

**[TO BE PUT ON TRANSIT LETTERHEAD]**

**by courier**

16 February 2007

Auckland City Council  
1 Greys Avenue  
AUCKLAND CITY

*Attention:* Julie McKee, Hearings Team Leader

**VIC PARK TUNNEL PROJECT – TRANSIT NEW ZEALAND’S DECISION ON  
NOTICES OF REQUIREMENT FOR NEW DESIGNATIONS AND ALTERATIONS  
TO DESIGNATION**

- 1 Thank you for your letter dated 12 December 2006 containing the report and recommendations of the Hearing Panel for the Auckland City Council (*Council*). The Council has recommended that Transit New Zealand (*Transit*) confirm the notices of requirement for new designations and alterations to an existing designation to provide for construction of the Vic Park Tunnel and other works, subject to designation conditions.
- 2 In accordance with section 172 of the Resource Management Act 1991, I am pleased to advise that Transit accepts, in part, the Council recommendations.
- 3 Details of Council’s recommendations accepted, partly accepted and/or rejected by Transit, together with reasons for those decisions, are attached as **Schedule One**.
- 4 A complete list of the final conditions attaching to the designation is attached as **Schedule Two**.

Yours faithfully

**Peter Spies**  
Regional Manager  
TRANSIT NEW ZEALAND

## **SCHEDULE ONE**

### **DECISION BY TRANSIT NEW ZEALAND**

#### **DECISION ON PRIMARY RECOMMENDATION**

- 1 Auckland City Council (ACC) has recommended that Transit's notices of requirement for new designations and alterations to existing designations (*NORs*) for the Vic Park Tunnel Project be confirmed subject to certain designation conditions.
- 2 The decision of Transit is to accept, in part, that recommendation.
- 3 The reasons for Transit's decision on each of the recommended conditions are set out below.

#### **DECISION ON RECOMMENDED CONDITIONS ACCEPTED IN FULL**

- 4 Transit accepts in full the following conditions recommended by ACC:
  - General condition 1;
  - Conditions 2.1, 2.3 and 2.4;
  - Conditions 3.1, 3.2 and 3.3.1 – 3.3.15;
  - Conditions 4.2.2 and 4.4 – 4.9;
  - Conditions 5 and 7;
  - Conditions 8.1, 8.2.2 – 8.2.10 and 8.4 – 8.6;
  - Condition 9;
  - Conditions 10.4 – 10.7, 10.9, 10.10, 10.12, 10.13 and 10.15;
  - Conditions 11.1 – 11.5;
  - Conditions 12.2, 12.3, 12.5, 12.6, 12.8, 12.9 and 12.11 – 12.14;
  - Condition 13;
  - Condition 14.1;
  - Condition 15;

- Conditions 16.1 – 16.7 and 16.9;
- Condition 17.1; and
- Advice notes 1 - 5.

#### **DECISION ON RECOMMENDED CONDITIONS REJECTED IN WHOLE OR PART**

5 Transit’s decision in respect of each of the conditions recommended by ACC, which are rejected in whole or part by Transit, is set out below as follows:

- Condition recommended by ACC;
- Transit’s decision;
- Reasons (if condition not fully accepted or rejected).

#### **ACC condition 2.2**

6 The ACC’s recommended condition 2.2 provides:

*"2.2 No works shall be undertaken in any particular location(s) until:*

- 1. The PMP, or such part(s) of the PMP as are relevant to the location(s) are submitted to and approved by the Auckland City Council (Group Manager: City Planning); and*
- 2. Any outline plan(s) required by section 176A of the Resource Management Act 1991 (RMA) in relation to the works in the location(s), have been submitted to and approved by the Auckland City Council."*

#### *Decision*

7 Transit accepts condition 2.2 in part only. Transit does not accept some of the wording and amends the condition as follows (amendments identified in tracked changes):

*"2.2 No works shall be undertaken in any particular location(s) until:*

- 1. The PMP, or such part(s) of the PMP as are relevant to the location(s) are submitted to and approved by the Auckland City Council (Group Manager: City Planning); and*
- 2. Any outline plan(s) required by section 176A of the Resource Management Act 1991 (RMA) in relation to the works in the location(s), have been submitted to ~~and approved by~~ the Auckland City Council."*

*Reason for decision*

- 8 Section 176A of the Resource Management Act 1991 (*RMA*) only requires Transit “to submit” an outline plan of works to the ACC. There is no requirement that such a plan be approved by the ACC. Accordingly, Transit considers that the ACC’s recommended condition is unnecessarily onerous. Transit’s proposed amendment ensures consistency with the RMA.

