He identified several positive effects that would be appreciated on a project-wide basis including the multi-modal active crossing of the NIMT and increased connectivity, enhanced streetscape character and visual amenity from planting and canopy tree cover which also had biodiversity benefits, and the opportunity to integrate mana whenua values and narratives in design. However, these benefits would be achieved through some significant changes to the landscape character during the construction period, and on a permanent basis, as perceived by both the resident viewing audiences and the transient public. Like Mr Linford, Mr Jones considered that the context for assessing visual and landscape changes would be a modified urban environment undergoing intensification through the underlying AUP:OP and the provisions of PC78.

476. Mr Jones identified the properties adjacent to the designation boundary as being potentially the greatest affected due to proximity and outlook to the Project, especially those near the location of a bridge form. His evidence emphasised the variability of the effect depending on proximity, viewpoint, intervening land uses and the opportunities for mitigation. He considered that over time adverse visual amenity effects would reduce for the public viewing audience, based on improved visual amenity for users associated with streetscape, maturing street trees, berm planting and the accessibility to active modes of transport.

[221] *National Guidelines for Crime Prevention through Environmental Design Part 1: Seven Qualities of Safer Places*
[222] *Te Tangi a te Manu Aotearoa New Zealand Landscape Assessment Guidelines*, Tuia Pito Ora New Zealand Institute of Landscape Architects, July 2022
[223] *Bridging the Gap* – NZTA Urban Design Guidelines (2013);

477. While the new crossing elements presented a considerable change to the urban landscape, Mr Jones considered that the scale is necessary to enable adequate clearance of the NIMT and would not be viewed out of context in the developing urban environment. His advice on this matter was graphically demonstrated in Appendix A to his summary statement depicting the height of rail bridge structures in the context of height limits, height in relation to boundary limits and setbacks for existing and future zones.

Council s42A evidence

478. Council review of urban design and landscape/visual matters were provided for the TLC Projects by Mr Evans and Mr Pryor respectively. Both of the reviewers expressed a high level of agreement with the conclusions of Mr Linford and Mr Jones. Our review here focusses on matters of disagreement or residual concern at the end of the hearing.

479. In his initial review Mr Evans was of the opinion that the bridging proposals for Taka Street and Walters Road would be adverse and not capable of adequate mitigation through the ULDMP process. Both proposals were the subject of submissions and Auckland Transport responded with modified designs as we have addressed in the site-specific sections above. In his closing comments Mr Evans advised he was largely satisfied with the revised Taka Street design, except for minor design details that may be suitably addressed at a later time via the Outline Plan process and guidance offered by the ULDMP.

480. Similarly, Mr Evans approved of the redesign of the Walters Road bridge and its interface with 30 Walters Road, again noting that final design subject to the provisions of the ULDMP would require specific attention to such matters such as passive surveillance.

481. Two further matters Mr Evans provided additional commentary on were the crossing design alternatives of underpass vs overbridge, and the likely future environment. These are both matters raised in submissions and/or in wider section 42A commentary which we consider worthy of further consideration and a finding in our recommendation.

482. On the matter of the underpass vs overbridge matter, Mr Evans made the following observations:

a) He agreed that poor quality underpass designs should be avoided;

b) However, he noted that well-designed underpass designs can offer a shorter and more convenient connection than overbridges, which require extensive ramps to serve the needs of cyclists or those with personal mobility limitations, in doing so Mr Evans referred to the corporate evidence from Mr Liggett for Kainga Ora, which had submitted in favour of more direct crossings;

c) The NZTA Waka Kotahi document “Bridging the Gap”, cited as a guidance document in the proposed ULDMP condition suggests that both overbridges and underpasses can provide acceptable design solutions;

d) The Panel received evidence from Mr Linford which had acceptable design solutions for both options.

483. On the matter of the likely future environment, he considered that the Auckland Transport assessment of the urban design appropriateness and landscape/visual effects relies “heavily” on the relative massing effects of the future built environment based on PC78 intensification. Mr Evans experience of residential development in Auckland since the adoption of the AUP(OP) is that lower rise (two and three storey redevelopment) is far more characteristic for intensification sites than a predominantly six storey built environment suggested for PC78.

484. In his initial review, Mr Pryor expressed a high level of agreement with the LVEA that had been undertaken by Mr Jones. He generally agreed with the level of effects (low to moderate) and accepted that the recommendations contained within the original reports and evidence from Auckland Transport and consequent ULDMP conditions would assist in avoiding, remedying and mitigating adverse landscape character and visual effects of the Project. Much of Mr Pryor’s review focussed on the adverse landscape and visual effects of the various bridges, as had the LVEA. He noted support in submissions for underpasses, being the obvious alternative by which the adverse effects of bridges could be avoided, but noting the other evidence that addressed constraints for underpasses in terms of ground conditions, construction complexity, and urban design and safety concerns he deferred to that evidence.

485. In his closing comments, and despite reassurances on the matter from Mr Scrafton, Mr Pryor maintained support for an amendment to the front end of the ULDMP condition making clear that it should be prepared prior to the start of detailed design.

The proposal: South FTN Project

486. Mr Linford’s urban design evaluation for the South FTN Project was based on the same guidance and principles for the TLC Project. The linear but discontinuous nature of the South FTN Project, passing as it does through a variety of existing and future environments, presents different urban design challenges to the crossing projects, for which Mr Linford had recommended the desired outcomes and opportunities. His evidence outlined how each recommendation has been addressed in the proposed ULDMP condition or in other conditions.

487. Mr Jones’ evidence addressed the wide range of environments along the length of the South FTN NoRs, well supported by the dossier of viewpoint photos in his Appendix A. He had undertaken an LVEA for each NoR and while the construction phase necessarily created effects generally in the ‘moderate’ range, he recommended mitigation measures to minimise these as detailed in his Appendix C. The longer-term landscape and visual

effects of the operational phase were mostly ranked as low, particularly as the new infrastructure settled into the urban environment.

Section 42A evidence

488. Ms Mein reviewed the South FTN Projects, with Mr Pryor again addressing the landscape and visual effects matters. As with the TLC Projects, both reviewers expressed a high level of agreement with the conclusions of Mr Linford and Mr Jones. Accordingly, we again focus on matters of disagreement or residual concern at the end of the hearing.

489. Ms Mein recorded in her closing comments the range of matters that she had previously identified, including matters that derived from submissions, and how these had been adequately addressed in further evidence from Auckland Transport. She advised that her main outstanding area of concern was with the wording of the ULDMP condition, including that sought by Mr Pryor in relation to when the ULDMP should be prepared. The amendments to the conditions sought by Ms Mein were aimed at bringing greater clarity to the condition.

490. Mr Pryor similarly recorded matters that he had raised in his earlier report and then identified amendments to the ULDMP to satisfy original concerns.

Findings

491. We find there is much to commend in the efforts of Auckland Transport in responding to the submissions opposing the Taka Street and Walters Road overbridge designs and related designation boundaries. The redesign of these crossings resulted in most submitters being either fully or mostly satisfied. From an urban design and landscape/visual effects perspective the redesign also addressed the concerns expressed by Council reviewers. Consequently, our recommendation is to provide overall support for the urban design approach of both Projects, subject to the detailed design and mitigation measure to be implemented at some time in the future.

492. Underpass vs overbridge: We have reviewed all the evidence on this matter including the guidance documents *Bridging the Gap* and the National Guidelines for CPTED as referred to in Mr Linford's statement. We found no 'definitive' preference for bridges in either document that Mr Linford could rely on for his statement. Both documents address the design requirements for bridges and underpasses that enable them to function successfully in an urban environment.

493. Mr Linford's evidence and *Bridging the Gap* contain examples of successful underpasses in New Zealand and overseas. We observe that an important, if not critical, component of that success is visibility. Visibility must be maintained throughout the underpass journey both through the underpass and beyond each end through appropriate landscaping and attention to levels. Underpasses must also be attractive spaces. Mr Linford recognised in his section on inclusivity and equitable accessibility that

underpasses perform better on this criterion and that they are more direct. With reference to his design evaluation, he stated:[224]

> *"The UDE also identifies that the proposed designation has the space necessary to consider alternative forms of equitable access for the Spartan and Manuroa Road active mode crossings that provide a shorter, more direct, convenient, and legible connection."*

494. We take this statement to support either bridges or underpasses that are more direct than what has so far been proposed. Mr Linford's summary conclusion for bridges compared with underpass options[225] relied on findings on visual matters that were not supported by the detail of his own evidence, and other design factors which, except for drainage and maintenance, were not addressed in the relevant evidence of others (e.g. noise/air quality).

