

## **Recommendations of Commissioners following the hearing of a Notice of Requirement issued by Auckland Transport**

SUBJECT: Notice of Requirement for an Alteration to a Designation for the purpose of “Road – to widen and upgrade Albany Highway between Schnapper Rock Road/Bush Road to State Highway 17 and all associated works”.

Hearing held on Monday 5 December 2011 and Tuesday 6 December 2011 commencing at 9.30am each day.

<b>Hearing Commissioners:</b>	The Notice of Requirement was heard by a hearing panel consisting of:	
	Ms Jenny Hudson Independent Commissioner	(Chair)
	Mr Mark Farnsworth Independent Commissioner	
	Mrs Margaret Miles Local Board Member	

<b>Council Officers:</b>		
	Mr Peter Vari	Principal Planner
	Ms Jo Hart	Reporting Planner
	Mr Tim Errington	Arborist
	Mr Ivan Jurisich	Traffic Engineer
	Mr John Stenberg	Urban Designer
	Mr Rowan Carter	Stormwater Engineer
	Mr Peter Nagels	Stormwater Engineer
	Mr Brett Taylor	Environmental Health Officer
	Ms Bridget Gilbert	Landscape Architect
	Ms Deborah Asmus	Traffic Engineer
	Mr Mohammed Sahim Razak	Senior Stormwater Operations Engineer
	Ms Julie McKee	Committee Secretary - Hearings

<b>APPEARANCES:</b>	
<b>For the applicant:</b>	Mr W Loutit, Senior Legal Counsel
	Mr Warren Bangma, Legal Counsel
	David Hughes, Planner
	Tony Miller, Stormwater
	Simeon De'ath Traffic
	Brian Devitt, Ak Transport
	Rhys Hegley, Acoustic
	Tim Brown, GHD
	Gavin Lister, Urban Design

<b>Submitters:</b>	
	Zane Gifford on behalf of John Glenn Ltd, represented by Richard Brabant
	Damon Clark, 7 Notre Dame Way
	RN & JM Abrahall, 1 Wharf Road
	Dr Paul Milton - Albany Family Medical Centre
	Simon Cressey, Jas Trust (re Timberworld - 281 Albany Highway)

<b>Tabled Evidence:</b>	Philip McKnight
	Cycle Action for Auckland
	Kelvin & Lynn Tanton, 28 Scarlet Oak Drive
	Transpower
<b>Withdrawn submissions</b>	Albany Vet Clinic - submission formally withdrawn 5 December 2011

## APPLICATION DESCRIPTION

### Application and Property Details

<b>Applicant's Name:</b>	Auckland Transport
<b>Lodgement Date:</b>	5 May 2011
<b>Hearing Commencement:</b>	9.30am
<b>Hearing Closed:</b>	21 December 2011

## RECOMMENDATIONS OF HEARINGS COMMISSIONERS ON A NOTICE OF REQUIREMENT ISSUED BY AUCKLAND TRANSPORT

### 1.0 INTRODUCTION

- 1.1 This report contains the recommendations of independent Hearing Commissioners on a Notice of Requirement ("NoR") Auckland Transport issued to the Auckland Council seeking that an alteration to a designation be included in the Auckland District Plan (North Shore Section) to make provision for the widening of the Albany Highway. The Hearing Commissioners have been delegated full responsibility to consider submissions and determine the Council's recommendations to the Requiring Authority pursuant to Section 34 of the Resource Management Act 1991 (RMA). Accordingly, the recommendations in this report are made directly to Auckland Transport.
- 1.2 A public hearing was held in Auckland on 5 and 6 December 2011. The hearing was formally closed on 21 December 2011 following receipt (as evidence) of an archaeological assessment dated November 2011, a set of revised conditions volunteered by Auckland Transport on 8 December 2011 and a plan showing revised access for 329 Albany Highway on 16 December 2011.
- 1.3 We are required to consider whether Auckland Transport has satisfied the tests under section 171 of the RMA, which we set out in section 4.2. Having had regard to these matters, under section 171(2) we may recommend to the requiring authority that it confirm or modify the requirement, impose conditions, or withdraw the requirement.

1.4 For the reasons given later in this report, we have recommended that:

- Auckland Transport confirm the Requirement, with the modifications made by its agents and consultants prior to the hearing and further modifications made after hearing the evidence presented and discussions with Council officers;
- That Auckland Transport accepts the recommended conditions for the designation set out at the end of this report.

1.5 Auckland Transport must make a decision within 30 working days of receiving these recommendations as to whether or not they are accepted, including the conditions that are annexed to it. Auckland Transport may only modify the requirement if that modification has been recommended in this report, or the modification is not inconsistent with the Notice of Requirement as notified. If its decision on the recommendations is not appealed, the altered designation will then be included in the District Plan (North Shore Section).

1.6 In this report, the project is first briefly described and the matters that the Commissioners are required to consider in terms of the RMA are described. We then set out our findings in terms of the evidence. While not wishing to include unnecessary repetition of matters in the NoR and supporting documents, or in the Council officers' reports, we are mindful that our report should contain an adequate record of the matters considered and in particular the changes to the proposal that have been made prior to and during the hearing, in response to further consultation with submitters, further detailed design work and recommendations from Council officers. Our overall conclusions and reasons for the recommendations being made to Auckland Transport are provided in Section 9. The issues in dispute are, for the most part, localised and are described later when we address environmental effects. For a full understanding of the project, the background documents lodged on behalf of Auckland Transport and the section 42A report are relevant. Copies of those documents as well as all of the evidence and submissions presented at the hearing are held by the Council.

## 2.0 THE PROJECT

### Project Objective

2.1 As concisely stated in the opening submissions of counsel for the Requiring Authority, the objective of the NoR to alter the designation is to *"reduce congestion and improve reliability of travel time through targeted works that encourage the use of public transport, multi-occupancy vehicles, cycling and walking, while enhancing public safety and amenity"*<sup>1</sup>. A more comprehensive list of the objectives of the proposed alteration to the designation is set out in the Notice, but it is not necessary to repeat that here.

2.2 However, we think it pertinent to record at the outset that the objectives *"do not seek to increase the corridor capacity for private vehicles but rather to maximise its overall people carrying capacity"*.<sup>2</sup>

### Proposed Works

2.3 The key aspects of the works as stated in Section 1.5 of the Notice are:

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<sup>1</sup> Legal submissions of counsel for Auckland Transport, para 1.2

<sup>2</sup> Hughes evidence, para 14

*“The proposed works involve a comprehensive upgrade of the Albany Highway corridor between Schnapper Rock Road/Bush Road Intersection and the intersection with State Highway 17...*

*In summary, the works can be described as follows:*

- *Four traffic lanes (with two general traffic and two Transit lanes)*
- *All traffic signal intersections will have pedestrian and cyclist facilities with the opportunity to improve public transport*
- *Signalisation of three major intersections (currently roundabouts) along the route (Bass, Wharf, Rosedale), with priority to pedestrians and public transport.*
- *Two signalised pedestrian crossings are to be provided – one north of Appleby Road and another at the current location of Kristin School Gate 1 which will be closed to vehicular traffic and used by pedestrians and cyclists.*
- *Combination of central flush and raised medians, with planting where possible, and pedestrian refuge islands within the flush medians.*
- *Continuous 2-metre wide segregated footpath from Schnapper Rock Road/Bush Road to Days Bridge with shared cycleway/pedestrian footpath north of Days Bridge.*
- *Continuous 2-metre wide segregated cycle path along corridor length with share cycleway/pedestrian footpath north of Days Bridge.*
- *Landscaping to be provided in central median and grass berms where practicable with emphasis on tree planting including retention of existing trees where possible.*
- *Stormwater detention/treatment on site where possible with reliance on sand filters and detention ponds.*
- *Relocation and undergrounding of main utility services (gas, water, telephone and electricity).*
- *Widening of Days Bridge to four lanes and raising it above the 1 in 100 year flood level.*
- *Construction of retaining walls (timber walkway, concrete retaining wall, timber pole retaining wall) where necessary.*
- *Street lighting upgrade.*
- *Mitigation planting and acoustic fencing along property frontages where required.*

2.4 Auckland Transport has advised that the overall construction time will be 18 - 24 months, commencing in March 2012, subject to approval of the NoR.

### **Affected Land**

2.5 The land subject to the NoR consists of 27 parcels of land located at various points along Albany Highway, from the intersection of Schnapper Rock Road/Bush Road

and Albany Highway in the south, through to the intersection of Albany Highway and State Highway 17 near Albany Village in the north. The land holdings range from Council owned and controlled land, including road reserve and recreation reserves, Crown land (Minister of Conservation) and private land, which is primarily residential but also includes business land. The total area of land subject to the Notice is 9828m<sup>2</sup>. Much of this has been acquired for the specific purpose of widening the Highway but is not yet designated as road. We were advised by Mr Loutit that 24 of these parcels have now been purchased by the Council and that at the time of this hearing, negotiations with the remaining three property owners were continuing. These are:

- 391 and 395 Albany Highway (in the same ownership)
- 343 Albany Highway.

2.6 The affected land is shown on a series of aerial photo overlays and plans which form part of the NoR documentation.

### **Surrounding Environment:**

2.7 The NoR affects the Albany Highway and adjacent land between SH 17 and Bush Rd/Schnapper Rock Road. The Highway is a Regional Arterial route connecting Albany and Glenfield/Wairau Valley, and forms part of a major feeder route to both the Northern Motorway (SH1) and SH 16. It is fronted by, or provides access via side roads, to a diverse range of activities, as set out in detail in Section 2.0 of Auckland Transport's Notice. These include Massey University's Oteha Rohe Campus, the North Shore Golf Course, Transpower substation, Albany Cemetery, Presbyterian Church, Beechworth rest home and Summerset Retirement Village. Residential development ranges from single dwellings to apartments, student accommodation and retirement housing. The Highway is used by traffic generated by the major employment area south of Rosedale Road and there is strip retail development opposite Kristin School. From a transportation perspective, one of the more significant and challenging aspects is the presence of 4 large schools, as well as Massey University, within a distance of 3 km<sup>3</sup>.

## **3.0 NOTIFICATION AND SUBMISSIONS**

3.1 The NoR was publicly notified on 23 June 2011 and submissions closed on 22 July 2011. The proposal anticipated that it would be possible to use Bush Road as the primary route for over-dimensional vehicles. However, it became apparent during further investigations by Auckland Transport that this route was unsuitable and that Albany Highway would have to retain this function. The Council determined that it was necessary, in the interests of the community being able to achieve an adequate assessment of the proposal, to re-notify with an amended Notice which made it clear that the Highway would continue to be used as an over-dimensional route.

3.2 Accordingly, an amended Notice was lodged on 22 September 2011 and publicly notified on 6 October 2011. Submissions closed on 7 November 2011. In total, 28 submissions were received.<sup>4</sup>

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<sup>3</sup> In evidence we heard that there are approximately 5000 students attending the 4 schools and there are a further 6200 students enrolled at the University

<sup>4</sup> Although some submissions were received after the first closing date (and before renotification of the Requirement), there were no submissions lodged after the closing date of the renotified proposal. Accordingly, there were no late submissions.

3.3 The issues raised in the submissions include:

- Access restrictions to properties by the proposed solid median and the effects of this on properties and businesses;
- The level of traffic noise once the widening works are completed, and whether additional acoustic attenuation is required to mitigate this;
- Effects of dust and pollution during construction;
- Effects of the loss of privacy;
- Archaeological effects, in particular the effects on unidentified graves in the Albany cemetery and the lack of information about other archaeological sites;
- Effects on utilities.