**ACC condition 3.3.16**

- 9 The ACC’s recommended condition 3.3.16 provides:

*“3.3 The CMP shall include specific details relating to the demolition, construction and management of all works associated with the Project, including the details indicated below:*

...

*16. Protocols for offering mitigation such as temporary relocation of households where noise and other impacts cannot be satisfactorily managed.”*

*Decision*

- 10 Transit accepts condition 3.3.16 in principle, but amends the condition as follows (amendments identified in tracked changes):

*“3.3 The CMP shall include specific details relating to the demolition, construction and management of all works associated with the Project, including the details indicated below:*

...

*16. Protocols for offering mitigation such as temporary relocation of households where noise and other impacts cannot be ~~satisfactorily~~ managed to comply with relevant standards.”*

*Reason for decision*

- 11 Transit considers that the use of the word “satisfactorily” in the ACC’s recommended condition 3.3.16 is inappropriate due to its subjective nature and unnecessarily vague. Transit considers that this condition (as amended) removes any ambiguity and provides certainty for Transit, the ACC and potentially affected households.

**ACC condition 4.1**

- 12 The ACC’s recommended condition 4.1 provides:

*“4.1 A Noise Management Plan (NMP) shall be prepared by a suitably qualified acoustics expert for the purposes of avoiding, mitigating or remedying any adverse noise effects from the operation of the Project following its construction. The NMP*

*shall be provided to the Auckland City Council (Group Manager: City Planning) for approval prior to the commencement of works."*

*Decision*

- 13 Transit accepts condition 4.1 in part only and amends the condition as follows (amendments identified in tracked changes):

*"4.1 A Noise Management Plan (NMP) shall be prepared by a suitably qualified acoustics expert for the purposes of avoiding, mitigating or remedying any adverse noise effects from the operation of the Project following its construction. The NMP shall be provided to the Auckland City Council (Group Manager: City Planning) ~~for approval~~ prior to the commencement of works."*

*Reason for decision*

- 14 Transit considers that a requirement to obtain approval of the Noise Management Plan (NMP) is redundant as the NMP forms part of the Project Management Plan (PMP) and recommended condition 2.2(1), which Transit accepts in full, requires the PMP to be "submitted to and approved by" the ACC.

**ACC condition 4.2.1(i)**

- 15 The ACC's recommended condition 4.2.1(i) provides:

*"4.2 The NMP shall include:*

*1. General measures to achieve, at a minimum, compliance with the Transit New Zealand 'Guidelines for the Management of Road Traffic Noise – State Highway Improvements' (December 1999), including (but not limited to) the following mitigation measures:*

*i. the construction of noise walls (to a maximum of 5 metres in height and comprised of transparent materials in the St Mary's Bay area); ..."*

*Decision*

- 16 Transit accepts condition 4.2.1(i) in principle, but amends the condition as follows (amendments identified in tracked changes):

*"4.2 The NMP shall include:*

*1. General measures to achieve, at a minimum, compliance with the Transit New Zealand 'Guidelines for the Management of Road Traffic Noise – State Highway Improvements' (December 1999), including (but not limited to) the following mitigation measures:*

*i. the construction of noise walls (to a maximum of 5 metres in height ~~and comprised of transparent materials~~ in the St Mary's Bay area); ..."*

*Reason for decision*

- 17 Transit considers that condition 4.2, which deals with the components that must form part of the project's Noise Management Plan, should not stipulate design constraints for the noise walls through St Mary's Bay. Design issues relating to the noise wall are contained in ACC recommended condition 12.7, which Transit accepts in part (below).