495. Consequently, we preferred Mr Evans evidence, which was well-balanced and consistent on the matter of underpasses vs overbridges.

496. Ultimately Auckland Transport advised that a decision in favour of overbridges had been made at a corporate level, such that underpasses were not part of the proposal for us to consider.[226] We were also advised of sound engineering, constructability, geotechnical and stormwater/groundwater reasons for not pursuing the underpass option. Notwithstanding those arguments we note that the final condition set ULDMP condition provides for underpasses to be considered in the future.

497. We support that inclusion, as in the matter of an underpass or overbridge achieving the best urban design contribution to the Project, we find that the choice is finely balanced. Certainly, on the matter of directness of connectivity, underpasses are clearly superior to the bridge designs currently being considered. We accept Mr Linford's advice that the proposed designation has the space for either option and that the final design will be guided by the ULDMP. Of Mr Evan's proposed additions on this matter we consider that the reference to the crossing being as 'direct' as possible is well supported by all the evidence and needs to be explicit. In this regard, the ULDMP condition on walking and cycling connectivity states currently:

> *Provides appropriate walking and cycling connectivity to, and interfaces with, existing or proposed adjacent land uses, public transport infrastructure and walking and cycling connections;*

498. The wording currently has a perhaps unintended circularity in that it suggest *appropriate walking and cycling connectivity to …walking and cycling connections* are provided. We find that the end of this condition could be dropped as it is unnecessary.

[224] Linford SoE at [9.13]
[225] Linford SoE at [9.28]
[226] Question from the Panel to Mr Lovell during his presentation on Day 1.

499. The final design of the crossing is likely to be at least 15 years away and we consider that the governing body of the time should have the benefit of the evidence given at this hearing as expressed in the conditions in selecting the crossing form.

500. The likely future environment: This matter has been canvassed in other parts of this recommendation including from a statutory standpoint. Various witnesses have provided opinions on the future environment that the proposed Project works will be constructed in and become an operational part of. Mr Evans provided his opinion based on his experience of the adoption of the AUP: OP provisions in recent times. His view was that despite the maximum height rules, either as permitted by the AUP: OP or by the finalised provisions of PC78, he had observed that lower rise (two and three storey redevelopment) predominates. We accept that characterisation of current development, albeit that around centres at least higher apartment blocks are starting to emerge. Predictions on the likely future environment in 15-20 years are difficult to make, with even the likely development standards uncertain.

501. As noted, Mr Jones appended to his summary statement a graphic that compared the height of the rail bridge to the permitted height limits for various zones. This demonstrated that the bridge structures, at almost 8m, were the same height as the permitted height limit for the Mixed Housing Suburban Zone, the least intense of the likely future zones. The other residential zones projected up to 16m and relevant business zones to 20m. This evidence provided useful comparisons and supported the Auckland Transport view that the proposed bridges would be in context of a future intensifying urban environment. We find in favour of that comparison and the visual appropriateness of the proposed bridges.

502. Changes to ULDMP Conditions (both sets unless otherwise noted): Adopting Ms Mein's recommendations as a guide for these changes, our findings are as follows:

a) The timeframe for the preparation of the ULDMP is usefully stated at the beginning of the condition. While we note that this timing 'falls out' of the overall process, a statement of the timeframe at the beginning of the condition is what a future interpreter of the conditions will surely be looking for.

b) The addition of reference to community facilities and education facilities is appropriate for the South FTN Project NoRs in particular, acknowledging these facilities as nodal points in the urban environment for active mode movements.

c) The following condition requires the detail of the Projects *"Promotes inclusive access (where appropriate)".* Unlike the reference to crime prevention etc. in the following condition that relates to behaviour that can only be "promoted" by project design, inclusive access can be designed for. Further we consider that this condition is an appropriate location to pick up on the need for the active mode NIMT crossings to be as direct as possible. This could potentially be either be bridge or underpass and was identified as a desirable outcome and design

consideration in the UDE for Spartan Road and Manuroa Road crossings[227] which both state:

"Re-evaluate and refine accessway arrangements to provide a shorter, more direct, convenient, and legible connection that support equitable access. Provide clear, legible and direct actives modes access to crossing from Spartan Road [Manuroa Road]."

The condition is to read: *Provide for direct, convenient and legible active mode connections and for inclusive access (where appropriate).*

d) Ms Mein sought reference to directly affected parties being key stakeholders. In the closing conditions the adjective "key" was replaced with "relevant". We find that change will suffice, as it is difficult not to include directly affected parties as relevant.

e) Finally, we find in favour of including "or any subsequent updated version" to the reference document *Auckland Transport's Urban Roads and Streets Design Guide* even though it appears to be undated; and to planting and signage in the features to be re-instated, for clarity, in the relevant sections, as these are both material items in terms of cost.

Social impact

Social impact assessment

503. Social impact assessment was undertaken for the TLC Project and South FTN Project for Auckland Transport by Ms Boucher and Ms Healy and reviewed for each Project by Ms Foy and Dr Stewart respectively. This being the third south Auckland NoR that this Panel has been engaged on and the first which had social impact undertaken the question arose in our preparation and during the hearing as to what was different about these NoRs and how social impact was distinguished. It is apparent that social impact assessment in New Zealand sits within a statutory framework of effects assessment which categorises a very wide range of effects as "effects on the environment". That derives from an all-encompassing definition of "environment" in the RMA.[228] In other jurisdictions, the term environment is more closely defined to refer to the natural environment, such that in considering the effects of development, social impacts are distinguished and separately addressed.

[227] As shown in Figures 8 and 10 of Mr Linford's graphics

[228] RMA section 2 Interpretation: "**environment** includes—
(a)ecosystems and their constituent parts, including people and communities; and
(b)all natural and physical resources; and
(c)amenity values; and
(d)the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters

504. That said, at a more practical level, there are a range of effects on people, resulting from the proposed designations and the works that they provide for, that are already recognised, measured and assessed for significance. The evidence that we have received from noise, traffic, heritage, urban design and amenity, landscape and visual, flooding, trees, and property experts all have a social aspect to them. The proposed conditions of the NoRs are primarily focused on managing the effects of the Projects on these resources to achieve or maintain an environmental state or condition that meets standards or acceptable levels for each of these resources.

505. Social impacts assessment necessarily overlaps with all of these other assessments, but its point of difference is that it focuses on how people experience changes in their environment. As Ms Healy's SIA stated:[229]

> *The SIA does not seek to reassess matters considered by these technical specialists, but rather understands and assesses the intended and unintended social changes that will be experienced by people/communities because of changes identified by these specialists.*

506. Both Ms Boucher and Ms Healy undertook comprehensive SIAs, this being acknowledged by their respective reviewers. While submissions on changes to the environment that has a social impact were numerous, we did not receive any expert evidence on this topic other than the Council reviewers. To summarise Ms Boucher's and Ms Healy's findings in any detail would be an extensive task within this recommendation, when our key task is to weigh up the differences in opinions that remained between the parties at the end of the hearing. However, we understand that the Projects will have both negative and positive social impacts and that these are likely to be differentially weighted over the lapse period and implementation timeframe, being more negative to begin and positive following implementation with the future community benefitting from safe and convenient level crossings and efficient movement of people and goods throughout the local environment utilising a variety of transport modes. The reviewers noted the likely change in the nature of environment over that time period, with increasing urban intensification. An important aspect for social impact was the experience of that change for an individual, which depended on their location and relationship to the project (directly impacted landowner or business operator, near neighbour, employee, wider community member, etc.).

The reviews

507. Both Ms Foy and Dr Stewart provided comprehensive closing comments based on their respective reviews. We summarise the key matters raised in each as follows:

[229] Healy *South FTN Social Impact Assessment* October 2023 at [3]

508. Ms Foy acknowledged that several matters raised in her s42A specialist report had been resolved. As a result of discussions with Ms Boucher, Ms Foy was satisfied that internal policies and procedures would address the components of what she had identified as a Community Health and Wellbeing Strategy, a Good Neighbours Policy and a condition on property management for acquired properties. She further agreed that the new definition of 'Stakeholders' included parties that she expected to be included in such a definition.