3.4 Whilst many of the issues raised by individual submitters had been resolved between the parties prior to the hearing, concerns remained in relation to matters which were mostly site-specific, and 5 submitters appeared or were represented at the hearing. Statements were tabled on behalf of 4 other submitters. We have duly considered all of the material provided to us. The submitters' issues are discussed in section 6 (Environmental Effects) and in Section 7 below.

#### 4.0 EFFECT OF DESIGNATION

4.1 Section 171 of the Resource Management Act 1991 ("the Act") sets out the matters that a territorial authority must have regard to when considering a requirement and any submissions received, and in making its recommendations to the requiring authority. Section 171 is subject to Part 2, which states the purpose and principles of the Act.

4.2 Section 171(1) requires:

*(1) When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to -*

*(a) any relevant provisions of -*

*(i) a national policy statement:*

*(ii) a New Zealand coastal policy statement:*

*(iii) a regional policy statement or proposed regional policy statement:*

*(iv) a plan or proposed plan; and*

*(b) whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if –*

*(i) the requiring authority does not have an interest in the land sufficient for undertaking the work; or*

- (ii) *it is likely that the work will have a significant adverse effect on the environment; and*
- (c) *whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and*
- (d) *any other matter the territorial authority considers reasonably necessary in order to make a recommendation on the requirement.*

## 5.0 EVALUATION

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

5.1 The Council must have regard to these statutory documents in its recommendation on the NoR. We have taken into account, and adopt, the reporting planner's comments in her s42A report and the evidence of the Requiring Authority. Accordingly, we record the following:

(a) NATIONAL POLICY STATEMENT AND NEW ZEALAND COASTAL POLICY STATEMENT

5.2 There is no National Policy or Coastal Policy Statement relevant to this proposal.

(b) REGIONAL POLICY STATEMENT OR PROPOSED REGIONAL POLICY STATEMENT

(i) Auckland Regional Policy Statement

(ii) Auckland Regional Land Transport Strategy 2010-2040

5.3 We find that the proposed alteration to the designation is generally in accordance with the objectives and policies of the ARPS and ARLTS. The proposal aims to enhance transport efficiency and lower costs of transportation, and provide a transport network which is safe and accessible to all sections of the community. The proposed alteration also encourages alternative forms of transport, which have fewer adverse effects on the environment, through improved pedestrian footpaths and the provision of cycle paths and transit lanes for public transport.

(c) AUCKLAND DISTRICT PLAN (NORTH SHORE SECTION)

5.4 Albany Highway is designated in the Auckland District Plan (North Shore Section) as, and for, "road". Auckland Transport is the Requiring Authority.

5.5 The effect of the designation is to give the Requiring Authority the right to undertake activities on the land subject to the designation. These rights give primacy to the designation over the rules of the District Plan, as long as the work is in accordance with the designation's purpose and conditions.

5.6 The proposed works, not including those works on the land not yet designated, would be permitted under the District Plan, through the Outline Plan of Works process, as long as those works were in accordance with the purpose of the existing designation of "road". However, Auckland Transport has adopted the position that the designation of the 27 additional properties as road is *"essential for*

*this project to be undertaken comprehensively and consistently throughout the entire length of the Highway”.*<sup>5</sup>

- 5.7 The relevant sections, objectives and policies of the District Plan that apply to the Notice of Requirement for an Alteration to a Designation have been identified in the section 42A report and are not repeated here. However, we have had regard to them in relation to the environmental effects of, or on:
- Earthworks and vegetation removal including trees
  - Stormwater discharges
  - Noise
  - Archaeological sites
  - Transportation activity
- 5.8 We record that the section 42A report identifies and discusses relevant District Plan objectives and policies relating to:
- Passenger Transport - Section 12.3.2
  - Cycleways and Walkways - Section 12.3.3
  - Recreation - Section 19.

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

- 5.9 Where the Requiring Authority does not have an interest in the land, Section 171(1)(b) requires a determination by the Territorial Authority as to whether adequate consideration has been given to alternative sites, routes or methods to achieve the project objectives.
- 5.10 Mr Loutit submitted that at the time the NoR was lodged, there were eleven sites in which Auckland Transport did not have a sufficient interest, to be able to undertake the works. This has now reduced to three sites and in his submission, the consideration of alternatives arises only in respect to those three sites.
- 5.11 However, it is clear to us that the NoR, section 42A report and evidence of Mr Devitt and Mr De’ath demonstrate that following initiation of the project in 2005, a range of options in terms of the function, design, timing and staging of the Highway upgrade have been considered. Significant changes were made as a result of consultation, with considerably greater emphasis being given to the specific needs of pedestrians and cyclists, and the decision made to undertake widening to 4 lanes, in a single stage.
- 5.12 We also note that the proposed alterations to the existing “road” designation can only be implemented through a Notice of Requirement for an Alteration to a Designation. For this reason, it would be unreasonable to expect Auckland Transport to consider the use of an alternative site, route or method.
- 5.13 We are therefore satisfied that adequate consideration has been given to alternatives and that proceeding with the ‘Immediate Four-Laning Option’ is

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<sup>5</sup> Hughes evidence, para 10



appropriate for the reasons given in evidence and as summarized in the section 42A report (section 3.2).

- 5.14 While Section 171(b)(ii) would require an assessment of alternatives if there are “significant” adverse effects arising from the designation, we find that in the context of this proposal, adverse effects are not significant. Furthermore, conditions are proposed to avoid, remedy or mitigate potential adverse environmental effects from the upgrading and widening of the Highway.

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

- 5.15 In considering whether the ‘work or project which is subject to the designation’ is necessary, Auckland Transport indicated in their Notice of Requirement that:

*“The public work is required to meet current and projected requirements in the Albany corridor. The highway currently has moderately high traffic volumes for a two-lane road in the order of 14,000 vehicles per day, with peak traffic flows being considerably higher. As land around the highway becomes increasingly developed, demand for travel along the corridor is expected to increase to around 20,000 vehicles per day by 2021 and up to 24,000 vehicles per day by 2031.*

- 5.16 The Requiring Authority also identified a significant number of issues with the existing Albany Highway corridor in its Notice and in the evidence of its witnesses. These are to be addressed through the proposed alteration to the designation and works.
- 5.17 Mr Hughes summed up the need for the designation to achieve the Requiring Authority’s objectives by stating: *“The Albany Highway, in its current form, poses a range of transportation and environmental issues, which if they are to be properly addressed, require a range of solutions. The NoR has a sufficiently broad scope to enable these solutions to be advanced in a balanced manner not giving priority to one group of users over the needs of others”*.<sup>6</sup> Having regard to the proposed works, he considered that they are not excessive and reasonably necessary for achieving the objectives of the designating authority.
- 5.18 We are satisfied that the work subject to this designation is necessary in order for the Requiring Authority to achieve its objectives and to enable the construction of the single-stage four-lane option with provision for private and commercial vehicles, public transport, cyclists and pedestrians in a visually well designed urban environment.
- 5.19 Consideration must also be given to whether the designation procedure itself is necessary.
- 5.20 Whilst the Requiring Authority acknowledges that most of the land needed for the project has now been acquired, the rationale for the designation process has limited application in that at worst it might only be necessary to facilitate the acquisition of 3 properties under the Public Works Act 1981, which Auckland Transport stated would only be used as a last resort.
- 5.21 However, we agree with Mr Loutit’s submission that a designation is an appropriate method to provide for large infrastructure projects because it:

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<sup>6</sup> Hughes evidence, para 17

- publicly signals the project, allowing landowners to plan accordingly
- provides an opportunity for directly affected parties to make a submission on the proposed designation and seek conditions to mitigate adverse effects on their land or business
- enables a co-ordinated approach to the development of the road network, public transport infrastructure and associated facilities.<sup>7</sup>

5.22 We agree furthermore that designation is in this case, the most appropriate mechanism to achieve the objectives of the Requiring Authority because:

- It provides certainty to the Requiring Authority that the land can be used for the purpose of widening and upgrading the Albany Highway corridor, while accurately identifying the extent of the land within which the works will be undertaken.
- Designating the land enables the subject land to be used for its intended purpose, in effect transcending the District Plan rules that apply to a number of different zones and disparate activities, and which would involve obtaining a complex array of land use consents that could cause greater time delays and uncertainty for the Requiring Authority.
- A designation sets out generalised conditions under which works can be undertaken which provides the framework for the Outline Plan stage, at which time the details of the designation works are finalised between the Requiring Authority and the Territorial Authority. This process enables a comprehensive approach of addressing the works that will be undertaken and the future maintenance that is required.

5.23 We therefore find, for the above reasons, that the alteration to the designation is reasonably necessary to achieve the objectives of the Requiring Authority in accordance with section 171(1)(c) of the Act.

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

5.24 Section 184(1) of the RMA states that a designation will lapse after a 5 year period of its inclusion in a plan unless it has been given effect to before the end of that period or if the territorial authority determines, on an application made within 3 months before the expiry of that period, that substantial progress or effort has been made and fixes a longer period. The period may also be different if confirmed as part of the designation process.

5.25 In its Notice, the Requiring Authority sought a lapse period of 20 years to provide sufficient time for land acquisition, obtaining finance and detailed design of the construction of the road and associated works.

5.26 The need for this was questioned in the Council's section 42A report, having regard to the guidelines established by case law<sup>8</sup> being:

- The timeframe in which the project was likely to be constructed;
- Safeguarding the alignment from inappropriate use and development;

<sup>7</sup> Submission of counsel for Auckland Transport, paragraph 7.5

<sup>8</sup> As referred to in the section 42A report, para 3.4 (page 31 of the Agenda)

- Certainty for affected landowners and the local community; and
- The ability to implement the designation in due course.

5.27 Auckland Transport has responded by proposing a 10 year lapse period, which we accept as appropriate.

## **6.0 Environmental Effects**

6.1 The Scheme Assessment Report (which from hereon we have referred to for convenience as the Assessment of Environmental Effects or 'AEE') and section 42A report comprehensively identified and addressed a number of potential effects the project may have on the environment. These included positive effects such as network improvements, operational efficiencies and public transport benefits.

6.2 Other issues addressed in the reports were land requirements and property effects, land suitability, traffic effects, landscape, arboricultural and visual effects, noise, vibration, ecology, stormwater and contaminants, archaeology and heritage matters, and effects on public utilities.

6.3 It is not necessary for us to repeat the detailed discussion of all these effects. We are generally satisfied that the Requiring Authority had identified all of the relevant environmental effects in the AEE and has been working towards resolving issues raised by submitters and in the section 42A report since lodging the NoR. Accordingly, we focus on the main issues that were actively in contention, either in submissions or raised by Council officers in the section 42A report, or which we ourselves questioned.

6.4 By way of a general summary, we note Mr Hughes' comments as regards the different considerations that apply throughout the corridor in terms of avoiding, remedying or mitigating adverse effects according to the broad categories of activities located along it.

- In the case of residential properties, the main concerns relate to the potential loss of amenity through increase noise, loss of privacy and reduced living space.
- Businesses affected by the NoR are mostly concerned with reduced vehicle access to their properties.
- Institutional activities (the four schools and Massey University) have not lodged submissions and land acquisition issues have been "amicably resolved".<sup>9</sup>

6.5 In giving consideration to the submitters' concerns, we have generally incorporated our comments into the topic headings, and commented on others that raised miscellaneous concerns in Section 7 of this decision.