**ACC condition 4.3**

- 18 The ACC's recommended condition 4.3 provides:

*4.3. "The NMP shall identify the existing dwellings for which specific measures are required in accordance with condition 4.22) above. These dwellings are referred to as the 'affected dwelling(s)'."*

*Decision*

- 19 Transit accepts condition 4.3 with one minor amendment (identified as a tracked change):

*4.3. "The NMP shall identify the existing dwellings for which specific measures are required in accordance with condition ~~4.22~~4.2.2) above. These dwellings are referred to as the 'affected dwelling(s)'."*

*Reason for decision*

- 20 Transit has amended condition 4.3 to correct a typographical error in the ACC's recommendation.

**ACC condition 6.1**

- 21 The ACC's recommended condition 6.1 provides:

*"6.1 The Construction Management Plan shall be implemented and maintained throughout the entire demolition and construction periods of the Project and shall include the following:*

**Noise**

- 1. The CMP shall include a Construction Noise and Vibration Management Plan (CNVMP) describing the measures adopted, as far as practicable, to meet the requirements of NZS6803:1999 Acoustics – Construction Noise. The CNVMP shall refer to noise management measures set out in Annexure E of NZS6803:1999, and as a minimum shall address the following;*

...

### **Vibration**

2. *The CNVMP shall also describe measures adopted, as far as practicable, to meet the vibration standards of the German Standard DIN 4150, and shall address the following aspects: ..."*

### *Decision*

- 22 Transit accepts condition 6.1 with minor amendments as follows (amendments identified as a tracked change):

*"6.1 The Construction Management Plan shall be implemented and maintained throughout the entire demolition and construction periods of the Project and shall include the following:*

### **Noise**

1. *The CMP shall include a Construction Noise and Vibration Management Plan (CNVMP) describing the measures adopted to, as far as practicable, ~~to~~ meet the requirements of NZS6803:1999 Acoustics – Construction Noise. The CNVMP shall refer to noise management measures set out in Annexure E of NZS6803:1999, and as a minimum shall address the following;*

...

### **Vibration**

2. *The CNVMP shall also describe measures adopted to, as far as practicable, ~~to~~ meet the vibration ~~criteria standards~~ of the German Standard DIN 4150, and shall address the following aspects: ..."*

### *Reason for decision*

- 23 Transit has amended condition 6.1 to correct typographical errors in the ACC's recommendation and to clarify the reference to the German Standard DIN 4150.

### **ACC condition 8.2.1(vii)**

- 24 The ACC's recommended condition 8.2.1(vii) provides:

*"8.2 The TMP shall describe the measures that will be undertaken to address, as far as practicable, the following:*

1. *Methods of avoiding, remedying or mitigating the local and network wide effects of construction of the Project. In particular, the TMP shall describe:*

...

*(vii) Alternative locations to mitigate the temporary loss of on and off street parking during construction.”*

*Decision*

- 25 Transit accepts condition 8.2.1(vii) with one amendment as follows (amendment identified as a tracked change):

*“8.2 The TMP shall describe the measures that will be undertaken to address, as far as practicable, the following:*

*1. Methods of avoiding, remedying or mitigating the local and network wide effects of construction of the Project. In particular, the TMP shall describe:*

*...*

*(vii) Alternative locations to mitigate the temporary loss of ~~on and~~ off street parking during construction.”*

*Reason for decision*

- 26 Transit considers that subsection (vii) is unduly onerous as it requires Transit to fund the replacement of on street parking in circumstances where normal road works would often lead to temporary loss of street parking.

**ACC condition 8.3**

- 27 The ACC’s recommended condition 8.3 provides:

*“8.3 During construction of the proposed tunnel, Transit shall ensure that all construction storage and vehicle parking takes place within the boundaries of the designation or in compliance with all parking restrictions and Council bylaws.”*

*Decision*

- 28 Transit accepts condition 8.3 with one amendment as follows (amendment identified as a tracked change):

*“8.3 During construction of the proposed tunnel, Transit shall ensure that all ~~construction~~ storage and vehicle parking takes place within the boundaries of the designation or in compliance with all parking restrictions and Council bylaws.”*

*Reason for decision*

- 29 Transit has amended condition 8.3 in order to avoid confusion with the wording of condition 8.5, which Transit accepts in full.