509. In relation to the social impact rebuttal evidence from Auckland Transport, Ms Foy noted the additional condition proposed to address the long timeframes for relocating early childhood education (ECE) centres. She also noted that two ECEs were no longer affected by designations. She considered it important that the project information website condition provides enough information for families to understand the length of time that an ECE may continue to operate in the community for, and that it is unlikely to be closing soon.

510. Outstanding issues as outlined in the JWS for social impact experts were:

a) Ms Foy considered that the project information website condition should be notified not just to directly affected owners and occupiers but also to "adjacent" properties given that they are likely to experience the same social effects. Ms Foy sought other amendments that addressed the general issue of the community being aware of the Project over a long timeframe, especially new members of the community who might not have a designated property but nonetheless affected by the Project.

b) On the interrelationship between the condition identifying who to engage with and how, and the condition on the details of engagement prepared in conjunction with identified Stakeholders, Ms Foy sought amendments to make the objective of engagement plan clear and the outcome transparent to the Council, to whom the plan was required to be submitted to.

c) Ms Foy detailed how she and Dr Stewart had discussed the need for DRMPs in relation to more TLC crossing areas than Walters Road, where Ms Boucher supported a condition for a DRMP. Ms Boucher distinguished Walters Road as an area with a *"high level of retail/commercial activity with both vehicles and pedestrians moving between different retail/commercial sites along and across Walters Road. It is appropriate therefore that a development response approach be considered for the area".*[230] She considered that the level of activity at the local Manuia Road centre, or anywhere else did not warrant a DRMP condition. While recognising that the Project would have a Project Liaison Person appointed to respond to concerns arising, Ms Foy considered that the lack of DRMPs elsewhere should be addressed by a Social Impact Management Plan condition that would operate from the time of the designation confirmation.

[230] Boucher SoE at [8.18]

511. Dr Stewart similarly acknowledged that many of the matters that she had raised in her s42A specialist report had been resolved. In terms of matters outstanding, her closing memo addressed similar matters to Ms Foy, sharing her concerns. While acknowledging the DRMP condition for TLC Project NoR 2, Dr Stewart maintained her opinion that there is *"no relevant mechanism to address identified and potential future social impacts on affected residential and business owners and occupiers, including the wider community and business communities of the FTN NoRs."* She considered that as submissions had only been made by a very small percentage of the affected parties, the NoR conditions *"must generate an improved understanding of people's personal situations and the impacts upon them as the project design acquisition and construction details are defined at a later date.*"

512. In the absence of a DRMP, or other social effects monitoring plan, Dr Stewart's opinion was that Auckland Transport would be "reliant upon the efficacy of Condition 2 Project Information, Condition 4 Stakeholder Communication and Engagement, the SCEMP and the Project Liaison Person (SCEMP b) (vi)) to address any social effects that will not be addressed through the relevant management plans for FTN NoRs." Dr Stewart also considered that the success of managing social effects would be very reliant on the experience and effectiveness of Project Liaison Person.

513. Dr Stewart was particularly concerned about the loss of social and private rental housing and resultant dislocation from a local area that will result from the implementation of the Projects. She considered that Auckland Transport had underestimated the size of this problem and that future engagement with this group of affected persons was required by Auckland Transport as part of the management of social impacts. Like Ms Foy, Dr Stewart supported the introduction of a Social Impact Management Plan condition to address this and other future social impacts.

514. Auckland Transport addressed the concerns of Ms Foy and Dr Stewart collectively in its closing submissions, using their joint proposed changes to conditions as a framework for response as follows:

    a) Project information condition - the amendments related to the inclusion of 'adjacent' owners and occupiers for direct notification and to additional project details being included on the project information website. The Auckland Transport response was that given the spatial extent of the NoRs taken collectively, direct notice was already extensive, and that background information on alternatives considered and project implementation information, as contained in other management plans, are required to be on the website;

    b) The stakeholder conditions – the amendments related to notification timing and to the inclusion of an objective. Auckland Transport considered that such amendments were unnecessary, referring to Ms Healy's post-hearing response to Auckland Council where she expressed her view that the proposed objective was not specific enough.

c) Proposed DRMP for TLC Project NoR 1 project areas – Auckland Transport maintained the view expressed by Ms Boucher previously that the DRMP was only warranted where there was a high level of movement of people, such as within the NoR 2 area at Takanini Town Centre and Southgate, and that other management plans will manage other impacts on businesses such as noise, dust and vibration.

d) Proposed Social Impact Management Plan condition – this condition was proposed by Ms Foy and Dr Stewart as a 'catch all' to ensure that social impacts not otherwise revealed by the social impact assessments, or which might emerge at a future time, would be appropriately addressed. It was the Auckland Transport's position that such a condition was not necessary, and that the suite of conditions proposed were adequate. Auckland Transport also provided the following response to future social impacts:

"Auckland Transport acknowledges that while the community will change in the future, this type of project and construction is fairly typical and it is not unreasonable to adequately predict the potential social impacts. The conditions are also sufficiently flexible to manage the needs of future stakeholders, and can manage future impacts through future stakeholder identification, stakeholder and community engagement, property specific engagement through the PWA process as well as the other conditions which provide for engagement with affected parties (i.e. noise and urban design plans)."[231]

Discussion and Findings

515. Our findings reflect a consideration of what we perceived as a both a philosophical and organisational response difference to social effects management by Auckland Transport and Council experts. Auckland Transport's framework for conditions reflected a strong 'roading project' philosophy, recognising environmental effects in their silos and responding to them individually as the different environments and project effects required. Whilst there is a mechanism proposed in the form of the stakeholder engagement conditions to recognise and manage any effect that might arise, the requirements of the condition appear largely responsive rather than pro-active. By comparison, the Council reviewers perceived a broad scale 'community change' that required more of an umbrella response through conditions. There are also differences in the intensity of engagement required between the confirmation of the designations and construction.

516. Subject to supporting some of the individual amendments proposed by the Council, we find overall in favour of the Auckland Transport approach. That finding is underpinned by our view that the intensity of the Projects in any location does not warrant the application of an umbrella approach to the conditions. It is likely to be many years before any of these works happen and even then they are not likely to happen all at once. For example, we were advised that the level crossings must be sequenced to maintain level

[231] Evitt closing submissions at [15.28(a)]

crossing options for the local population during new bridge construction of the TLC Projects. Further, the South FTN NoRs are spread along a significant length of arterial road, with the upgrade proposed at Manurewa having little relevance to the community at the southern end of NoR 1 or NoR 2 at Drury. The utilisation of the PWA during the lapse period also means that the incidence of social impact within any one NoR may be diminished over the lapse period. In one area only, TLC NoR 2 at the Takanini Town Centre and Southgate, a DRMP is proposed, because many persons involved in a high level of retail/commercial activity are likely to be affected in the same way for a defined period of time. We support that response by Auckland Transport. Our specific findings supporting two amendments to conditions are:

a) We find that the SCEMP requires an outcomes-oriented objective. As currently, the objective for the SCEMP goes no further than the process-oriented objective stated for the stakeholder communication and engagement condition. We find that the Council amendment or words to the like effect should be inserted incorporating the following elements – proactivity, timely updates, opportunity for input and response to feedback;

b) Further, we find that the SCEMP should include a record of engagement and response, which is useful for both the proponent and Council.

517. We have considered how the condition set operates collectively, including the timing for implementation and find that no other amendments for social impacts are necessary.

Trees

518. Mr Paul undertook an arboricultural report and provided evidence on trees for the Auckland Transport. Mr Paul summarised his findings for the two NoR Projects as follows:[232]

TLC Project

A total of 42 protected trees and groupings of vegetation are proposed for removal as part of the TLC Project, which includes a grouping of two (2) notable Oak trees. Works are also proposed within the protected root zone of two retained trees.

South FTN Project

A total of 49 protected trees and 40 groupings of protected trees are proposed for removal as part of the South FTN Project. Works are also proposed within the protected root zone of 12 individual trees and 14 groups of trees.