## **Traffic Effects**

6.6 The Requiring Authority has provided an extensive assessment on the traffic effects of the proposed alteration to the designation in Sections 3.12 to 3.14.7 of the Notice, which states in part that:

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<sup>9</sup> Hughes evidence, para 27

*“The final design solution for this upgrade of Albany Highway has been arrived at following wide community and stakeholder consultation. The selected four-lane option incorporating transit lanes, off-road cycle paths, and footpaths segregated from traffic, is considered to provide the optimum range of transportation benefits. The proposed design will significantly upgrade the usability of the highway for vehicles (including buses), for cyclists and for pedestrians. Following completion, the ongoing transport effects are considered to be overwhelmingly positive. Only limited ongoing negative effects have been identified. In addition, there will be some adverse transportation effects requiring mitigation that will occur during the construction period”.*

- 6.7 Our starting point is that the need for the project itself is not in dispute, although submitters questioned specific aspects of the proposed works and certain matters of detail will need to be investigated further, prior to the Requiring Authority submitting an Outline Plan of Works to the Council. None of the submitters called expert evidence to challenge the assumptions, or analysis undertaken by the Requiring Authority’s experts, and the reviews undertaken in the Council’s section 42A report were in general agreement with the proposal.
- 6.8 Mr De’ath’s evidence discussed the project’s benefits, how the works will deal with congestion problems on this part of the Highway, and the significant improvements to cycling and pedestrian facilities. Overall, he concluded that the proposed works will reduce congestion and improve trip reliability.
- 6.9 Mr Brown commented on the modelling for the project. In this regard, we heard that one of the main aims of the design and operation of the upgraded corridor is to promote alternative modes of travel (and discourage car-based transport of school children). Currently, a significant proportion of Highway traffic comprises school drop-offs and pickups in private motor vehicles. This is a major contributor to congestion on the Highway at certain times of the day. Two options considered in the project were to create either a ‘T2’ or ‘T3’ transit lane which would be used by buses and vehicles with at least 2 or 3 occupants respectively, and to encourage more children to walk or cycle to school. However, both traffic engineers considered that a T2 lane would merely perpetuate congestion arising from school-related traffic (and could be considered to reward that type of driver behaviour). Recognition of this issue has resulted in a decision by the Requiring Authority to adopt the T3 option and this is supported by the Council’s consultant traffic engineer, Mr Ivan Jurisich (TES Limited).
- 6.10 This will result in the general traffic lanes operating at *“an acceptable level of service with a T3 lane”*.<sup>10</sup> In answer to questions, Mr Brown confirmed that this would be LOS D which we understand to be a slight improvement in comparison with the existing situation. Essentially, the success of the project in reducing congestion is dependent on how many Highway users switch to alternative modes of travel.
- 6.11 We are satisfied that the decision by the Requiring Authority to adopt the T3 option is within the scope of the NoR and were advised by Auckland Transport that the operation of all transit lanes is to be reviewed city-wide on an annual basis. Their operation as T2 or T3, and any other aspects of their use, can be changed at any time to ensure they meet the intended objectives (but it is easier to change a T3 lane to a T2 than the other way round).
- 6.12 Mr De’ath’s evidence also covered the design and operational requirements of an over-dimension (‘OD’) route and in response to questions, advised that some very

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<sup>10</sup> Brown evidence, para 5.4(d)

large OD vehicles will not be able to use the Albany Highway. Despite the difficulties associated with Bush Road, this will be used as an alternative route when necessary.

- 6.13 Council's traffic consultant, Mr Jurisich reviewed the NoR and was in general agreement with the conclusions in the Notice. He recommended that the traffic management plan include a number of requirements to mitigate inconvenience, further congestion and delays to traffic during construction.
- 6.14 The main comments from Mr De'ath on Mr Jurisich's recommended provisions in the construction traffic management plan concerned the timing of construction works (preferably during school holidays), keeping one lane open in each direction at peak times, and not permitting road closures at specific times. It was Mr De'ath's opinion that whilst best endeavours would be used to avoid unnecessary inconvenience and delays, application of the recommended restrictions would be too restrictive and would extend the overall period of construction work, with consequent disruption to residents and road users. He also advised that full road closure would be necessary for some construction (egg Days Bridge) which would be carried out at off-peak times. He therefore did not support the inclusion of the provisions discussed.
- 6.15 We have nonetheless concluded that it would be helpful to include specific reference to the matters identified by Mr Jurisich that should be considered in the Traffic Mitigation Plan (but without imposing conditions) because of the potential for significant disruption and limited detour options. The TMP also needs to ensure that for the duration of the construction period, a 9.5m x 6.5m envelope for over-dimension vehicles is maintained. For the same reason, we also recommend the inclusion of a Communications Plan which, though alluded to in the conditions, should be formalised to ensure that the wider community, as well as people directly affected by construction works, are fully informed well in advance of works commencing and as necessary during the construction period<sup>11</sup>.

### **Submissions Relating to Traffic Effects**

- 6.16 Messrs De'ath and Brown have commented on all of the submissions that raised traffic issues, which we note below.

#### ***Effects on Utilities – Transpower, Vector, Watercare***

- 6.17 The 3 utility companies who made submissions sought the inclusion of conditions to manage the potential effects (mostly construction effects) on their assets. We consider that appropriate conditions are included.

#### ***Submission by Cycle Action Auckland***

- 6.18 This submission raised a number of detailed design matters, which are discussed point by point by Mr De'ath (and by Mr Lister in relation to landscape and amenity aspects). Cycle Action tabled a submission at the hearing expressing satisfaction with the progress made and undertakings given to deal with their concerns. Auckland Transport has also agreed to involve Cycle Action in detailed design of the works as referred to in Condition 32(c).

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<sup>11</sup> Whilst anecdotal, we are aware that the wide publicity given to major State Highway closures has been effective in minimising disruption and facilitating early completion of critical works.

*Horizontal Alignment of the Highway near Widdison Place – use of University land instead*

6.19 Submitters in **The Landing**, as well as **Christopher Lock** requested that the use of University land be considered to avoid impacts on residential properties. Mr De'ath's evidence gave a number of reasons why this was not practicable, including that:

- Days Bridge has already been moved away from Widdison Place
- The design uses land within existing designation boundaries as much as possible
- The location of the gas regulatory station near Days Bridge is a constraint
- The University has concerns at the loss of the bund on their side of the road.

*Demolition of Recent Work*

6.20 Mr De'ath stated that the footbridge across Lucas Creek is not affected, but the widened footpath between the bridge and Wharf Road was only ever intended to be temporary, as details of the road upgrade were not finalised.

*Access to 265 Albany Highway - **Caffe e Cucina, Junior Junction, Stihl Shop, Good Health Products***

6.21 Four businesses at 265 Albany Highway were concerned at proposed restrictions on access, and requested that the existing right turn in and out be maintained. Mr De'ath's evidence explained that there is already a 'Left turn only' marking at the exit (although from the submissions, it would appear that this is currently ignored). The reason for this is sub-standard visibility for vehicles exiting the site and turning right, which is "*caused by the crest curve adjacent to Schnapper Rock Road*"<sup>12</sup> but in any event the proposed design replicates the existing situation.

6.22 Mr Jurisich had reviewed the design and commented as follows:

*"The plans indicate that right hand turns in and out of the site will be provided. A right turn pocket has been proposed, and a gap in the solid median is proposed. Therefore, the traffic impact to 265 Albany Highway should be no more than minor".*

6.23 We accept the above advice.

*Access to 327-329 Albany Highway – submission from **John Glenn Limited***

6.24 The submission is concerned that the proposed raised median severely limits the potential access opportunities to the as yet undeveloped Business 9 zoned property and requests that the length of the proposed raised median is reduced so as to allow full turning movements across the full length of the property.

6.25 Mr Brabant appeared on behalf of the submitter setting out the background to his client's purchase of the property early in 2011 and recent application (October 2011) for resource consent for a retail development on the site.

6.26 He confirmed that there have been recent negotiations with Auckland Transport as a result of which agreement has been reached to a revised design for the raised median. This will provide access to both 327 and 329 Albany Highway. A preliminary design of the modified median was tabled by Auckland Transport and a

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<sup>12</sup> De'ath evidence (pages and paragraphs not numbered)

further revision to the design was submitted to the Commissioners following the hearing.

- 6.27 While it was apparent from the evidence presented on behalf of Auckland Transport and from Mr Jurisich's comments that the changes are not fully supported because of the significant reduction in the continuity of the median (from approximately 168m to 2 separate strips 70m and 43m in length, with a 55m gap in between to provide property access) and consequent effects on landscape and visual amenity, the general consensus was that the proposed design represents an acceptable compromise. It has the advantage of combining the access points for two properties.
- 6.28 We heard that retail development in the Business 9 zone is a restricted discretionary activity, with Council's discretion restricted to traffic matters. It would appear that existing strip retail activity on the Highway has been permitted to develop in a somewhat 'ad hoc' fashion, with takeaway food premises at 327 Albany Highway located in an isolated island surrounded by the larger blocks of land to the north, south and east. Retail development further north is similarly served by individual access points, with no internal connections between sites.
- 6.29 This is unfortunate given that plans for the widening of the Highway have been in the public arena for many years and the legacy councils were pro-active in acquiring land to facilitate the upgrade. However, it is not within the scope of the NoR process for us to address matters of land use consents and planning policy.
- 6.30 Accordingly, we accept the modified proposal with reluctance, as the agreement on access has the appearance of providing tacit approval to a proposed retail development without a broader examination of the merits of the activity. However, in terms of access we recognise the benefits of combining access for the 2 sites as an acceptable compromise.

#### *389 Albany Highway – Need for Raised Medians*

- 6.31 This submission is from **PJ and F Curran**, long time residents of a property on the eastern side of the Highway between Princeton Parade and Wentworth Park. Their submission states that there is no need for raised medians owing to emergency vehicles and large vehicles using the road. The reasons why this median is required is covered in the evidence of several expert witnesses for Auckland Transport, including traffic safety and amenity, which we accept.

#### *Use of traffic signals instead of roundabouts – submissions from **Philip McKnight and RN and JM Abrahall***

- 6.32 Mr Brown's evidence<sup>13</sup> addressed the reasons for preferring traffic signals over roundabouts including:
- Analysis indicates they will manage the peak traffic conditions along the corridor better than roundabouts (recognising that this may not be the case during off-peak conditions);
  - The effects of side-road traffic entering the roundabouts has a significant impact on through traffic on the Highway, as the roundabouts are not able to effectively manage priority for traffic on the Highway

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<sup>13</sup> Brown evidence, paras 6.3 and 8.2

- Dual lane roundabouts would be necessary, but would be less effective than traffic signals and would require more land
- Signalised crossing points are necessary and appropriate for pedestrians, having regard to pedestrian 'desire lines'
- Traffic signals are safer for cyclists

6.33 The Council's traffic consultant also agreed with the rationale for traffic signals and we did not have expert evidence to the contrary.

### **Overall Findings on Traffic Effects**

6.34 Having regard to all the evidence and comments from Council staff, we find that traffic effects will be mostly positive, that any adverse effects will generally be localised and that these can be mitigated by conditions.

### **Noise Effects**

6.35 Mr Rhys Hegley's road traffic noise assessment and evidence on behalf of the Requiring Authority, considered the noise effects that may occur as the result of an upgraded and widened Albany Highway, as well as noise which may occur during construction.

### **Effects Arising from Upgrading and Widening the Highway (on Completion of the Project)**

6.36 Mr Hegley outlined the noise assessment method that should be applied to the proposed works, which he considered to fit the NZS 6806 definition of an "altered road"<sup>14</sup>. From his analysis, Mr Hegley concluded that:

*As a result of the proposal, traffic noise levels in 2021 will be between 1dBA louder to 6dBA quieter than the current traffic noise and will typically be between 1dBA louder and 3dBA quieter. The primary reason for the reduction in traffic noise is that the proposal includes replacing the current chip seal road surface with the higher performing asphalt.*

6.37 He explained that a 3dB change is "typically described as the smallest that the average person can detect, while a 5dB change is clearly noticeable".<sup>15</sup> Consequently, he is of the opinion that no mitigation is necessary to protect the noise environment for residents (except where there is existing noise attenuation – for example, along the boundary north of Wharf Road between Widdison Place dwellings and the Highway including 480 Albany Highway, and at 389 and 391 Albany Highway (where property is being acquired and the existing fence acts as a noise barrier).