**ACC condition 10**

30 The ACC's recommended condition 10 provides (in part):

*"10.1 The Requiring Authority is to produce a feasibility report, prepared by a qualified arboriculturalist and transplanting specialist, on transplanting the scheduled London Plane Trees in Victoria Park which are affected by the proposed designation and works to a location to be determined in consultation with Auckland City. This feasibility report shall address the likelihood of tree survival, the effects of relocation (temporary or permanent), the timeframes required and their effects on the Project, and the overall benefits/costs. If transplanting one or more of the trees is found to be feasible by the transplanting specialist, and Transit agrees with the estimated cost of transplantation, the transplantation shall be undertaken prior to the commencement of the works in that vicinity. The transplanting shall be accompanied by a maintenance programme approved in advance by Auckland City Council (Manager Recreation & Community Services).*

*10.2 The methodology for relocating any such trees shall be approved by the Auckland City Council (Manager Recreation & Community Services), prior to commencement.*

*10.3 In the event that it is not feasible to transplant one or more of the scheduled London plane trees, their removal shall be mitigated by the planting of an appropriate number of London plane trees in Victoria Park with the intent that the ring of trees that delineates the Park is maintained. The Auckland City Arborist is to determine how many replacement trees will be required in the case of each London plane tree so removed. The replacement trees shall be planted within the next available planting season. If the planting positions are not available until after the construction period is complete, the trees shall be grown on in a nursery until required. These trees shall be a minimum of 6m high when planted. Each of the trees shall have a two year maintenance programme approved by the Auckland City Arborist.*

...

*10.8 Removal, trimming/pruning or works within the drip line of Protected Trees shall be limited to those trees identified in Appendix 2 which is attached to these conditions. A tree may be added to this Appendix with the approval of the Auckland City Council (Manager Recreation & Community Services).*

...

*10.11 A copy of the conditions of designation pertaining to the Protected Trees shall be held at the main construction site office (located in Victoria Park) at all times.*

...

10.14 The nominated arborist shall undertake a tree monitoring program throughout the construction phase, including monitoring of:

- (a) The condition repair and location of the temporary protective fencing;
- (b) Any excavation within the drip line of Protected Trees;
- (c) General tree health; and
- (d) Compliance with the conditions of designation by way of fortnightly inspections during the construction period. A copy of the monitoring results from each visit shall be sent to the Auckland City Council (Manager Recreation & Community Services), with one copy being retained on site by the Project Manager, while a further copy is to be retained by the nominated arborist."

#### Decision

- 31 Transit accepts condition 10 in principle, but amends the conditions as follows (amendments identified in tracked changes):

"10.1 The Requiring Authority is to produce a feasibility report, prepared by a qualified arboriculturalist and transplanting specialist, on transplanting the scheduled London Plane Trees in Victoria Park which are affected by the proposed designation and works to a location to be determined in consultation with Auckland City. This feasibility report shall address the likelihood of tree survival, the effects of relocation (temporary or permanent), the timeframes required and their effects on the Project, and the overall benefits/costs. If transplanting one or more of the trees is found to be feasible by the transplanting specialist, and Transit agrees with the estimated cost of transplantation, the transplantation shall be undertaken prior to the commencement of the works in that vicinity. The transplanting shall be accompanied by a maintenance programme approved in advance by ~~the~~ Auckland City ~~Council (Manager Recreation & Community Services)~~ Arborist.

10.2 The methodology for relocating any such trees shall be approved by the Auckland City ~~Council (Manager Recreation & Community Services), prior to commencement~~ Arborist.

10.3 In the event that it is not feasible to transplant one or more of the scheduled London plane trees, their removal shall be mitigated by the planting of an appropriate number of London plane trees in Victoria Park with the intent that the ring of trees that delineates the Park is maintained. The Auckland City Arborist is to determine how many replacement trees will be required in the case of each London plane tree so removed. The replacement trees shall be planted within the next available planting season. If the planting positions are not available until after the construction period is complete, the trees shall be grown on in a nursery until required. These trees shall be a minimum of 6m high when planted. Each of the trees shall have a two year maintenance programme approved by the Auckland City Arborist.