519. Mr Paul identified the key mitigation measures for trees would be delivered through the TMP to assess the impact of the construction on protected trees as listed in the Tree Management Schedule. This protection is to be augmented through a comprehensive

[232] Paul SoE at [1.4]

street tree planting plan delivered pursuant to guidance from the ULDMP. In relation to the cross-over between arboriculture and heritage matters, Mr Paul noted that the heritage values of notable trees within the vicinity of or directly affected by the Projects would be considered as part of the HHMP.

520. In his closing summary, Mr Paul advised that there were no arboricultural matters raised in submissions that remained in contention.

Council s42A evidence

521. Mr Saxon provided the Council review on arboricultural matters for both Projects. In his closing comments, Mr Saxon confirmed his report findings that there were no arboricultural reasons to oppose the NoRs and that the TMP and ULDMP were suitable measures to manage potential arboricultural effects.

522. Mr Saxon also responded to a question from the Panel in relation to ensuring sufficient tree planting to mitigate effects of construction. Mr Saxon recommended an amendment to the ULDMP to cross-reference to the TMP. We note that this cross-reference has been included in the final condition set.

523. Mr Fynn also provided closing comments in relation to trees with heritage values. In his report he had expressed some concerns about some notable trees not being recognised in the assessment for South FTN NoR 1 in central Papakura. Auckland Transport had responded to his concern and he confirmed that he was satisfied with the response from Ms Glover, concluding that was comfortable with the TMP and ULDMP provisions and that stakeholders had opportunity for input during final design.

Finding

524. We find that all matters have been satisfactorily addressed and that the TMP and ULDMP conditions provide for appropriate assessment and mitigation of protected trees in the future.

Reserves and open space

525. Reserves and open space were the subject of assessment by Council prepared by Mr Miller for the TLC Project and Mr Kinnoch for the South FTN Project.

526. Mr Miller's s42A report had assessed the effects of each of the crossings on the adjacent open space areas including the effects on trees and the open space amenity they provided and their contribution to community function.[233] Mr Miller identified amendments to the SCEMP to more specifically provide for mitigation measures for effects on Takanini Reserve, and to the ULDMP condition. In relation to tree management measures Mr Miller noted that the ULDMP required reference to Auckland Council's Urban Ngahere (Forest) Strategy, which he supported, but nevertheless considered that

[233] Miller s42A report TLC Project at [379}

the more locally focussed Papakura Urban Ngahere (Forest) Action Plan 2022 be referenced in addition.

527. In his closing comments Mr Miller referred to the overall loss of reserves and open space land as a result of the Projects and advised that whilst approximately 3400m^2 of land would be lost, Auckland Transport had explained that there existed opportunities within the overall designations to provide a comparable area of land in mitigation. He observed that Auckland Transport had added a new condition since his original report specifically addressing open space management which he supported, with some amendments. He also considered that Schedule 5, as referred to in that condition, should list Walters Accessway and Arion Reserve.

528. Mr Kinnoch applied the same methodology as Mr Miller to the reserves and open spaces affected by the South FTN Project. His residual concerns addressed in his closing memo were extensive, many being based on the tabled statement from Mr Anthony Lewis on behalf of Auckland Council's Parks department. The central thesis in Mr Lewis' submission was that the transport upgrades proposed by the Project appeared to be at the cost, or loss, of reserves and open space land. Mr Kinnoch's other concerns related to:

a) the extent of designation in some reserve areas, the loss of car parking, and the use of reserve land for stormwater wetland purposes.

b) amendments to the wording of several conditions, including to the guiding objective to the open space management condition; and

c) reserves not being listed in Schedule 5 to the open space management condition.

529. Auckland Transport did not have a specific witness for reserves and open space, reflecting the multiple values of these amenities – recreational, amenity, heritage, ecological, and stormwater management. Ms Miln addressed the matter from a corporate point of view, bringing attention to the fact that both the Council Parks department and Auckland Transport are part of the same overall local authority. She advised that the reallocation of land from reserve land to transport usage and the appropriate mitigation was a matter to be addressed in the future between the responsible authorities.

530. Mr Scrafton responded to the various proposals for changes to conditions which we return to shortly. Mr Linford, Mr Jones, Mr Paul and Ms Glover also addressed effects on open space relevant to their brief, including the potential for enhancements for planting and amenity in open space, and the potential for open space to be better utilised due to increased active mode movement enabled by the Projects.

531. Ms Evitt summarised the overall Auckland Transport response to the matters raised by Mr Miller and Mr Kinnoch in closing submissions.[234] She submitted that the open space

[234] Evitt closing submissions at [15.29]

management condition objective was sufficient, with other management plans addressing alternative functions of open spaces, beyond recreation. Further, she considered that the condition already expressly referred to coordination with Auckland Council Park's forward work programme. In relation to the additions to Schedule 5, she advised that, based on a review of the condition set by the Project Team, these were unnecessary as other values of open space were addressed elsewhere. Ms Evitt also addressed the matter of the direct effects of the South FTN NoR 1 on the Papakura War Memorial and Chisholm Corner which was referred to in Mr Kinnoch's report and memo. We have already addressed the heritage values of these matters above in relation to the Local Board submissions.

Discussion and findings

532. At a strategic planning level, a safe and efficient transport network and a high quality open space system, featuring a range and frequency of open spaces fulfilling a variety of functions, are all part of a liveable urban area. Also at the broadest of levels, as noted above, the Council Park's department and Auckland Transport are part of the same overall local authority. The transport network and the open space system both require access to land, generally on an exclusive basis, for their provision. The linear nature of the Projects inevitably takes them past the open spaces of the existing environment, such that the road margins of those open spaces is needed for the upgrades. This situation is no different for the many hectares of private land within the designation boundaries. Even in the case of stormwater ponds, it did not appear to us that parkland had been targeted as a preferential 'provider' of land for the Projects.

533. Messrs Miller and Kinnoch had prepared reports as independent consultants for the Council Park's department. Mr Lewis also tabled a statement as a representative of Parks and Community Facilities (Parks). Unfortunately, Mr Lewis did not attend the hearing, so the opportunity to question him on his statement, and the position of Parks more generally, was not afforded to us. Nevertheless, his central thesis, as we have described above, went to the core of the matter, being the Project's use of public open space land for public transport purposes. Irrespective of the overall quantum of that transfer of land use from open space to transport, neither Mr Lewis, nor Messrs Miller or Kinnoch, suggested that alternative routes should have been considered. The thrust of the submission and their analysis was really about how the Projects could be coordinated with Parks activities and the loss of land could be mitigated. On the matter of the land quantum, Messrs Miller and Kinnoch's reports also alerted us to the fact that while land quantum was one measure of open space provision, the functionality of that open space was equally important. This means that in terms of mitigation it would be possible for Auckland Transport to take the roadside border of an area of open space and mitigate that take through an investment in the remaining open space assets.

534. We have considered the submissions and evidence on the matter and make the following findings for the reasons given:

a) The open space management condition – we agree with Messrs Miller and Kinnoch's recognition of additional objectives in the condition on the values and functions of open space, the purpose of which is to ensure the mitigation of those values and functions. While we acknowledge that this is not the only condition addressing effects on and the management of open space, by virtue of its name it is the primary one and we consider that the broader values of open space must be recognised, even if that results in some apparent overlap. In practice, we doubt that overlap exists. We also find in favour of their proposed additional content of the management plan and the timing for mitigation not contingent on the completion of construction works. The timing for mitigation addresses the important matter of local equity in minimising disruption to access to resources during the period of construction, which is sometimes extensive.

However, we consider that the reference to the Park's forward work programme does not need repeating in the condition's chapeau.

b) Schedule 5 additions: We find in favour of the additions proposed by Messrs Miller and Kinnoch to Schedule 5. We appreciate the advice from Auckland Transport in terms of how else and where else open space management and mitigation is addressed, however Schedule 5 is part of the umbrella condition for open space management and it should be thorough and complete in its recognition of the reserve area affected by the Projects. We were not advised by Auckland Transport of any implementation 'downside' in adopting this approach.

c) We also agree that the Papakura Urban Ngahere (Forest) Action Plan 2022 should be referenced. This is a recently prepared plan with the existing environment of the Projects as its focus. The purpose of preparing such action plans is to provide broad guidance to ngahere management to development. We consider that the Projects should be a foremost recipient of that guidance.