6.38 We note that it would be possible to reduce traffic noise at any time by replacing the existing chip seal, although there is currently no obligation on the road controlling authority (Auckland Transport) to do so. However, Auckland Transport is proposing a condition which would require a higher-performing asphalt material to be used when the works are undertaken and in response to questions from the Commissioners, agreed that the condition should also apply when future road maintenance is undertaken.

<sup>14</sup> Hegley evidence, para 18

<sup>15</sup> Hegley evidence, para 23



## Construction Noise

6.39 Mr Hegley's assessment of construction noise was undertaken against the criteria of NZS 6803. In his evidence he acknowledged that some mitigation will be necessary but that noise will be affected by the type, size and number of machines operating. The details would not be known until a contractor had been selected. In Table 2 of his evidence he set out predicted construction noise levels between the edge of the alignment and surrounding houses (with a separation distance mostly around 10m to 20m) for typical construction plant. From that table it is apparent that even during the daytime hours of 7:30 am to 6:00 pm, the 70dBA  $L_{eq}$  limit will be exceeded by construction machinery depending on the separation distance. He discussed the methods that might be used to mitigate the effects, which typically include:

- Selection of smaller and quieter plant to operate in noise sensitive areas
- Construction of barriers or enclosures about plant to screen adjacent receivers from plant noise.

6.40 However, he acknowledged that *"even with such mitigation options in place, it will be difficult to achieve the criteria of NZS 6803 at the closest houses to the alignment. Once a contractor has been selected, it will be practicable for the contractor to determine the most appropriate method of construction so as to minimise the effects of noise"*.<sup>16</sup> He considered that it will be for the successful contractor to prepare a construction noise management plan specific to the project that identifies how the noise rule will be complied with.

6.41 Mr Hegley then commented on submitters' concerns relating to noise, as follows:

**Carmen Holtz** (60 Landing Drive), **Beverley Henderson** (26 Lucas Way), **Stephen Barker** (10 Landing Drive), **Christopher Ellis** (6 Advance Way) and **Andrew and Nicola Ireland** (14 Widdison Place) requested a 'soft' road surface, noise barriers, a 60km/hr speed limit and prohibition on engine braking by trucks and buses.

### *'Soft road surface' and Noise Barriers*

6.42 Mr Hegley commented that the asphalt road surface selected is the quietest surface that is practicable for the Highway. Traffic noise will typically reduce at all Protected Properties and Facilities (PPF's) and noise barriers will be retained where there is existing noise attenuation. He acknowledged that barriers would provide reductions in noise, but the project team considered their adverse effects from a landscaping and cost perspective outweighed the benefits<sup>17</sup>.

6.43 Mr Hegley commented specifically on noise barriers in relation to 14 Widdison Place. Two are proposed for this property. The existing open boarded boundary fence will be replaced with a noise barrier of similar height. There is also a 0.8m high road safety barrier proposed for the edge of the carriageway over Days Bridge that will extend south past 14 Widdison Place and terminate near the southern boundary of 16 Widdison Place. This barrier will also screen tyre noise on the bridge.<sup>18</sup> Mr Hegley considered that these noise walls, in conjunction with the asphalted road surface, will reduce noise levels by 5 decibels at the ground floor of the dwelling and 2 decibels at the first floor, when compared to the existing

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<sup>16</sup> Hegley evidence para 28

<sup>17</sup> Para 31

<sup>18</sup> The NoR states that Days Bridge is to be raised to the same level as the existing pedestrian bridge (to avoid flooding)

situation. He considered that *“the barrier mitigation proposed satisfies this submission”*.

#### *Speed limit*

- 6.44 Mr Hegley advised that the current and proposed traffic speed for the Highway is 50km/hr, which is less than the 60km/hr requested. In answer to a question from the Commissioners, Mr Hegley said that increasing the speed limit to 60kph would increase the noise by 1 decibel. As none of the submitters who requested the 60kph speed limit attended the hearing, we were unable to seek clarification from them regarding this matter.

#### *Engine Braking*

- 6.44 Mr Hegley stated that it is his understanding from discussions with the trucking industry that *“trucks only use their engine brakes in emergencies and to save their brakes on long hills, such as occurs on the open road. It is standard practice not to use engine brakes within a residential environment such as when slowing for intersections”*. Based on this, he did not consider it necessary to specifically prohibit engine braking.
- 6.45 In answer to Commissioners’ questions, Mr Hegley advised that there was no Council policy on engine braking in residential areas and there was currently no ban on engine braking on the Highway.

#### **Shane Kuzmanic** (owner of 20 Widdison Place)

- 6.46 Mr Kuzmanic objects to the removal of the bund outside 20 Widdison Place. Mr Hegley’s evidence explained that the existing bund and open boarded fence will be removed along Widdison Place, but is being replaced with a noise barrier of similar height. Mr Hegley has calculated that noise to this property will reduce by 4 decibels (to 51dB) which in his opinion is “reasonable” and does not require further mitigation.

#### **Richard Hancy** (11 Widdison Place)

- 6.47 Mr Hegley considered that Mr Hancy’s overall concerns with amenity issues including noise have been adequately addressed in his evidence.

#### **R and J Abrahall** (1 Wharf Road)

- 6.48 The Abrahalls’ submission queries the effect of replacing the existing roundabout with traffic signals at the intersection of Wharf Road with the Highway. Mr Hegley’s evidence states that both types of intersection have been modelled and predictions show that traffic noise will reduce by 2 decibels at the ground floor and 1 decibel at the first floor of 1 Wharf Road when the works are completed. Based on this there will be no adverse noise effects from replacing the roundabout with signals.
- 6.49 The submission also requests double glazing and a noise barrier. Mr Hegley considered that none is necessary, as traffic noise to this property will reduce when compared with the existing environment.
- 6.50 However, Mr Devitt on behalf of Auckland Transport advised that the Abrahalls have been offered a new fence along the boundary and that this would function as an acoustic barrier. The Abrahalls are amongst a number of property owners who have unknowingly been using part of the road reserve as private property so Auckland Transport has tried to be generous in mitigating the loss of amenity where this

situation arises. However, this is a matter outside the NoR issues and Auckland Transport is endeavouring to reach a private agreement with them. In his reply, Mr Loutit invited the Commissioners to record the offer made to the Abrahams of a new fence, engagement of an arborist to assess the risk to a large tree from project works, removal of the tree if any risk is identified, and planting within their property (which had earlier been declined)

### **Overall Findings on Noise Effects**

- 6.51 Whilst the project will significantly alter the character and operation of the Highway, we find that, the noise effects will be minor and in some cases, slightly reduced in comparison with the present situation.
- 6.52 The most significant noise effects will arise during construction and we accept that mitigation will be required to manage these effects.
- 6.53 Auckland Transport has proposed the inclusion of proposed conditions, to mitigate construction noise through the provision of a Construction Management Plan and by requiring that construction works must comply with the New Zealand Standard NZS 6803P:1984 *“The Measurement and Assessment of Noise from Construction, Maintenance and Demolition Work”*, except where compliance is not practicable in which case alternative methodologies will be developed in consultation with directly affected properties and to the satisfaction of Auckland Council.

### **Visual/Urban Design/ Landscape Effects (including Effects of Tree and Vegetation Removal)**

- 6.54 Comprehensive Visual and Landscape, and Arboricultural assessments were undertaken by Isthmus Group and Arborlab on behalf of the Requiring Authority. These assessments have been summarised in Sections 3.15 to 3.21 of the Notice, which states:

*“The assessment recommends that the existing open character of the Albany Highway be maintained as far as possible with landscaping providing the edge to the road. Where fences are to be provided (to mitigate against potential noise effects or to provide an appropriate level of privacy) clutter of styles and materials is to be avoided with limits proposed for both the materials and designs and height. It also identifies and recommends a range of mitigation measures for each property from which land is required for road widening. These measures are primarily boundary fencing and landscaping. Mitigation is also recommended for selected properties from which land is not required but where encroachment occurs notwithstanding that these potential effects might be reasonably anticipated and do not need to be compensated for. No mitigation is provided for those properties from which land is not required and where there are no encroachment issues”.*

- 6.55 The AEE also acknowledges that *“There will be a significant loss of trees with 409 trees or tree groups including one notable tree from within the road reserve and five trees from private land. The trees to be removed include small juvenile plantings, established rows of trees and a notable Norfolk Pine.”*
- 6.56 Bridget Gilbert, consultant landscape architect for Auckland Council’s Parks and Recreation, on behalf of Council as the Territorial Authority, has made several recommendations and identified matters for further consideration at Outline Plan stage, following her assessment of, amongst other issues, the general suitability of the proposed development in terms of design, materiality, durability, maintenance, integration with existing facilities and with AC Parks and Recreation’s longer term objectives for the area.

- 6.57 In addition, John Stenberg, Principal Specialist – Urban Design, Auckland Council has made a number of recommendations for inclusion in the final design.
- 6.58 Mr Lister's evidence has responded to those comments and summarised the range of measures that will be used to mitigate the amenity effects identified in the Landscape and Visual Assessment section of the AEE.
- 6.59 These include:
- Retaining notable and other identified significant amenity trees within the berm as a first priority by adjusting path configuration and using construction techniques to minimise potential damage to these trees;
  - Maximising the scope for planting in the central median;
  - Planting approximately 460 specimen trees along the route using Liquid Amber and Oak trees south of Wharf Road and Kanuka and Totara north of Wharf Road.
  - Strengthening the existing vegetation patterns of the Oteha Street Corridor.
- 6.60 The Requiring Authority has also proposed conditions to be included as part of the alteration to the designation.
- 6.61 Matters to be provided for in the Construction Management Plan will include amongst other requirements, the following:
- Methods for protecting those trees that are to be retained and potentially affected by construction works; and
  - Methods for implementing the recommendations of the Landscape Mitigation Plan and the Arborist Report.
- 6.62 The Requiring Authority is also required to submit a comprehensive Landscape Mitigation Plan as part of the Outline Plan, to maintain planting in the road reserve, and to implement the mitigation planting in accordance with proposed conditions to be attached to the designation.
- 6.63 One important (and positive) change to the proposal since lodgement of the NoR is the retention of the notable Norfolk Pine tree, which was originally identified as a tree requiring removal. Its retention has been made possible following investigation of alternative configurations and construction techniques for the footpaths and cycle paths. These techniques have also been investigated in relation to other trees affected by the works and will be adopted where ever possible to achieve *“the best balance of competing landscape and urban design matters”* to ensure retention of other trees identified as contributing high amenity to the road<sup>19</sup>.
- 6.64 Mr Lister highlighted the educational facilities (which we have commented on earlier) as a particular feature of the road which has influenced the approach taken to footpaths and cycle paths and discussed the existing urban and landscape design context and effects relating to:
- The natural character of the Oteha Stream
  - Amenity within the Albany Highway corridor

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<sup>19</sup> Lister evidence para 6.

- Amenity for pedestrians and cyclists
- Notable and other trees
- Albany Cemetery
- Adjoining properties.