...

10.8 Removal, trimming/pruning or works within the drip line of Protected Trees shall be limited to those trees identified in Appendix 2 which is attached to these conditions. A tree may be added to this Appendix with the approval of the Auckland City ~~Council (Manager Recreation & Community Services)~~ Arborist.

...

10.11 A copy of the conditions of designation pertaining to the Protected Trees shall be held at the main construction site office, on site, ~~(located in Victoria Park)~~ at all times.

...

10.14 The nominated arborist shall undertake a tree monitoring program throughout the construction phase, including monitoring of:

- (a) The condition repair and location of the temporary protective fencing;
- (b) Any excavation within the drip line of Protected Trees;
- (c) General tree health; and
- (d) Compliance with the conditions of designation by way of fortnightly inspections during the construction period. A copy of the monitoring results from each visit shall be sent to the Auckland City ~~Council (Manager Recreation & Community Services)~~ Arborist, with one copy being retained on site by the Project Manager, while a further copy is to be retained by the nominated arborist."

#### *Reasons for decision*

- 32 Transit considers that it is important for there to be consistency as to which Council officer must be consulted when implementing condition 10 (trees). Transit considers the Auckland City Arborist to be the most appropriate person as he/she will be familiar with the Project, any affected trees and any issues that may arise with respect to those trees. Accordingly, condition 10 has been amended to refer to the Auckland City Arborist only.
- 33 Additionally, with respect to condition 10.11, Transit agrees that it is important for a copy of the designation conditions relating to protected trees to be held on site. However, it is not certain at this stage that the site office will be located within Victoria Park. Transit has amended condition 10.11 to reflect this.

**ACC condition 11.6**

34 The ACC's recommended condition 11.6 provides:

*"11.6 A site specific slope stability assessment shall be carried out by a suitably qualified engineer for the southern abutments of the Shelly Beach Road overbridge and Jacob's Ladder Pedestrian Bridge, as well as at any location where Tunnel Project works are within 10m of the St Mary's Bay cliff face. Where a moderate or greater risk of instability is assessed as a result of works on the Project, a slope movement monitoring system shall be installed with site specific stability criteria and trigger levels. If the slope movement monitoring system observes deformation in excess of specified trigger levels as a result of the Project works, the Auckland City Council (Group Manager: Community Planning) in consultation with Transit New Zealand's nominated contractor shall direct the appropriate remedial actions. Where practicable, stabilisation works shall be undertaken in a manner that is sensitive to the natural character and gateway values of this area."*

*Decision*

35 Transit accepts condition 11.6 in principle, but amends the condition as follows (amendments identified in tracked changes):

*"11.6 A site specific slope stability assessment shall be carried out by a suitably qualified engineer for the southern abutments of the Shelly Beach Road overbridge and Jacob's Ladder Pedestrian Bridge, as well as at any location where Tunnel Project works are within 10m of the St Mary's Bay cliff face. Where a moderate or greater risk of instability is assessed as a result of works on the Project, a slope movement monitoring system shall be installed with site specific stability criteria and trigger levels. If the slope movement monitoring system observes deformation in excess of specified trigger levels as a result of the Project works, the Auckland City Council (Group Manager: Community Planning) in consultation with Transit New Zealand's nominated contractor shall ~~direct~~ **coordinate** the appropriate remedial actions. Where practicable, stabilisation works shall be undertaken in a manner that is sensitive to the natural character and gateway values of this area."*

*Reason for decision*

36 Transit considers that the requirement that the ACC, in consultation with Transit's contractor, "direct" any remedial actions, is inappropriate and unreasonable as it is Transit that has a contractual relationship with its contractor, not the ACC. Transit considers that a condition requiring the ACC to 'coordinate' any remedial actions will enable the ACC, Transit and its contractor to work together to address any potential slope stability issues arising from the Project works.