ADEQUATE ASSESSMENT OF ALTERNATIVES

Discussion and findings

535. We have set out the statutory requirements for the assessment of alternatives in paragraph 8 and in paragraphs 24 to 36 we reviewed the Requiring Authority's submissions and evidence in support of its case that the assessment of alternatives had been adequate. Ms LaNauze and Ms Cleary concluded that there had been adequate consideration given to alternative sites, routes, or methods of undertaking the work for all NoRs.[235]

536. There were no substantive submissions or submissions which were supported by expert evidence that made a case for the South FTN to be located along alternative routes. We have made two findings in relation to the design and/or extent of the South FTN designations that we consider warrant an alternative. These are the alternative

[235] LaNauze closing comments TLC at [4.6] and Cleary closing comments South FTN at [11.4.1]

intersection design for Southmall at Weymouth Road and the extent of designation for Burger King at Taka Street.

537. The TLC Project was the subject of multiple submissions that questioned the chosen NIMT crossing route options (Manuia Road bridge) and the design and location of the crossing (Spartan Road, Manuroa Road, Taka Street and Walters Road). We have addressed each of these submissions in detail as part of the location specific matters above. As recorded in our findings, many matters raised in submissions have been addressed by Auckland Transport through changes to the design of bridges (with consequent minor location changes and designation boundary changes).

538. We have otherwise found that the assessment of alternatives by Auckland Transport has been adequate. In conclusion, we find that, subject to the modifications we have recommended in relation to submissions and summarised in the section on Modifications and Conditions below, the requirements of section 171(1)(b) have been met.

REASONABLY NECESSARY

Discussion and findings

539. We have set out the statutory requirements for the designation being reasonably necessary in paragraph 8 and in paragraphs 37 to 42 we reviewed the Requiring Authority's submissions and evidence in support of its case that the extent of the proposed designation in each NoR is reasonably necessary.

540. In conclusion, we find that the requirements of section171(1)(c) have been met.

LAPSE PERIOD

Auckland Transport case

541. Auckland Transport seeks 15 year lapse periods for all of the NoRs, with the exception of NoR 2 for the South FTN Project for which it is seeking a 10 year lapse period. In her opening submissions, Ms Evitt summarised the reasoning behind the lapse periods with reference to Mr Scrafton's evidence,[236] noting support from:

(a) Modelled growth and land use implementation timeframes as per the Auckland Council Future Urban Land Supply Strategy (FULSS);

(b) Staging and timing identified through the Detailed Business Cases;

(c) The uncertainty associated with the timing of urbanisation and funding for the Projects; and

[236] Scrafton SoE at [11.3]

(d) The timeframes required to procure funding for the Projects, undertake detailed design, obtain the necessary resource consents and undertake property negotiation.

542. Appendix D to the opening submissions also contained a table of designations for significant infrastructure projects with their lapse periods. We note that, with the exception of the City Rail Link, these projects all had lapse periods of 15 years or more.

543. Beyond the specific issues relating to individual properties, the lapse period was a matter of concern raised in several of the submissions.[237] Some of these parties presentations to the hearing included legal submissions referring to the case law and seeking either the statutory 5 year lapse period or a shorter term is adopted.

544. Mr Fuller's submissions for BNAP Holdings (Amber Learning at 14 Taka Street) referred to the 'planning blight' created by long lapse periods and explained the difficult regulatory requirements faced by ECE operations in relocating their businesses. This latter concern has now been addressed by the inclusion of a specific condition for such businesses requiring the earliest possible notice and engagement by Auckland Transport.

545. Mr Allan, for Silverfin Capital Ltd, identified the constraints on the development and use of the company's land imposed by a 15 year lapse period. As previously addressed, Silverfin and Auckland Transport worked closely to find a designation boundary acceptable to both parties. The amended boundary will provide greater certainty in the use of the land during the lapse period.

546. Mr Malone, for Restaurant Brands Ltd (KFC Manurewa), submitted on the three cases prominent in case law on the lapse period, as referred to in the opening submissions. Mr Malone distinguished the specific details of the cases, two of which resulted in a 10 year lapse period, with the third project being granted a 20 year lapse period, but this project was a more significant regional roading project. His client would accept a 10 year lapse period, providing an acceptable access solution was found for its Weymouth Road entry.

547. Ms Devine for NTC at Southmall, and Ms Hollis for MIMICO Properties Ltd both submitted on the uncertainty for their client of the 15 year lapse period.

548. With the above submission in mind, Ms Evitt addressed the lapse period again in her closing submissions and with reference to the reasons in favour of the lapse periods sought she maintained that the lapse periods are appropriate.

Discussion and Findings

549. The case law on designation lapse periods is extensive and provides a consistent and well-settled set of principles for the exercise of discretion on this matter. While

[237] TLC Project: BNAP Holdings Ltd; Z Energy Ltd; Silverfin Capital Ltd; Sunlight Holdings Ltd and South Auckland Marine Ltd. South FTN Project: Restaurant Brands Ltd; McDonald's Restaurants (NZ) Ltd; MIMICO and MIMICO Properties Ltd; National Trading Company of NZ Ltd.

recognising those principles, the evidence for this NoR confirms that designations are context specific and can be differentiated on their facts, as Mr Malone pointed out.

550. We observe that there has been an evolution of methods to mitigate the uncertainty of a long lapse period and to address the individual requirements of property owners and occupiers over that period.

551. We also accept Ms Evitt's observation that a shorter lapse period is unlikely to force the 'funder of the day' into including a project on its priority list.[238]

552. Counsel referred to the *Beda* decision which contained the observation that, in recommending a period longer than 5 years, *"[t]he exercise of the discretion needs to be underlain by fairness".*[239] In other words, what are the measures available in the RMA and proposed in conditions by a requiring authority that mitigate the longer period before implementation of the works provided for by the designation?

553. We consider that those mitigation measures must provide for the range of individual circumstances be they residential or business activities, and the plans and aspirations of the property owner, including ongoing occupation and development of their property or property sale. At the time of the *Beda* decision, now 20 years ago, it appears from the decision that the two RMA statutory mitigation measures addressing such plans and aspirations (being s.176 for ongoing occupation and development and s.185 for property sale) were considered, as was advanced purchase. In determining a 10 year lapse period, and not the 20 year lapse period sought, the decision referred to the s.185 provisions as being Transit's main answer to the "*severe blighting effect*". With reference to its own tests in paragraph 113 of its decision, it is evident that the Court did not consider 20 years of the designation as proposed by Transit was 'fair' on property owners.

554. The evidence from Auckland Transport, including the final proposed conditions for the NoRs, demonstrates that the mitigation measures have evolved significantly over the intervening 20 years since *Beda*. These measures, and our assessment of their potential to mitigate the longer lapse period, is as follows:

a) Project Information Condition 2 requires that, at the latest, and within 6 months of confirmation of the NoR, a project website or equivalent information source on the Project progress is established and notified to all directly affected owners and occupiers. We consider that the ongoing provision of information is integral to ensuring the fair administration of a designation;

b) Section 176 which provides for ongoing use and development of the land subject to a designation. Further, there is a proposed condition that provides for

[238] Evitt closing submissions at [5.2(c)]
[239] *Beda* at [113]

exemptions from the s.176 requirements for a wide range of network utility and Auckland Council parks activities.

c) Section 185 orders from the Environment Court for land acquisition.

d) Early acquisition – we have noted the potential for early acquisition according to procedures addressed by Mr van der Ham for several submitters;

e) The LIP condition 3 providing for the integration of land development and Project works during the period between confirmation of the designation and construction;

f) The Outline Plan (RMA s.176A) and its composite Management Plans, plus the Stakeholder Communication and Engagement Management Plan, are initiated only when the Project is implemented which, for a 20 year lapse period, could be many years in the future. These plans do little to mitigate uncertainty about the effects of the Project in the interim. However, for all property owners they address a full range of potential effects on the local environment.

555. Our finding on the lapse period is to recommend the lapse periods as sought by Auckland Transport for all NoRs.

RELEVANT PROVISIONS IN THE POLICY AND PLANNING DOCUMENTS

556. Section 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 were 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 routes are to pass.