- 6.65 These are all matters previously discussed in the AEE. However, it is appropriate for us to record the evidence given by Mr Lister that in addition to the Norfolk Pine tree, 6 English oaks and a Magnolia are classified as ‘notable’ in the District Plan and these will be retained. Regrettably, the unavoidable loss of other high amenity trees within the corridor will result in adverse effects and replacement planting will take some years to mature. A matter that was not covered in evidence was whether there was potential for relocating any of the trees, which we have referred to in Condition 33(c).
- 6.66 Some aspects of the Landscape Concept have also been the subject of debate and Mr Lister expressed a preference for the use of Kanuka as specimen trees in the Highway median strip at the northern end. However, Ms Gilbert considered Kanuka to be more suitable in a rural environment and recommended use of an alternative species such as Puriri. We support the use of appropriate indigenous species but consider that the selection criteria should ensure that the chosen species are trees of significance to the Albany area (and this might include exotic species). Final details should be resolved as part of the Outline Plan process and the impact of the type of trees to be planted must also be carefully considered, i.e. the impact of expanding root systems on drainage and other infrastructure, and roading and pathway surfaces.
- 6.67 Mr Lister acknowledged that there are likely to be conflicts between some of the proposed trees and existing underground utilities, the exact location of which will only be uncovered during construction or investigation during detailed design. He also commented on the relative concentration of utilities of strategic importance. This will inevitably mean that some of the proposed tree locations will need to be reconsidered, but the proposed trees shown on the Landscape Plans should be planted as close as possible to the locations indicated, through such measures as:
- Minor relocations of the tree planting location, possibly in conjunction with minor realignment of footpath and cycle path, or adjusting spacing between trees in the vicinity;
  - Amended tree planting details such as modified tree pit shape or form, additional root barrier, enclosing services within a short section of conduit;
  - Minor relocation of the more flexible utilities where feasible.<sup>20</sup>
- 6.68 We agree with Mr Lister’s conclusions that the landscape and visual amenity effects of the works are more than minor; however it is evident from the detail and depth of the assessment undertaken that considerable effort is being made to minimise these effects. We find that despite the unavoidable and significant loss of trees and vegetation from the Highway, implementation of the proposed Landscaping Plan will ensure that these effects will be appropriately avoided, remedied or mitigated.

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<sup>20</sup> Lister evidence, para 32

## **Submitters' Concerns Relating to Landscape and Amenity Effects**

- 6.69 Mr Lister's evidence has commented in detail on each submission, or group of submissions, that identified landscape or visual amenity issues. We note the following matters were clarified, or highlighted as changes to the proposed works, in response to submissions.

### *Widdison Place (Ireland, Hancy and others)*

- 6.70 Mr Lister pointed out that all of the works that are necessary south of Days Bridge are within land already owned by Auckland Council and that there is no additional land acquisition in this area. The remaining Council land to be designated is to accommodate landscape mitigation. While the existing planted bund is to be removed to accommodate the widened road, footpath and cycle path, the land between the proposed footpath and the boundary of the Council's land is to be replanted as a buffer, and the existing boundary fence is to be replaced with a close-boarded, noise attenuating fence of similar height<sup>21</sup>.

### *1 Wharf Road (Abraham)*

- 6.71 The Abrahams have raised a number of concerns relating to noise and visual impact on their property. Their garden contains existing trees and shrubs which are located within the road reserve and need to be removed. Auckland Transport has agreed to provide a new boundary fence along the Highway and Wharf Road, and has offered amenity planting within the property. Mr Loutit pointed out to us that Auckland Transport is not required to undertake this. However, we note that although property owners have in some cases unwittingly planted trees and shrubs within these areas of Council owned land, they have also been maintaining them. This type of agreement seems fair and reasonable in the circumstances.

### *7 Notre Dame Way (Damon Clark)*

- 6.72 The submission from Mr Clark raises privacy concerns in relation to the footpath being located against the property boundary. Mr Lister noted that the property shares a rear boundary with the Highway and has an open paling fence on the boundary with a hedge approximately 1.8m high inside the boundary. He considered that this provides adequate privacy and will not be affected by the works.
- 6.73 Mr Clark spoke about the amenities he and his family currently enjoy and their concerns at the impact of the new footpath close to their boundary on privacy and the safety of their backyard.
- 6.74 In his reply at the close of the hearing, Mr Loutit acknowledged that the new footpath would be close to the boundary, but there is no alteration to the designation affecting this property [and the footpath could be constructed as of right]. However, Mr Devitt would discuss improvements that could be made to the fence with Mr Clark and the Commissioners were invited to record in the decision the offer made by Auckland Transport to share the cost on a 50-50 basis under the Fencing Act, of upgrading the fence.

### *329 Albany Highway (John Glenn Limited)*

- 6.75 This submission requests removal of the raised median to enable full turning movements from the full width of the property. Mr Lister's response is that "removal

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<sup>21</sup> Lister evidence, para 48

*of this section of raised median and trees would significantly undermine the amenity of the corridor because of the long gap in the median/trees to the north and south”.*<sup>22</sup> We have discussed this submission in relation to traffic effects, and the agreement that has now been reached between the Requiring Authority and submitter. We accept that conflicting priorities will inevitably involve some compromises in order to achieve the overall objective.

**389 Albany Highway (P J and F Curran)**

- 6.76 The submitter sought removal of the raised median and any vegetation, because of the road’s use by large vehicles and emergency services. From an amenity perspective, Mr Lister considers that the trees in the median will soften the scale of the road and improve visual amenity. It also provides a safer environment for casual crossing of the road by pedestrians.

**454 Albany Highway (Christopher Lock)**

- 6.77 The submission is concerned that too much land is being taken from the western side of the Highway between Bass Road and Days Bridge, rather than from the University land on the opposite side of the road. Mr Lister has commented that no additional land is required in this location and the property in question will be approximately 8 – 10m from the proposed new kerblines. Auckland Transport has offered mitigation comprising a replacement fence, landscaping and reinstatement of a vehicle turn-around within the property, and access will be reinstated by a lane off Summerfield Lane. However, an existing garden encroachment into the road reserve will be removed.

**460a Albany Highway (Bev Grace)**

- 6.78 A similar submission from Ms Grace in relation to her property has resulted in an offer of mitigation comprising a replacement specimen tree and amenity planting within the berm along the boundary to this property. The property will be approximately 15 – 17m from the proposed new kerblines. An existing garden encroachment into the road reserve will be removed but the bus stop will remain in its current location.

**Submission by Cycle Action Auckland**

- 6.79 Cycle Action’s submission raised a number of detailed design matters but tabled a submission at the hearing expressing satisfaction with the progress made and the undertakings given to deal with their concerns. Auckland Transport has also agreed to involve Cycle Action in detailed design of the works.

**Overall Findings on Landscape, Urban Design and Visual Amenity Effects**

- 6.80 We accept that the landscape and visual amenity effects of the project are significant and the loss of trees and vegetation (much of it mature) will be more than minor. However, there will be positive effects in terms of the opportunity to improve urban design elements and create a high quality, urban road environment.
- 6.81 The recommended conditions will provide an opportunity for the details of the Landscape Mitigation Plan required as part of the Outline Plan of Works to be finalised in consultation with Council staff so that the adverse effects on landscape and visual amenity are avoided, remedied or mitigated appropriately.

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<sup>22</sup> Lister evidence, para 57

## Heritage/Archaeological Effects

- 6.82 The assessment of heritage and archaeological effects undertaken by the Requiring Authority prior to lodgement of the NoR originally covered the two sites adjacent to the Highway that are identified within the District Plan as places of heritage significance. These are the Old Albany School/Outdoor Education Centre (which is not specifically impacted on by the proposed designation) and the Albany Cemetery.
- 6.83 Both the Council's heritage advisor, Mr Brassey, and the New Zealand Historic Places Trust in a submission on the NoR expressed concern that an archaeological assessment had not been undertaken for the entire length of the Albany Highway affected by the proposed alteration to the designation. The Trust also requested further clarification in regards to the relocating of the graves and sought inclusion of a designation condition that details the process of relocating/exhuming the possible burials that may be affected by the proposal.
- 6.84 Since lodging the NoR, Auckland Transport has undertaken an archaeological assessment of the effects of the project and provided this to the NZ Historic Places Trust<sup>23</sup>. Mr Loutit advised that Auckland Transport has agreed to additional heritage conditions, which refer to this archaeological assessment, as recommended in the staff report.
- 6.85 The condition requires the NZHPT to determine whether, based on that report, any authority is require under the Historic Places Act 1993. The conditions also require:
- (a) steps to be taken (where possible) to avoid damage to "material of significant" value
  - (b) procedures that apply to any urupa, traditional sites. Or taonga that are discovered;
  - (c) That protocols be developed for the relocation of affected grave sites in the Albany Cemetery<sup>24</sup>.

### **Effects on the Albany Cemetery**

- 6.86 The effects on the Cemetery are summarised in the NoR as follows:

*The proposed works will encroach into the edge of the cemetery by approximately 5 metres and affect approximately 211 sq.m of land<sup>25</sup>. The works will have a most pronounced effect at the northern end of the cemetery plots where the existing bank will need to be cut back and the Kanuka trees removed. Two unmarked graves will also need to be relocated. Proposed mitigation includes the provision of a natural stone clad retaining wall across the new cut face, planting of amenity trees within the grounds, and an improved vehicle turn around area. The process of relocating the graves would be managed by the Historic Places Trust under the Act in consultation with local iwi".*

- 6.87 In answer to questions, Mr Devitt advised that although Auckland Transport had not consulted with the Independent Maori Statutory Board, the former North Shore City Council had a protocol for consulting with iwi. Mr Devitt had taken 3 iwi

<sup>23</sup> A copy was also provided to us as evidence, shortly after the hearing concluded.

<sup>24</sup> Loutit submission, para 10.16

<sup>25</sup> Mr Loutit's submission subsequently advised that this is now 164m<sup>2</sup>.



representatives for a visit and their only concern was to be part of the exhumation of the children's graves<sup>26</sup>.

- 6.88 We consider that the proposed conditions are sufficient to address the specific matters relating to the Cemetery and to deal with any other adverse archaeological effects.

### **Effects on Reserve Land**

- 6.89 The NoR identifies the location and extent of reserve land affected by the proposed works and the reporting planner considered it appropriate to include as advice notes, the additional matters recommended by the Council's consultant landscape architect, Ms Gilbert.
- 6.90 Mr Lister was in general agreement with these, but provided explanations as to why he had recommended certain revisions.
- 6.91 We find that, although the detail is important to the quality of the landscaping and visual amenity mitigation required as part of the project, these are matters which can be addressed as part of the Outline Plan. The condition requiring approval of a comprehensive Landscape Mitigation Plan will involve consultation with Council staff.

### **Stormwater and Contaminants Effects**

- 6.92 The Requiring Authority's assessment on the stormwater and contaminants effects of the proposed alteration to the designation is at Sections 3.32 to 3.42 of the Notice. At the time of lodging the Notice, investigations were still being undertaken to address stormwater treatment and management of runoff, and there were a number of question marks as to how this would be achieved. The AEE concluded that several options were possible, but acknowledged that options for acquiring additional land for stormwater mitigation were limited. Potential adverse flooding effects (albeit 'minor') were also identified in relation to properties at the lower, northern end of Princeton Parade and Vanderbilt Parade.
- 6.93 The scale of potential stormwater effects from the project was apparent from Mr Miller's evidence, in which he stated that on completion of the work, the area of pavement, footpath, cycleway and bridge would increase from 6.5 ha to 10.1 ha (an additional impermeable area of 3.6 ha representing a 54% increase)<sup>27</sup>. Mr Miller also identified a cumulative 11% to 32% increase in the peak runoff rate.
- 6.94 In submissions, Mr Loutit advised that Auckland Transport now had a Heads of Agreement with North Shore Golf Club to discharge to a new stormwater pond within the golf course. Mr Miller's evidence dealt with each of the seven discharge areas identified, and the improvements to existing stormwater treatment (as well as mitigating the effects from the works) that would be possible by diverting flows from some discharge areas to the golf course ponds.
- 6.95 He advised that new stormwater treatment devices and/or outfalls will be required from Bass and Wharf Road outfalls, and Days Bridge - all of which will improve stormwater treatment.