**ACC condition 12.1**

37 The ACC's recommended condition 12.1 provides:

*"12.1 The PMP shall include an integrated Urban Design and Landscape Mitigation Plan ("UDLMP") to be provided to the Auckland City Council (Group Manager:*

*Community Planning) prior to or together with the outline plan of works for the Project or relevant Project stage. The UDLMP shall be prepared by a suitably qualified person or persons, in consultation with relevant stakeholders, and shall take into account the following: ..."*

*Decision*

- 38 Transit accepts condition 12.1 in principle, but amends the condition as follows (amendments identified in tracked changes):

*"12.1 The PMP shall include an integrated Urban Design and Landscape Mitigation Plan ("UDLMP") to be provided to the Auckland City Council (Group Manager: Community Planning) prior to or together with the outline plan of works for the Project or relevant Project stage. The UDLMP shall be prepared by a suitably qualified person or persons, ~~in consultation with relevant stakeholders,~~ and shall take into account the following: ..."*

*Reason for decision*

- 39 Transit considers that a requirement to prepare the UDLMP in consultation with a certain group of (undefined) stakeholders is vague and uncertain. Moreover, it is not necessary as the ACC's recommended condition 12.3, which Transit accepts in full, defines those parties that Transit must consult with in finalising the Project's Urban Design Framework. The Final Urban Design Framework will guide the design of the Project and will form part of the UDLMP (along with Detailed Design Plans). Transit considers that this condition (as amended) will provide for sufficient consultation.

**ACC condition 12.4**

- 40 The ACC's recommended condition 12.4 provides, in part:

*12.4 Streetscape elements to be included in the detailed design plans as described in condition 12.3 (2) shall include:*

- i. Noise attenuation barriers no greater than 5m in height; ...*

*Decision*

- 41 Transit accepts the first part of condition 12.4 with one minor amendment (identified as a tracked change):

*12.4 Contents of detailed design plans.*

*1. Streetscape elements to be included in the detailed design plans as described in condition 12.3 (2) shall include:*

- i. Noise attenuation barriers no greater than 5m in height; ...*

*Reason for decision*

- 42 The ACC's recommended condition 12.4 includes a subsection 2, but does not include a subsection 1. Transit has amended condition 12.4 to add a subsection 1 in order to avoid confusion.

**ACC condition 12.4.2(i)**

- 43 The ACC's recommended condition 12.4.2(i) (5th bullet point) provides:

*"12.4.2 Landscape elements to be included in the detailed design plans as described in 12.3 (2) shall include the following:*

*i. A plan for the St Mary's Bay Reserve from Shelley Beach Road through to Beaumont Street, developed in accordance with the following concepts:*

*...*

- The need for ground contouring and landscaping which avoids surface water ponding and that is sensitive to user amenity and safety and the ability to appreciate existing views, having regard to the effects of any noise barriers that are installed;"*

*Decision*

- 44 Transit accepts condition 12.4.2(i) in principle, but rewords the fifth bullet point of that condition as follows (amendments identified in tracked changes):

*" The need for ground contouring and landscaping which avoids surface water ponding, where practicable, and that is sensitive to user amenity and safety and the ability to appreciate existing views, having regard to the effects of any noise barriers that are installed;"*

*Reason for decision*

- 45 Transit considers that the wording of the ACC's recommended condition is impractical and unreasonable as it is a total prohibition on surface water ponding. An amendment has been made to ensure a workable condition.

**ACC condition 12.7**

- 46 The ACC's recommended condition 12.7 provides:

*"12.7 The noise barrier along the St Mary's Bay Reserve shall be designed in accordance with the principles of the Urban Design Framework. This design shall take into account the following considerations:*

- The provision of effective and transparent acoustical shielding beside the carriageway for the houses along the St Mary's Bay cliff line so that the Transit New Zealand 'Guidelines for the Management of Road Traffic Noise – State Highway Improvements' (December 1999) are met and also so that received noise levels in the local environment are*

*no worse, and preferably better than, than those experienced immediately prior to construction of the project;*