557. Both the Auckland Transport evidence from Mr Scrafton and the Hearing Reports, prepared respectively for each of the NoRs by Ms LaNauze and Ms Cleary, contained a comprehensive review of the framework established by these documents including the statutory provisions as they relate to various parts of the routes. [240, 241]

558. In terms of the national level documents, we were referred to:
- The New Zealand Coastal Policy Statement (NZCPS);
- The National Policy Statement for Electricity Transmission 2008;
- The National Policy Statement for Freshwater Management 2020;
- The National Policy Statement on Urban Development 2020;
- The National Policy Statement for Highly Productive Land 2023; and
- The National Policy Statement for Indigenous Biodiversity 2023.

[240] Mr Scrafton SoE at [34.3] referred to Section 12.1 of the TLC Project AEE and Section 11.1 of the South FTN Project AEE
[241] LaNauze s42A at [122 - 128] and Cleary s42A at [232 - 242]

559. We note that there were some differences between what was recognised as being relevant between the authors, which may have derived from the operative date of the more recent NPSs. In this regard we note that the NPS for Highly Productive Land 2023 was assessed by Ms Cleary and concluded as not being relevant to the analysis as no land within the South FTN Project area fell within the definition of highly productive land. From the applicable zonings we conclude that this conclusion would apply to the TLC Project Area as well. Further, in relation to the NZCPS, while some parts of the South FTN fell within the intertidal zone, the effects of the Project on the coastal marine area were considered to be negligible by Ms Cleary.

560. At the regional and local level, the relevant section of each AEE as referred to by Mr Scrafton, contained a table collating relevant provisions that addressed the various policy and planning themes for the project. Ms LaNauze and Ms Cleary had reviewed the Auckland Transport analysis, recognising the various provisions within the Auckland RPS, overlay, Auckland-wide and zone chapters and provided general agreement with the Auckland Transport findings. This agreement in each case referred to the various findings of the Council specialists in relation to effects on the environment.

561. Notwithstanding general agreement with Auckland Transport's findings, each Council planning review identified some plan provisions for which Auckland Transport's analysis was either missing or deficient. Mr Scrafton responded to these comments in his evidence observing that to the extent that some parts of the Auckland Unitary Plan were not assessed, such as the provisions of specific zones through which the designations passed, he considered that the outcomes sought were generally assessed within his thematic approach and the higher level documents, and through the application of Chapter E26 Infrastructure.[242] He also considered that some of the provisions referred to were for regional consenting processes, yet to come. We note that the matters appeared to be resolved as no further comment was made in the Councils' closing statements.

562. In summary, there was a high level of agreement amongst the above planners as to the relevant provisions and the extent to which the Project had particular regard to these provisions. Based on his overall summary of the assessment of effects, Mr Scrafton concluded that appropriate regard has been had to the statutory policy framework in considering and selecting the preferred alignments, identifying actual and potential positive and adverse effects, and developing methods to avoid, remedy and mitigate adverse effects, all of which was consistent with the purpose of the RMA as contained in Part 2.[243]

563. The expert planning evidence from the submitters tended to focus on the environmental effects of the project, inadequacies in assessing alternatives and the extent of the designation as opposed to mounting any structured analysis of the relevant planning

[242] Scrafton SoE at [34.8]
[243] Scrafton SoE at [36]

provisions that demonstrated that the Projects had not met the statutory tests. The two exceptions are as follows.

564. Mr Roberts concluded, with reference to the NPS-UD and relevant provisions of the AUP RPS, that a less extensive designation over the Silverfin site would be more consistent with the statutory framework. We note that Auckland Transport and Silverfin were working together to agree on a reduced designation boundary

565. Mr Norwell similarly related amendments to the designation boundary and alternative access arrangements for NTC at Southmall to better achieving the provisions of the NPS-UD, AUP RPS and the Business-Town Centre Zone. As discussed above on the Weymouth Road Rail Bridge/Alfriston Road Intersection matter, Auckland Transport has proposed a more southerly alignment for the road upgrade. We have also found in favour of a signalised intersection at Weymouth Road. To the extent recognised in our recommendations we agree with the opinions of Messrs Roberts and Norwell.

566. Overall, we find that the conditions attached to the recommendation address the concerns raised in the submitter evidence about the consistency of the Projects with the relevant provisions.

PART 2 OF THE ACT

567. Consideration of section 171 is subject to Part 2 which, as advised by Ms Evitt, is a residual discretion for us to exercise. However, Part 2 cannot be used to produce outcomes that subvert the clear intent of directive provisions in plans and planning documents.[244] We have noted Mr Scrafton's conclusions above, which referred to Part 2. From our review on the statutory analysis, we agree that the Projects are consistent with the clear intent of the provisions of the relevant plans and policy statements. Furthermore, the outcome of the assessment is also consistent with the RMA's overall objective of sustainable management. As Ms Evitt concluded:[245]

> *The Projects will enable people and communities to provide for their social, economic and cultural wellbeing. The key purpose of the Projects is to provide critical and safe transport infrastructure upgrades to an existing network that is already experiencing significant constraints. These upgrades will therefore provide the community with a safe and reliable transport network that will better enable sustainable travel choice and access to social amenities.*

568. With reference to the matters in sections 6, 7 and 8, not all matters are relevant to the Projects (for example the routes do not pass through any outstanding natural landscapes). Our summary of how the Project fares against the relevant clauses of sections 6, 7 and 8 is as follows:

[244] *Royal Forest and Bird Protection Society v New Zealand Transport Agency* [2024] NZSC 26 at [119]
[245] Evitt closing submissions at [25.6]

a) The Requiring Authority engaged with mana whenua throughout the development of the route alignments, committing to partnership principles and developing and including proposed conditions that address resources and issues of concern to and recognising the kaitiakitanga of mana whenua (sections 6(e), 7(a), 7(aa) and 8);

b) Adverse effects on natural character values have been largely avoided or can be appropriately mitigated (sections 6(a), 6(c) and 7(d);

c) Adverse effects on historic heritage have similarly been avoided and minimised, with detailed conditions applying to the implementation of works in the future (section 6(f);

d) The matters in (b) and (c) above, as well as the proposed alignment and concept design for the NoRs, which has resulted from a rigorous alternatives assessment, will contribute to future amenity and the quality of the environment (sections 7(b), 7(c) and 7 (f));

e) The proposed conditions of consent establish a timely and robust framework for managing property and social effects during the period between confirmation of the designations and construction, and then during the construction period (sections 7(c) and 7 (f));

f) Flood hazards will be appropriately managed during construction and during future urban occupation (section 6(h));

g) The effects of climate change have been responded to by the Projects providing resilience to flooding (taking into account climate change); the provision for street tree planting that, when delivered, will contribute to reducing urban heat island effects; and contributing positively towards reducing greenhouse gas emissions by providing modal choice, improved reliability for public transport and active transport facilities (section 7(i)).

569. In summary, we agree with Requiring Authority and the Council Hearing Reports that the Projects are consistent with Part 2.

MODIFICATIONS AND CONDITIONS

570. Both Ms Cleary and Ms LaNauze provided a comprehensive review of their respective specialist advisers of Auckland Transport's condition set. We list our modifications and amendments to conditions as recorded in our findings and having considered the advice from the reporting planners in this recommendation as follows:

(a) the designation boundary for TLC NoR1 is to cover the whole of the Burger King site at Taka Street;

(b) a signalised design option is to be depicted in Schedule 1 of the South FTN conditions for NoR3 based on Figure 3 of Mr Parlane's summary statement

(without pedestrian crossings passing north-south over Weymouth Road) as the Concept Plan at a clear scale, and that a consequential amendment is to be made to the proposed access condition as follows:

The Outline Plan shall demonstrate how vehicular access will be reinstated from Weymouth Road to the Southmall site at 185 Great South Road, Manurewa. This shall include provision for ~~a left-in, left-out, and right-in~~ a signal-controlled intersection for all traffic movements, unless otherwise agreed with the landowner.

(c) Amendments to the ULDMP and CTMP conditions in relation to parking matters as follows for the TLC Project NoRs:

Urban and Landscape Design Management Plan

off-street parking required to be reinstated, where able, to meet operational and resource consenting requirements in consultation with landowners/occupiers

on-street parking required to be reinstated, where appropriate, taking into account adjacent land uses, safety, and operational requirements.