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<sup>26</sup> The minute of this meeting was provided to the Commissioners.

<sup>27</sup> Miller evidence, para 4.4

- 6.96 In response to questions, Mr Miller advised that the use of tetra traps, as discussed in the GHD report, would not be adopted and more conventional management systems would be used.
- 6.97 In summary, the effects of stormwater and contaminants will be treated and managed by a combination of:
- Discharges to existing stormwater ponds wherever possible
  - Development of a new pond within the North Shore Golf Course
  - A combination of sand filters and proprietary devices depending on the size of the catchment and the potential siting location of the device.
- 6.98 The Council's staff made a number of recommendations on conditions to be attached to the NoR but the need for these was disputed by Auckland Transport on the grounds that a stormwater discharge consent would be necessary and that was the appropriate time to impose conditions. Conditions on the NoR could potentially result in conflicts or inconsistencies between the NoR and the discharge permit and Council's staff would have the opportunity for input when the application for the discharge permit was submitted.
- 6.99 Mr Nagels' recommended conditions included several that related to practical matters associated with protection and management of the Council's stormwater infrastructure assets. In particular, he wanted to ensure that all weather access would be available to the new Golf Club stormwater pond for maintenance purposes (which should be protected by easement).
- 6.100 We find that while these conditions are eminently sensible and practical, they deal with matters that would be more appropriately addressed internally within Council. For this reason we have included them as advice notes, which may be helpful as a 'checklist' in ensuring that future operational matters are considered.

### **Public Utilities Effects**

- 6.101 The Notice states:

*"Albany Highway functions as a major utility corridor and the proposed upgrade will possible require the relocation and upgrading of a number of the main utility services located along the route. Currently the corridor accommodates the following utilities:*

- *Communications – Chorus (Telecom)*
- *Telecommunications – Chorus (Telecom) and Telstra Clear*
- *Water mains and waste water services – Watercare Services*
- *Electricity – Vector*
- *Gas – Vector Gas*
- *Private Utilities"*

- 6.102 Submissions have been received from Transpower, Vector and Watercare all of whom have indicated that their concerns would be met by the inclusion of

conditions, which have been agreed to by Auckland Transport. The conditions will ensure that all utilities are adequately protected.

## **7.0 SUBMISSIONS RECEIVED**

- 7.1 As many of the submissions relate to effects on access, or loss of amenity (eg noise, fencing, privacy) we have had regard to those concerns and referred to the submissions under individual topic headings.

### Property at 265 Albany Highway **Caffe E Cucina, Junior Junction Childcare, Good Health Products, Stihl Shop Albany**

- 7.2 This property will retain access similar to that currently provided.

### Property at 329 Albany Highway **Zane Gifford (on behalf of John Glenn Ltd)**

- 7.3 Agreement has been reached with Auckland Transport on replacement of the proposed raised median with a flush median to provide for a combined access location serving 327 and 329 Albany Highway.

### Property at 368 Albany Highway **Albany Family Medical Centre**

- 7.4 This submission opposes the alteration to the designation for the following reasons:
- a) It requires the land occupied by the existing AFMC general medical practice;
  - b) It will have significant adverse social, cultural and economic effects on people and the community, including those who comprise the patient role at the AFMC;
  - c) It does not adequately or appropriately avoid, remedy or mitigate the adverse effects described above;
  - d) It does not enable people or the community to provide for their social, cultural and economic wellbeing, or for their health and safety; and
  - e) It is inconsistent with the statutory purpose of promoting the sustainable management of natural and physical resources.
- 7.5 The submitter is seeking that the Requiring Authority withdraws the Notice of Requirement and that Auckland Council recommends that the notice of requirement be withdrawn.
- 7.6 Dr Paul Milton spoke on behalf of the Medical Centre, expressing his concerns that the road *“is planned to go right through where the current building is located”* and that they are a long way down the path of being relocated; however these plans are not yet confirmed.
- 7.7 Dr Milton pointed out that the Medical Centre is a crucial facility serving a large number of the local population, and that with six years remaining on the current lease of the building these years are very important to the business.
- 7.8 We heard from Mr Devitt that Auckland Transport has reached agreement in principle on a new location for the Medical Centre within the Kristin School property and details of the agreement are being finalised.<sup>28</sup>

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<sup>28</sup> Devitt evidence, para 8.40

Property at 1 Wharf Road RN & J Abrahall opposes the proposed alteration for the following reasons:

- Effects on their property from signalisation of intersection and level of dust and pollution during realignment and construction.
- Devaluation of the property
- Questions how proposed works will meet the Requiring Authority's objectives to reduce single occupancy vehicle use and increase walking, cycling etc.; provide high quality urban amenity; enable mix of community purpose activities; and protect and enhance high quality environment.

7.9 The submitter is seeking the following relief:

- Large trees to be planted to the corner boundaries
- Funding for double glazing and fencing to reduce sound
- Financial compensation for reduction in property value
- Further information to substantiate objectives
- Timeframe form proposed works from start to finish in writing
- Financial commitment to assist with building fence and replanting
- Time restrictions for oversized and overwidth trucks
- Commitment to cleanup and maintenance during and after works

7.10 Mr and Mrs Abrahall expanded on the above matters at the hearing.

7.11 In terms of the effects of the works on the Abrahall's property, we have discussed the main issues under topic headings of noise and landscape/amenity effects. Auckland Transport has also has been undertaking ongoing consultation with the submitters in regards to the mitigating measures of the potential effects that the submitters' property may experience as a result of the proposed works and we have recorded the offer made by Auckland Transport to assist with mitigation planting and fencing.

7.12 The question of whether the works will meet the Requiring Authority's objective was addressed extensively in the evidence given on behalf of the Authority.

7.13 In regards to the effects of construction and providing information to residents on the timing of the proposed works, the Requiring Authority has proposed conditions as part of the Construction Management Plan which in conjunction with the Communications Plan that we are recommending, are considered appropriate in providing the relief sought by the submitter.

7.14 The following directly affected properties have been grouped together in relation to the relief sought:

Property at 460a Albany Highway - Bev Grace

7.15 Ms Grace's concerns have been considered under the heading of Landscaping/Visual Amenity effects.

Property at 28 Scarlet Oak Drive - Kelvin and Lynn Tanton opposes the proposed alteration to the designation as they are concerned that if the road is widened and increased in height it will devalue their house, take away their privacy and noise will be increased.

7.16 The Tantons' tabled submission reiterated their concerns. It is our understanding that Mr Devitt has spoken to the submitters and addressed their issues.

Property at 7 Notre Dame Way Damon Clark

7.17 We have considered this submission in Section 6 above.

Property at 14 Widdison Place AJ Ireland & N Churchward Ireland

7.18 We have considered this submission in Section 6 above.

Property at 20 Widdison Place Shane Kuzmanic

7.19 We have considered this submission in Section 6 above.

Submissions by Vector Limited, Transpower, Watercare Services Limited

7.20 These submissions have been addressed under the heading of Effects on Utilities in Section 6.

**New Zealand Historic Places Trust**

7.21 We have considered the Trust's submission in Section 6 and we understand that there has been further consultation between the Requiring Authority and the Trust following the preparation of the archaeological assessment by Russell Foster and Associates.

**Cycle Paths - Cycle Action Auckland**

7.22 Cycle Action's submission has been considered in Section 6.

Design of proposal - Philip McKnight

7.23 Mr McKnight's submission is discussed in Section 6.

Effects of Noise and Amenity Issues on Landing Residents

7.24 **Beverley Henderson, Christopher Ellis, Carmen Holtz** support the proposed alteration to the designation subject to the following recommendations from Council:

- Attractive sound barriers on the boundaries of The Landing affected by noise
- Soft seal road surface to keep wheel noise down
- Trucks and buses to use brakes rather than gears when reducing speed.
- Speed limits to be reduced to 50km/hr during school hours and 60km/h outside school hours with this to be painted on the road

7.25 **Richard Hancy** supports the proposed alteration to the designation subject to Council making the following recommendations:

- Reduction in the area to be designated to the minimum required to undertake the proposed works as there are areas that are clearly not needed for the road widening e.g. just east of Wharf Road.
- Inclusion of condition requiring the Construction Management Plan to include specific consideration of pedestrians.
- Landscaping and noise bund adjacent to the Landing was put in as a condition of subdivision – as much as possible should either be retained or reinstated to a standard as good or better than the existing.

7.26 In regard to these matters:

- The evidence from Auckland Transport states that the design of the project has endeavoured to utilise land already designated.
- We have noted the second bullet point and recommended specific reference to the safety of pedestrians in the Construction Management Plan.
- Noise and landscaping/amenity concerns have been considered and the Landscape Plan prepared by Isthmus Group shows 'new buffer planting' along the boundaries of Widdison Place properties fronting the Highway.

7.27 Submissions by **Stephen Barker** and **Christopher Lock** raise a number of points regarding the design of the project, all of which were addressed in evidence by Messrs De'ath, Brown and Lister and which we have considered in our findings relating to environmental effects in Section 6.

7.28 The submission from **PJ & F Curran** is similarly considered in Section 6.

#### Inadequacy of Information

7.29 **Simon Cressey (JAS Trust and Timberworld Limited)** oppose the proposed alteration to the designation for the following reasons:

- A lot of the aspects of the NoR are unfounded and untrue.
- The Notice is flawed as it does not cover all aspects of the widening and ancillary services
- The summaries and studies are misleading.
- There has been a considerable lack of forethought on traffic planning and safety, disruption and costs associated.
- The Notice of Requirement has not been signed by anyone as required.

7.30 In relation to the necessity for the work, and the adequacy of the information, we find that the Requiring Authority has undertaken an extensive amount of assessment and provided sufficient information for us to be able to make a recommendation under the provisions of section 171 of the Resource Management Act 1991. Our recommendation includes a number of conditions which are to be met as part of the preparation of the Outline Plan of Works. This Plan sets out the final details of the design and the methods to be adopted to ensure the least amount of inconvenience to property owners and occupiers, whilst acknowledging that works of the scale proposed will inevitably result in temporary access restrictions, noise from construction activity, reduced number of traffic lanes,

relocation of services, and full closure of the road for short periods. All of these matters will be identified in the various Management Plans to be submitted with the Outline Plan of Works and will include provision for notification to property owners and points of contact to discuss any matters of concern.

- 7.31 It is beyond the scope of the NoR process for us to make a determination on Mr Cressey's deeply held view that the property occupied by Timberworld is entitled to continue using the road frontage for its business operations. We do, however, have confidence that the Requiring Authority has undertaken sufficient investigations to have ascertained the extent of any additional land acquisition and the location of property boundaries.
- 7.32 In terms of the 'flawed' Notice, we accept the advice given in the section 42A report that a copy of the Notice, notified in June, on the internet was unsigned. However, the copy available at those places stated in the public notice, being Service Centres and Libraries, was signed by the appropriate delegated officer from Auckland Transport. Although the Requirement was notified for a second time for reasons unrelated to the submitter's concerns, a signed copy was available on the internet, Service Centres and Libraries and this ensured that any perceived defect in the first Notice was remedied.