- *Allowing maximum appreciation by southbound motorists of the gateway effect of the tree-lined cliffs;*
- *Allowing good views of the Westhaven Marina and the Waitemata Harbour from properties on the cliffs and also from the adjacent walkway;*
- *Ensuring that persons using the walkway will not be "sandwiched" between the cliff and the noise barrier;*
- *Making the barrier itself an attractive landscape element;*
- *The cost, constructability, and the maintenance requirements of the barrier (including cleaning, removal of graffiti and any advertising posters)."*

#### *Decision*

- 47 Transit accepts condition 12.7 in part only. Transit rejects the fourth bullet point in its entirety. It also rejects the wording of the first bullet point, rewording that part of condition 12.7 as follows (amendments identified in tracked changes):

*"12.7 The noise barrier along the St Mary's Bay Reserve shall be designed in accordance with the principles of the Urban Design Framework. This design shall take into account the following considerations:*

- *The provision of ~~effective and transparent~~ acoustical shielding barriers beside the carriageway ~~for the houses along the St Mary's Bay cliff line so that~~ to achieve, at a minimum, compliance with the Transit New Zealand 'Guidelines for the Management of Road Traffic Noise – State Highway Improvements' (December 1999) ~~are met and also so that received noise levels in the local environment are no worse, and preferably better than, than those experienced immediately prior to construction of the project;~~ Such barriers, where appropriate, shall be transparent.*
- *Allowing maximum appreciation by southbound motorists of the gateway effect of the tree-lined cliffs;*
- *Allowing good views of the Westhaven Marina and the Waitemata Harbour from properties on the cliffs and also from the adjacent walkway;*
- *~~Ensuring that persons using the walkway will not be "sandwiched" between the cliff and the noise barrier;~~*

- *Making the barrier itself an attractive landscape element;*
- *The cost, constructability, and the maintenance requirements of the barrier (including cleaning, removal of graffiti and any advertising posters)."*

*Reasons for decision*

- 48 Transit considers that it is important for the wording of condition 12.7 to be consistent with the requirements of condition 4.2 (1), which Transit has accepted in part (above).
- 49 Transit also considers that the wording of the first bullet point in the ACC's recommended condition 12.7 is a more accurate reflection of the nature of the acoustic treatment intended to be provided and the noise levels which it is sought to achieve. Transit considers that the noise walls through St Mary's Bay should, where appropriate, be constructed of transparent materials. However, it is important that Transit is not restricted to the use of transparent materials only. (For instance, the posts and foundations will not be transparent.) Amendment to condition 12.7 has been made to ensure a workable condition.
- 50 Transit considers that the inclusion of bullet point 4 in the ACC's recommended condition 12.7 is inappropriate and uncertain due to the subjective nature of the word 'sandwiched'. Transit also considers the bullet point to be an unnecessary duplication of the matters covered by recommended condition 12.4, which Transit has generally accepted (above).

**ACC condition 12.10**

- 51 The ACC's recommended condition 12.10 provides:

*"12.10 In areas where shrub mixes are used, planting densities shall ensure low canopy coverage has been attained by the end of the agreed maintenance period."*

*Decision*

- 52 Transit accepts condition 12.10 in principle, but rewords that condition as follows (amendments identified in tracked changes):

*"12.10 In areas where shrub mixes are used, planting densities shall ensure low canopy coverage has been attained by the end of the ~~agreed~~-maintenance period, which will run for three years following the completion of the construction works."*

*Reason for decision*

- 53 Transit considers that the ACC's recommended condition 12.10 is too ambiguous. Transit considers there should be consistency between conditions 12.10 and 12.14. An amendment to condition 12.10 has been made to reflect a maintenance period of 3 years after completion of the construction works.