Construction Traffic Management Plan

methods to manage parking related to construction activities (including construction workers) to mitigate effects on the safe and efficient operation of surrounding roads;

identification of alternative parking where on-site parking is reduced by construction;

(d) Amendments to the pre-construction lizard survey condition as follows:

Pre-Construction Lizard Survey

a) At the start of detailed design for a Stage of Work, ~~an updated survey of native lizards and their habitat in the locations shown in Schedule 2: Identified Native Lizard Habitat Areas~~ a visual assessment of potential lizard habitats within the Stage of Work area shall be undertaken by a Suitably Qualified Person. The purpose of the lizard habitat assessment is to ~~inform~~ identify potential lizard habitats where pre-construction lizard surveys shall be undertaken. ~~management by:~~

b) Lizard surveys shall be undertaken at the locations of potential lizard habitat to inform lizard management by:

(i) Confirming ~~whether the~~ where native lizards of value are present ~~within the locations shown in Schedule 2 are still present~~; and

(ii) Confirming whether the project will or may have a moderate or greater level of ecological effect on native lizards of value in those locations, prior to implementation of impact management measures, as determined in accordance with the EIANZ guidelines.

c) If the survey confirms the presence of native lizards of value in accordance with condition 25(~~a~~b)(i) and that effects are likely in accordance with condition 25(~~a~~b)(ii) then a Lizard Management Plan (or Plans) shall be prepared in accordance with Condition 26 for these areas (Confirmed Lizard Management Plan Areas).

(e) In relation to the TLC Projects underpass matter referred to in the urban design section, the reference to *underpasses* in the ULDMP is to be retained; and the relevant condition be amended to state:

Provides appropriate walking and cycling connectivity ~~to~~ between, and interfaces with, existing or proposed adjacent land uses and public transport infrastructure ~~and walking and cycling connections~~;

(f) Further changes to the ULDMP condition (at the relevant places) are as follows:

A ULDMP shall be prepared prior to the ~~Start of Construction~~ start of detailed design for a Stage of Work. …

To achieve the objective, the ULDMP shall provide details of how the project:

(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), community facilities and educational facilities, natural environment, landscape character, and open space zones;

(ii) ~~Promotes~~ Provides for direct, convenient and legible active mode connections and for inclusive access (where appropriate).

The ULDMP shall be prepared in general accordance with:

(i) Auckland Transport's Urban Roads and Streets Design Guide or any subsequent updated version;

(g) From our findings on social impact the following condition changes to the SCEMP condition are to be made:

(a) A SCEMP shall be prepared in consultation with Stakeholders prior to the Start of Construction.

(b) The objectives of the SCEMP are to:

(i) Ensure proactive communication and engagement with the public and all Stakeholders by identifying how the public and Stakeholders will be engaged with and kept informed about the intended timing and method of construction throughout the Construction Works; and

(ii) Ensure that the Project provides the opportunity for all Stakeholders to provide input into detailed design process and responds effectively to feedback and complaints through the management plan process (Condition 9).

(c)…

(x) A record of the engagement with the parties identified in (c) (i) above including summaries of feedback, and the requiring authority's response to feedback; and

(xi) A record of any outcomes and actions undertaken in response to feedback, including changes to the detailed design.

(h) From our findings on reserves and open space the following conditions are to be amended:

The Open Space Management Plan for both Projects is to be amended as follows:

(c) The objectives of the OSMP are ~~is~~ to minimise, as far as practicable, adverse effects of the Project on the ~~recreation amenity~~ values and functions of the open spaces listed in Schedule 5 ~~resulting from the Project~~. To achieve these objectives, the OSMP shall include details of:….

(v) measures to mitigate the loss of community facilities, assets and open space based on stakeholder feedback during the SCEMP process, including, but not limited to, means for funding and implementing the mitigation. Mitigation that is not contingent on Construction Works being completed must be implemented by Auckland Transport prior to construction commencing.

Schedules 3 and 5 shall be amended to include the additional reserves referred to in the closing memos of Messrs Kinnoch and Miller.[246]

The recommended references to local forest or adopted greenways or paths plans shall be made in the ULDMP.

[246] TLC NoR1 Walters Accessway and Arion Reserve; South FTN NoR1Central Park and Slippery Creek Reserve, NoR2 Karaka Reserve and Hingaia Esplanade Reserve; NoR3 Index Place Reserve and NoR4 Addison Reserve

(i) Such other minor amendments to conditions as recommended by the Council reporting officers that we find to facilitate an efficient and effective implementation of the Projects.

RECOMMENDATION

571. In exercising our delegation under sections 34 and 34A of the RMA and having regard to the foregoing matters and the requirements of section 171 we recommend to the Requiring Authority that the Notices of Requirement be **CONFIRMED SUBJECT TO THE MODIFICATIONS MADE AND THE CONDITIONS** attached to this recommendation.

Dave Serjeant
Chairperson
On behalf of Commissioners Dave Serjeant, Nigel Mark-Brown and Basil Morrison

Date: 13 November 2024

APPENDIX A

HEARING DETAILS

Application number(s):	Hearing for 6 NoR's for Auckland Council being 2 NoRs for the Takanini Level Crossings Project and 4 NoRs for the South Frequent Transport Network Project
Site address:	As described above
Requiring Authority / Applicant:	Auckland Transport
Hearing dates and venue:	Monday 27 to Thursday 30 May 2024 at the Auckland Town Hall, and Tuesday 4 to Friday 7 June 2024 at the Bruce Pulman Centre, Papakura
Hearing panel:	Dave Serjeant (Chairperson) Nigel Mark-Brown Basil Morrison
Appearances:	**For the Requiring Authority:** Te Tupu Ngātahi – Supporting Growth Alliance represented by: Vanessa Evitt / Leigh Zeigler / Charlotte Myers (Legal Counsel) Alastair Lovell – Auckland Transport Owner Interface Manager for TeTupu Ngātahi Hannah Miln – Auckland Transport Owner Interface Lead for the Post-Lodgement Phase Georgia Cottrell – Senior Transport Planner and Manager of Central Region Planning, Communications and Engagement team at Beca Ltd Andrew Murray – Transport engineer and Technical Director at Beca Limited Rob Mason – Senior Technical Director of the Transport Advisory Business in Auckland at Beca Limited Bruno Busnardo – Civil engineer and Associate of the Transport and Infrastructure Business at Beca Limited Kuan-Wen Sang – Traffic engineer and transport planner at Beca Limited Justin Kirkman – Senior Associate Environmental Engineer at Beca Limited Harry Linford – Associate - Urban Design at Beca Limited Matthew Jones – Landscape Architect Principal at Isthmus Group Matthew Paul – Arboricultural Consultant and Director at Peers Brown Miller Ltd Julie Boucher – Principal – Social Sustainability and Planning Consultant at Just Add Lime and Auckland Transport Communication and Engagement Owner Interface Manager for Te Tupu Ngātahi

	Jo Healy – Social Impact Specialist with Beca Limited Fiona Davies – Consulting Ecologist at AECOM NZ and Technical Director- Environment and Team Leader Natural Resources Siiri Wilkening – Acoustician and Director at Marshall Day Acoustics Ltd Hayley Glover – Consultant Archaeologist at CFG Heritage Limited James Gibson – Principal Planner at AECOM New Zealand Limited Mark van der Ham – Principal Property Specialist at Auckland Transport Chris Scrafton – Senior Technical Director – Planning at Beca Limited Liam Winter – Senior Associate – Planning at Beca Limited **<u>For the Submitters:</u>** **Tabled Statements** The Telecommunications Submitters The Ministry of Education Heritage New Zealand Pouhere Taonga KiwiRail Holdings Limited Manurewa Business Association Southmall DDI Takanini Investments Limited Auckland Council Parks and Community Facilities Accessible Properties Limited Wendy Wells HNZPT Spark NZ Limited AS and SK Grewal Durmast Holdings P and S Chand **Local Board** Papakura Local Board represented by Brent Catchpole (Chair), Jan Robinson (Deputy Chair) (MS-Teams) and Kelvin Hieatt (Local Board Member) **Wednesday 29 May:** Christopher Digby and Patricia Margaret Ward (MS-Teams) Kāinga Ora Homes and Communities represented by Brendon Liggett **Thursday 30 May:**