## **8.0 PART 2 OF THE ACT**

- 8.1 Part 2 of the Act sets out its purpose and principles. We agree with the conclusion in the section 42A report that the designation will
- (a) Provide for the social and economic well-being of people and communities by providing an improved functioning of the corridor and supporting alternative forms of transport such as cycling, walking and public transport;
  - (b) Improve the road carrying capacity and safety levels for both motorists and cycling, whilst enhancing travel opportunities for a range of other users;
  - (c) Assist in sustaining the potential of natural and physical resources to meet the needs of future generations, by providing an improvement in the carrying capacity of the Albany Highway corridor.
- 8.2 In addition, the proposed conditions, as recommended in Section 5 of this report, to be attached to the designation will ensure that the potential adverse effects to the environment will be avoided, remedied or mitigated.
- 8.3 The conditions (section 10 below) that are recommended for the designation should ensure that any adverse environmental effects associated with construction, operation, and maintenance of the works are avoided, remedied or mitigated.

## **9.0 CONCLUSION AND RECOMMENDATIONS**

- 9.1 We have concluded that the proposed designation is reasonably necessary for the Requiring Authority to achieve its objectives. The designation method would secure the land for the project and, unlike a resource consent, its inclusion in the District Plan would clearly indicate the proposed works and activities to the community. We are satisfied that alternative options have been appropriately and adequately considered on behalf of the requiring authority. The project would also contribute to a significant enhancement of the region's public transport system and provide safer, environmentally sustainable alternative transport modes.

9.2 **It is recommended that,**

- (i) pursuant to Section 171(2) of the Resource Management Act 1991, Auckland Transport's Notice of Requirement for the purpose of "*Road – to widen and upgrade Albany Highway between Schnapper Rock Road/Bush Road to State Highway 17 and all associated works*" be **confirmed** subject to the conditions recommended in Section 10 of this report.
- (ii) That the necessary amendments be made to the Auckland Council District Plan (North Shore Section) incorporating:
  - Amendments to the District Plan maps to show the additional areas of land to be designated.
  - Amendments to the Designation Schedule, including insertion of the final version of the conditions.

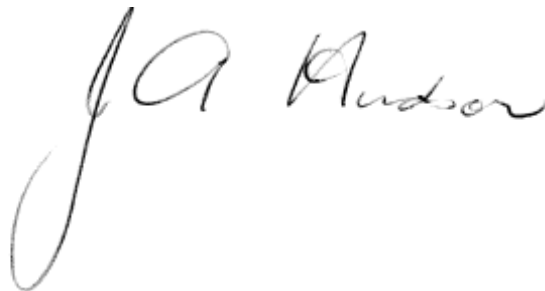
9.3 **The reasons for these recommendations are:**

1. The designation is reasonably necessary for achieving the objectives of the Requiring Authority.
2. Adequate consideration has been given to alternative sites, routes, or methods of achieving the project.
3. It is unreasonable to expect the Requiring Authority to use an alternative site, route or method.
4. The designation is generally in accordance with the relevant regional and district planning documents.
5. The designation is generally in accordance with Part 2 of the Resource Management Act 1991.
6. The amendments that have been made to the proposal as a result of further investigations, or in response to submitters' concerns, are within the scope of changes that can be authorised by the Outline Plan of Works and do not result in the 'modification' of the Designation.
7. Restrictions, by way of conditions, imposed on the designation have been included to avoid as far as practicable, remedy or mitigate adverse environmental effects of the designation.

**Jenny Hudson** (Chair)

Independent Hearings  
Commissioner

Date: 8 February 2012





## **10.0 RECOMMENDED CONDITIONS FOR THE DESIGNATION**

### **General Conditions**

1. That the scope and extent of the works within the designated area be generally in accordance with the plans submitted as part of the Notice of Requirement dated 22 September 2011; and in accordance with the conditions set out below.
2. In accordance with Section 184(1) of the Resource Management Act 1991, the alteration to the designation shall lapse on the expiry of 10 years from the date on which it is included in the Auckland Council District Plan (North Shore Section) if it has not been given effect to before the end of that period.
3. Before any construction is commenced an Outline Plan(s) shall be submitted in terms of Section 176A of the Resource Management Act 1991 to the Auckland Council. The Outline Plan(s) shall show those matters required by Section 176A of the Act and those matters specified in the following conditions. All work shall be undertaken in accordance with the Outline Plan(s). In addition to the requirements of Section 176A, no works shall commence until the specific mitigation plans referred to below have been approved to the satisfaction of Auckland Council. All works shall also be in accordance with the details of these specific mitigation plans.
4. That prior to any works being commenced, the Requiring Authority shall obtain all resource consents required under the Resource Management Act.
5. The Requiring Authority shall ensure that all reasonable steps are taken to prevent any nuisance and damage to adjacent properties during construction. The Requiring Authority shall reinstate any property damaged during construction or provide compensation to the affected owner if reinstatement is not possible.
6. At all times, reasonable physical vehicular and pedestrian access shall be maintained to private properties not directly affected by construction works in the area affected. Where private properties are directly affected by construction causing vehicular access to be temporarily prevented and no alternative can be utilised, the Requiring Authority shall ensure that the property owner (and occupier if relevant), is consulted with respect to the most suitable time for carrying out the work and the Requiring Authority shall minimise the period during which access is prevented. Particular regard shall be given to those properties where the Requiring Authority is aware of owners/occupiers with physical impairments.
7. Fences removed as a result of this project shall be reinstated at the Requiring Authority's expense unless alternative arrangements have been made with the landowner.

### **Cultural/Heritage/Archaeological**

8. Prior to submitting the Outline Plan of Works to the Council for approval in terms of Condition 3 above, the Requiring Authority shall request confirmation from the NZ Historic Places Trust whether an authority under the Historic Places Act 1993 is required to damage, modify or destroy any archaeological material, based on the archaeological assessment of the corridor by Russell Foster and Associates dated November 2011. If the archaeological assessment identifies any material of significant value, steps shall be undertaken by the Requiring Authority, where possible, to avoid damaging, modifying or destroying that material.
9. If any urupā, traditional sites, taonga (significant artefacts), or kōiwi (human remains) are exposed during site works, then the following procedures shall apply:

- (a) Works in the immediate vicinity of the site that has been exposed shall cease;
  - (b) The site supervisor shall immediately secure the area in a way that ensures that any remains or artefacts are untouched;
  - (c) The site supervisor shall notify representatives of relevant tāngata whenua, the New Zealand Historic Places Trust, the Auckland Council and, in the case of human remains, the New Zealand Police; and
  - (d) The notification in (c) above shall allow such persons being given a reasonable time to record and recover archaeological features discovered before work may recommence on the exposed site. Should archaeological material be discovered, works shall not recommence until approval has been obtained from the New Zealand Historic Places Trust, under the Historic Places Act 1993.
10. Prior to the commencement of works, detailed protocols for the management of the exhuming and relocation of the unmarked graves in the Albany Cemetery identified as No. 7, protected as a Category A site, in the Auckland Council District Plan (North Shore Section – Appendix 11A – Schedule of Buildings, Objects and Places of Heritage Significance) shall be developed in consultation with representatives of the relevant Tangata Whenua, the New Zealand Historic Places Trust, Presbyterian Church Trustees and Auckland Council.

### **Traffic Noise**

11. The surface of the Albany Highway shall be constructed of a suitable and practicable medium such as asphalt, or a road surface with equivalent or greater acoustic performance. The same medium, or a medium with equivalent or greater acoustic performance, shall be used for all future re-laying of the road surface.
12. As a minimum standard, the Requiring Authority shall design and construct works to satisfy the requirements of *NZS 6806:2010 Acoustics – Road Traffic Noise – New And Altered Roads*.
13. At the outline plan stage and prior to the commencement of the construction works, a Noise Management Plan shall be provided to the Council's satisfaction from a suitably qualified acoustic consultant in accordance with section 14.9.1(b) of the Auckland District Plan (North Shore Section). The Plan shall provide measured ambient noise levels at appropriate representative monitoring points for all Protected Properties And Facilities (PPF's) and the following information for each affected property:
- (a) The ambient sound levels to all PPF's prior to construction work commencing;
  - (b) The do-nothing traffic noise levels to all PPFs for the design year, a minimum of 10 years after the completion of the road widening;
  - (c) The do-minimum traffic noise levels to all PPFs for the design year, a minimum of 10 years after the completion of the road widening;
  - (d) Options for effective noise mitigation measures, either singly or in combination, including noise barriers and building insulation.

- (e) Traffic noise levels for the design year to all PPFs with the proposed mitigation in place.

### **Construction Noise**

- 14. Noise generated by the construction works associated with the Albany Highway Corridor Upgrade shall, where practicable, comply with the *New Zealand Standard NZS 6803:1999 "Acoustics – Construction Noise"* except that where compliance with the standard is not practicable or possible, alternative methodologies that will minimise adverse effects shall be developed in consultation with the owners and/or occupiers of the affected properties, to the satisfaction of Auckland Council.

### **Construction Management Plan**

- 15. At least one month before the commencement of any construction activities authorised by this designation and associated with the proposed widening and upgrade of Albany Highway, the Requiring Authority, shall submit a Construction Management Plan to the Team Leader Compliance Monitoring (The Manager) – Northern, Auckland Council. The manager's approval must not be unreasonably withheld and, if provided, will be provided within 10 working days (of all information being received by the council). Works will only be able to proceed once approval has been granted. The construction management plan shall make provision for the following:
  - (a) Methods for avoiding or minimising noise nuisance;
  - (b) Methods for avoiding or minimising any dust nuisance from construction, including, in particular, any dust nuisance which may cause damage to utilities;
  - (c) Methods of avoiding or minimising any vibration or ground instability effects, including, in particular, any such effects which may cause damage to utilities;
  - (d) Methods for protecting those trees that are to be retained and potentially affected by construction works;
  - (e) Methods for implementing the recommendations of the Landscape Mitigation Plan and the Arborist report prepared by Arborlab Consultancy Services Ltd dated April 2011;
  - (f) Methods for the demolition and/or removal of any building on properties required for the works;
  - (g) Methods for liaising with network utility operators;
  - (h) Methods for ensuring that any vehicles leaving the site do not deposit soil or other debris on public roads;
  - (i) Details of the site manager, including their contact details (phone, fax, email and postal address);
  - (j) The location of a large notice board at each end of the works, which clearly identifies the name, telephone number, and address of the site manager;
  - (k) Methods for retaining access to all properties during the construction period;

- (l) Methods for ensuring the safety of cyclists and pedestrians during construction.
- (m) The location of the site office and workers' toilet and proposed parking arrangements for workers;
- (n) The location of all material storage areas and protection measures (if required);
- (o) Proposed hours of work on site;
- (p) Locations at which construction equipment will be parked over night;
- (q) The signage to be erected at the site during the construction period to advise motorists, pedestrians and cyclists of the works, and of the routes they should follow;
- (r) A requirement to implement the Traffic Mitigation Plan;
- (s) Proposed construction methodology;
- (t) Proposed method of risk management;
- (u) Measures for silt control and treatment of stormwater during construction;
- (v) Proposed programme;
- (w) Measures to manage access for emergency vehicles;
- (x) Measures to manage the effects of construction vehicles (delivery routes, times, parking etc.
- (y) Measures to remediate any contaminated land (if any).