**ACC condition 14.2**

54 The ACC's recommended condition 14.2 provides:

*"14.2 The Requiring Authority shall ensure that the Construction Environmental Management Plan developed for the Project contains appropriate mitigation measures to avoid offensive odours, generated as a result of the construction process, occurring beyond the designation boundaries."*

*Decision*

55 Transit accepts condition 14.2 in principle, but amends that condition as follows (amendments identified in tracked changes):

*"14.2 The Requiring Authority shall ensure that the Construction Environmental Management Plan developed for the Project contains appropriate mitigation measures to ~~avoid~~ control offensive odours, generated as a result of the construction process, occurring beyond the designation boundaries."*

*Reason for decision*

56 Transit considers that the obligation imposed under the ACC's recommended condition 14.2 to 'avoid' offensive odours is unduly onerous. Transit considers that an obligation to 'control' offensive odours is more appropriate because it is accepted that part of the construction site is contaminated to varying degrees. It is not feasible to "avoid" odour in this circumstance. An amendment to condition 14.2 has been made to reflect this issue.

**ACC condition 16.8**

57 The ACC's recommended condition 16.8 provides:

*"16.8 During construction, the effects of vibration on the Birdcage Hotel, Campbell Free Kindergarten, Auckland Municipal Destructor and Depot (also known as the Victoria Park Market) and the former Auckland Gas Company buildings in Beaumont Street shall be monitored by the Requiring Authority and the results of the monitoring provided to the Auckland City Council (Group Manager: City Planning). Should effects be determined by the Group Manager: City Planning to be significant, he or she shall direct that actions be undertaken, including any reasonable restoration or reconstruction of any heritage elements of the buildings noted above, and in the event of damage or failure as a direct result of the Project works, at the cost of the Requiring Authority and to the written approval of the Auckland City Council."*

*Decision*

58 Transit accepts condition 16.8 in part and rewords that condition as follows (amendments identified in tracked changes):

*"16.8 During construction, the effects of vibration on the Birdcage Hotel, Campbell Free Kindergarten, Auckland Municipal Destructor and Depot (also known as the*

Victoria Park Market) and the former Auckland Gas Company buildings in Beaumont Street shall be monitored by the Requiring Authority and the results of the monitoring provided to the Auckland City Council (Group Manager: City Planning). ~~Should Appropriate action shall be undertaken if the effects of vibration are be determined by the Group Manager: City Planning to be significant, he or she shall direct that actions be undertaken~~ including any reasonable restoration or reconstruction of any heritage elements of the buildings noted above, and in the event of damage or failure as a direct result of the Project works, at the cost of the Requiring Authority and to the written approval of the Auckland City Council.”

*Reason for decision*

- 59 Transit considers that the power provided to the Group Manager: City Planning in the ACC’s recommended condition 16.8 is inappropriate. Transit considers it necessary that the decision as to what actions are taken to remediate any vibration effects must reside with Transit. An amendment to condition 16.8 has been made to reflect this obligation.

**ACC condition 17.2**

- 60 The ACC’s recommended condition 17.2 provides:

*“17.2 Infrastructural services must be kept in service at all times except for those services (such as Watercare Services Ltd) requiring brief closures to complete diversion cut-ins between existing and any relaid services.”*

*Decision*

- 61 Transit rejects condition 17.2.

*Reason for decision*

- 62 Transit considers that the ACC’s recommended condition 17.2 contradicts condition 17.1, which Transit has accepted.

**ACC condition 17.3**

- 63 The ACC’s recommended condition 17.3 provides:

*“17.3 All costs incurred by infrastructural service networks as a result of undertaking necessary relocation or diversion works, or repair of damaged sections of the infrastructural services, shall be met by the Requiring Authority.”*

*Decision*

- 64 Transit rejects condition 17.3.

*Reason for decision*

- 65 Transit considers that the ACC’s recommended condition 17.3 contradicts Transit’s statutory obligations under the Transit Act 1989 and the Auckland Metropolitan Drainage Act 1960.

**ACC Appendix 1**

- 66 The ACC's recommended Appendix 1 includes a list titled "Affected parties to be consulted in accordance with Condition 3.2".

*Decision*

- 67 Transit accepts Appendix 1 and adds a map titled "Victoria Park Tunnel – Parties affected by proximity map".

*Reason for decision*

- 68 To clarify which parties must be consulted in compliance with condition 3.2, Transit considers that Appendix 1 should include a map indicating the parties that are "affected by proximity". Such a map was provided by Transit during the joint Council hearing and has now been added to Appendix 1.