	Z Energy represented by Stephanie de Groot, Legal; Richard Trieu, Corporate (MS-Teams); Phillip Brown, Traffic (MS-Teams); Sarah Westoby, Planning Carter Holt Harvey Property Ltd represented by Paul Arnesen (Planning) BNAP Holdings Ltd represented by Peter Fuller, Legal; Navpreet Kaur, Corporate Bronwyn Brown **Tuesday 4 June:** Takanini Business Association represented by Gary Holmes (Manager) DDI Takanini Investments Limited represented by Brooke Dales (Planning) BP Oil New Zealand Ltd represented by Jarrod Dixon (Planning) Tahua Partners Ltd represented by Samantha Redward (Planning); Charles Belcher (Corporate) Bronwyn Brown Big Rock Commercial Ltd & Matthew Koppens Ltd represented by Matthew Koppens; Don McKenzie (Traffic); Hamish Firth (Planner) Halls Transport Ltd represented by Hamish Firth (Planner); Sean Leonard (Corporate); Don McKenzie (Traffic) Dene Worsley Bowmar, Margaret Anne Bowmar, Judith Louise Tompsett Davinder Singh Restaurant Brands Limited represented by: Craig Malone, Legal; Phil Hollings, Corporate; Gerhard van der Westhuizen, Traffic and transportation; Mark Arbuthnot, Planning Navitha Sreeram and Narsing Rao Nashamuni **Wednesday 5 June:** Dunford Family Trust, David Dunford and Jayne Dunford represented by David & Jayne Dunford and Ian Campbell (Public Works Advisory) witness Broshmik Investments Limited and Willian Rudsits represented by William Rudsits and Ian Campbell (Public Works Advisory) witness McDonald's Restaurants NZ Limited represented by Daniel Parkinson and Warwick Stevens Fire and Emergency New Zealand represented by Geoff Purcell Jayanta Bhaduri and Sudarshana Bhaduri Prem Chand and Savita Chand Mimico Properties Limited represented by Jemma Hollis (MS-Teams) and Rex Davies (MS-Teams)

	Bunnings Limited represented by Matt Norwell, Planning and Don McKenzie, Traffic Zabeel Investments Ltd, Alda Investments Limited and D E Nakhle Investment Trust represented by Janette Campbell, Legal; Daniel Nakhle, Corporate; Terry Church, Traffic **Thursday 6 June:** National Trading Company of New Zealand Limited represented by Alex Devine, Legal Counsel; John Parlane, Traffic; Matt Norwell, Planning; Andrew Bell, Corporate Silverfin Capital Limited represented by Douglas Allan, Legal Counsel; John Parlane, Transport; Nick Roberts, Planning; Miles Brown, Corporate New Zealand Steel Limited represented by Alana Lampitt, Legal Counsel; Brad Stark, Corporate; Don McKenzie, Traffic & Transport BJ Wallace Trust and SJ Wallace Trust and Takanini Village Limited and Tonea Properties Ltd represented by Jeremy Brabant, Legal Counsel; Robert Wallace, Corporate; Leo Hills, Traffic; Karyn Kurzeja, Planning; Richard Knott , Urban Design; James Beaumont, Geotechnical Sunlight Holdings Ltd and South Auckland Marine Ltd represented by Jeremy Brabant, Legal Counsel Meads Trust Holdings Limited and Carters Building Supplies Ltd represented by Paul Arnesen, Planning Arborfield Trust, Takanini Home and Trade Ltd and Mitre 10 Mega Takanini Ltd **Friday 7 June:** Blue Snow Ltd represented by Ian Campbell (Public Works Advisory) witness **<u>For the Council:</u>** Craig Cairncross, Team Leader Planning at Auckland Council Joy LaNauze, Senior Policy Planner at Auckland Council Leon Saxon, Arborist at Arborlab Myfanwy Eaves, Senior Specialist Archaeology at Auckland Council David Russell, Senior Development Engineer at Auckland Council Simon Chapman, Principal Ecologist at Ecology New Zealand Pat Shorten, Consultant Geotechnical Engineer at Fraser Thomas Ltd Robert Pryor, Landscape architect and Director of LA4 Landscape Architects Peter Runcie, Acoustician and Technical Director at SLR Consulting Andrew Miller, Resource Management Planner at CoLab Planning

	Rebecca Foy, Social Impact Assessment Specialist and Director of Formative Limited Trent Sunich, Flooding Hazard and Stormwater Specialist and Principal Environmental Consultant at SLR Consulting Martin Peake, Principal Transportation Engineer and Director at Progressive Transport Solutions Limited Jason Evans, Strategic Planner and Urban Designer at ET Urban Design Ltd Cheryl Cleary, Consultant Planner and Director at Cleary and Associates Limited Wes Edwards, Transportation Advisor and Director at Arrive Ltd Lisa Mein, Senior Urban Designer and Director at Mein Urban Design and Planning Ltd Dr Gillian Stewart, Social Impact Assessment Specialist and Principal and Director of Co-Creationz Ltd Daniel Kinnoch, Director and Resource Management Planner at CoLab Planning Mashid Ezbarami, Senior Built Heritage Specialist at Auckland Council West Fynn, Senior Heritage Arborist at Auckland Council Antoinette Bootsma, Senior Specialist in the Earth, Streams and Trees team at Auckland Council Bevan Donovan, Hearings Advisor at Auckland Council
Commissioners' site visits	Conducted during the hearing
Hearing Closed:	Monday 9 September 2024

APPENDIX B

ACRONYMS AND DESCRIPTIONS

Acronym/Term	Description
AAR	Assessment of Alternatives Report
AEE	Assessment of Effects on the Environment
Appendix E	Appendix E to the Closing Submissions
Appendix F	Appendix F to the Closing Submissions
AT	Auckland Transport
ATE	Assessment of Traffic Effects
AUP: OP	Auckland Unitary Plan Operative in Part
BOL	Block of Line – Rail Track Closure
BPO	Best Practicable Option
CEMP	Construction Environmental Management Plan
Council	Auckland Council
CTMP	Construction Traffic Management Plan
CNVMP	Construction Noise and Vibration Management Plan
DBC	Detailed Business Case
DRMP	Development Response Management Plan
Four Tracking	Anticipated upgrade of North Island Main railway Trunk line from two tracks up to four tracks
FUZ	Future Urban Zone
HNZPT	Heritage New Zealand Pouhere Taonga
MoE	Ministry of Education
Network Utility Operator	Has the same meaning as set out in section 166 of the RMA
NIMP	Network Integration Management Plan
NIMT	North Island Main Trunk
NUMP	Network Utilities Management Plan
NoRs	Notices of Requirement
NUMP	Network Utility Management Plan
NZTA	New Zealand Transport Agency Waka Kotahi
Outline Plan	An outline plan prepared in accordance with section 176A of the RMA
PPF	Protected Premises and Facilities as defined in New Zealand Standard NZS 6806:2010: Acoustics – Road-traffic noise – New and altered roads.
PWA	Public Works Act 1981
RMA	Resource Management Act 1991
RPS	Regional Policy Statement
SCED	Stakeholder Communication and Engagement Design
SCEMP	Stakeholder Communication and Engagement Management Plan

South FTN	South Frequent Transit Network Project
South FTN Project	Notices of requirement to authorise transport upgrades along key sections of roads which fall within the South FTN network: NoR 1: Great South Road FTN Upgrade NoR 2: Great South Road Upgrade (Drury Section) NoR 3: Takanini FTN – Weymouth, Alfriston and Great South Road Upgrades NoR 4: Takanini FTN – Porchester Road and Popes Road Upgrades
Te Tupu Ngātahi	Te Tupu Ngātahi Supporting Growth Programme
TLC	Takanini Level Crossings Project
TLC Project	Notices of requirement for the construction, operation, maintenance and upgrade of five grade-separated bridge crossings of the NIMT rail line in the Takanini area: NoR 1: Spartan Road, Manuia Road, Manuroa Road and Taka Street NoR 2: Walters Road
UDE	Urban Design Evaluation
ULDMP	Urban and Landscape Design Management Plan