### **Communications Plan**

16. The Requiring Authority shall prepare, and submit for approval with the Construction Management Plan, a Communications Plan that sets out procedures for communicating with the public, the owners and occupiers of properties in the immediate vicinity of the construction area, and all schools in the immediate vicinity (including Albany Junior and Senior High Schools, Kristin School, Albany Primary School and Pinehurst School) throughout the construction period. The Communications Plan must include a copy of the Traffic Mitigation Plan prepared under Condition 23 as well as procedures for:
  - (a) Giving notice of the commencement of construction activities;
  - (b) Providing information about the expected duration of work, including a programme of works;
  - (c) Giving notice of any changes to the programme of works.
  - (d) Handling complaints on noise, vibration, dust or any other matter.
17. The approved Communications Plan is to be implemented and maintained for the duration of the project.

18. The Requiring Authority must ensure that the Local Board, and the owners and occupiers of properties in the immediate vicinity of the construction area, are given notice of the commencement of construction activities and a programme of works at least 10 working days prior to construction commencing.
19. The Requiring Authority must, at all times, from the date the designation is confirmed until the works are complete, ensure that all affected persons are able to contact the delegated officer(s) or agents(s) whose duty it will be to liaise with all parties on the concerns arising out of the completion of the proposed works. This person shall be appointed after confirmation of the designation and affected owners/occupiers notified of the appointment in writing.

### **Construction Noise Management Plan**

20. A Construction Noise Management Plan ('CNMP') shall be prepared by a suitably qualified acoustic consultant and submitted to the Team Leader Compliance Monitoring (the Manager) – Northern, Auckland Council. The Manager's approval must not be unreasonably withheld and, if provided, will be provided within 10 working days (of all information being received by the Council). The Plan shall refer to noise management measures set out in Appendix E of NZS6803:1999 "Acoustics – Construction Noise" and shall detail the construction methodologies that will be employed to, as far as practicable, comply with NZS 6803:1999. As a minimum, the CNMP shall address the following:
  - (a) Construction sequence;
  - (b) Machinery and equipment to be used;
  - (c) Hours of operation, including times and days when noisy construction would occur;
  - (d) The design of noise mitigation measures such as temporary barriers or enclosures;
  - (e) Construction noise limits for specific areas;
  - (f) Development of alternative strategies where full compliance with nzs6803:1999 cannot be achieved, including consultation with residents and occupiers to achieve acceptable outcomes;
  - (g) Methods for monitoring and responding to complaints about construction noise.
21. The Requiring Authority shall ensure that the Construction Management Plan and Construction Noise Management Plan are complied with at all times during construction and that a copy of each is kept at the site offices.
22. The Requiring Authority shall advise neighbouring owners and occupiers of the construction timetable, including the date on which construction is expected to start and the expected duration of the work.

### **Traffic Mitigation Plan**

23. Prior to the commencement of construction, the Requiring Authority shall submit a Traffic Mitigation Plan ('TMP') to the Manager, Road Corridor Access, Auckland Transport (the manager). The Manager's approval must not be unreasonably withheld and, if provided, will be provided within 10 working days (of all information being provided to Auckland Transport). The Traffic Mitigation Plan shall:

- (a) Address methods of mitigating the local and network wide effects of both the construction of individual elements of the project to be opened to traffic while other sections are under construction; and
- (b) Provide details of how individual properties will be affected in terms of on-site car parking and manoeuvring and what measures the Requiring Authority will be implementing to ensure that each property retains either the existing provision for on-site car parking or manoeuvring or compliance with District Plan requirements for on-site car parking and manoeuvring.
- (c) Provide details of whether during construction the over dimension vehicle envelope of 9.5m by 6.5m is provided, or an alternative route is available.

*Advice Note:*

*In particular, the TMP should give consideration to the following:*

- *Whether school holiday periods can be used for critical construction works to minimise disruption and delays caused by school traffic (7-9am, 3-4pm)*
- *Whether it is possible to keep open one lane of traffic in each direction at peak times.*
- *Whether road closures (for either direction) can be avoided for the following:*
  - *7am to 9am on school days – for the entire length of the corridor (Bush Road/Albany Highway to Albany Expressway/Albany Highway).*
  - *3pm to 4pm on School days – for the section from Rosedale Road/Albany Highway to Albany Expressway/Albany Highway.*
  - *4.30pm to 6pm – at the Rosedale Road/Albany Highway, on the south approach between Appleby Rd and Rosedale Rd and on the east approach from William Pickering Dr and Albany Highway.*

*(The above being existing congested areas that have been identified from an on-site survey).*

## **Public Utilities**

### **General Conditions**

- 24. The Requiring Authority shall, during the preparation of tender documents and the Construction Management Plan, take into account the location of the existing infrastructure and utility services and the likely location of future infrastructure and utility services, and undertake consultation with the appropriate Council departments and network utility operators as necessary.
- 25. The Requiring Authority shall adopt best practice techniques for construction to ensure that all network utility operators' and Council's infrastructure is protected and public safety is ensured. The Requiring Authority shall liaise with public utility operators and use its best endeavours to ensure that all planned utility upgrading along the Albany Highway is carried out during the construction period.

The following conditions apply to Vector Limited and Transpower NZ Limited Electricity Infrastructure:

26. The Requiring Authority shall consult with Vector Limited and Transpower NZ Limited at least 15 working days before carrying out any of the following activities on land that is subject of Designations 179 and 179A:
- (a) Any activity where damage is caused, or is likely to be caused, to underground transmission lines assets through excavation or works;
  - (b) Any excavation in, or under, the road (including drilling, tunnelling, thrusting or similar); or
  - (c) Establishment, maintenance or replacement of street trees.

The conditions below apply only to Watercare Services Limited's Infrastructure

27. The Requiring Authority shall ensure that Watercare's ability to operate, maintain or upgrade its assets is not unduly restricted or prevented during construction and post construction.
28. The Requiring Authority shall consult with Watercare (or any other agent nominated from time to time) at least 15 working days prior to any works being carried out in close proximity to Watercare's assets and obtain any approvals required from Watercare.
29. The Requiring Authority shall, at the Outline Plan of Works stage, clearly show any actual and/or potential effects of the proposed works on Watercare's infrastructure.

**Emergency works**

30. Emergency works and urgent works, including provision for 24 hour access, can be undertaken by any other Network Utility Operator without the need for express written approval from the Requiring Authority. The party undertaking the emergency or urgent works must advise the Requiring Authority, within 2 working days, that the activity has been undertaken and seek written approval if the work is ongoing.

"Emergency works" means works defined in section 330(1) of the RMA or Section 6.22.1 of the Draft National Code of Practice for Utilities Access to the Transport Corridors (March 2009) of the Code of Practice of Working in the Road (Auckland Region) or any replacement of the Regional Code.

"Urgent work" is defined in section 69 of the Local Government Act (Auckland Council) Act 2009 as work that is urgent and necessary as a result of any defective equipment or other emergency.

The above condition shall apply to land that is within the road designation, whether it is formed or not.

**Written approvals**

31. In providing written approvals for works in roads under section 176 of the RMA, the Requiring Authority shall comply with the requirements, procedures and timeframes set out in the Code of Practice for Working in the Road (Auckland Region) or any replacement of the regional code by the Code of Practice of Utilities Access to the Transportation Corridors.

*Advice Note:*

*The process implemented for providing requiring authority approvals above could be incorporated into the process for granting access to the road network such that a single process for both requiring authority approvals and road access approvals is implemented unless otherwise requested by the party seeking approval.*

**Vegetation and Corridor Mitigation**

32. The Requiring Authority shall submit a comprehensive Landscape Mitigation Plan as part of the Outline Plan, in consultation with the Council's Urban Design – Built Environment (Environmental Strategy and Policy), Park Arborists and the Northern Ward Arborist for approval and to the satisfaction of Auckland Council. The Plan shall take account of:

- (a) Mitigation measures as outlined in the 'Landscape Plans' and 'Landscape and Urban Design Framework' report prepared by Isthmus Landscape Architecture/Urban Design dated April 2011 (Appendix 2 and 3 of the Landscape, Visual and Urban Design Assessment Report).
- (b) Where there is a conflict between tree location and utilities, alternatives are explored in order that trees are planted close to the locations shown on the 'Landscape Plans'. Such alternatives may include minor relocation of planting (which may entail changes in tree spacing or minor adjustments to footpath and cycle path alignment), changes to tree planting details (such as changes in tree planter detail), or minor realignment of the more flexible services where it is practicable and does not add significantly to cost. Where such alternatives are not practicable, such trees shown on the 'Landscape Plans' shall be planted elsewhere in the corridor.
- (c) Consultation with individual property owners and Cycle Action Auckland (in regards to the design of the cycle pathways).
- (d) The high sensitivity and potential complexity of the works associated with the reserve land along the Albany Highway Corridor, and in particular, the Albany Cemetery (R539) and Oteha Stream (R473).

33. The Plan shall provide for:

- (a) The implementation of the design parameters detailed in the Landscape and Urban Design Framework (Appendix 3 of the Landscape, Visual and Urban Design Assessment report) that provides guidance on the detailed design of
  - Pedestrian and cycle pathways
  - Medians
  - intersections
  - mid-block crossings
  - pedestrian refuge islands
  - driveways and shared accessways
  - retaining walls



- street furniture (lights, signs, bush shelters)
  - boundary walls
  - existing vegetation
  - planting within the berm
  - planting within property boundaries
  - stormwater
  - Days Bridge
  - Utilities.
- (b) The identification of existing trees and vegetation affected by the proposed works which, where practicable, are to be retained. These trees shall be protected during the construction programme.
- (c) The identification of any existing trees and vegetation affected by the proposed works that are to be relocated.
- (d) A schedule of species to be planted, including their location, botanical name, average plant size at time of planting, with a minimum size of PB95 being used for all specimen street trees, and average mature height.
- (e) Detailed design of acoustic barriers (in consultation with a suitable qualified acoustic consultant) following consultation with individual property owners.
- (f) A maintenance period for vegetation retention of no less than 2 years from the certified date of practical completion of all the planting. The maintenance shall include performance standards specifying the minimum average growth rates and survival rates for planting and maintenance measures including control of invasive root species. It shall also provide for replanting where unsatisfactory planting results have occurred and the timing of planting which could, in consultation with landowners, include opportunities for early planting.
- (g) Details of street tree planting within medians and berms along the corridor length.
- (h) Replacement fencing, walling and boundary planting including outcome of discussions with individual owners.

**Advice Notes:**

*In the preparation of the Landscape Mitigation Plan consideration should also be given to the following matters:*

**1. Retaining Walls**

- *The use of stepped structures with planting to assist the visual mitigation where retaining walls are required to be higher than 1.2m.*
- *The use of pre cast panels between the slip road adjacent to 234a-246 Albany Highway and the highway itself with consideration to a*

*planting strip at the base of the wall to allow for shrub or climber planting to soften the retaining structure.*

- *The use of art to enliven this route used by adults and children – retaining walls offer a variety of opportunities, particularly near intersections and bus stops.*

## **2. Boundary Treatment**

- *To the use of hedge, low shrub or climber planting on the highway side of timber fences where space between footpath and boundary permits, in order to create a 'greener' streetscape and reduce the potential for graffiti, so long as such planting does not compromise passive surveillance objectives. Consideration should be given to the adequacy of on-going maintenance of such planting. A decision on such planting should take into account the wishes of adjacent property owners.*
- *Fencing to be designed with some variations along the corridor in context with adjacent properties, but in a way that creates a coherent and uncluttered appearance as described in the Landscape and Urban Design Framework.*

## **3. Street Furniture and Lighting**

- *The quality of fittings should be of similar standard to that implemented in the Albany Town Centre as a minimum.*

## **4. Shrub and Groundcover Species**

- *The use of a limited number of consistent shrub and groundcover species within all three different native planting mixes to encourage a sense of continuity and cohesion throughout the highway corridor.*

## **5. Street Tree Planting**

- *The use of a planting trench in the grassed berm between the pedestrian path and cycleway, where it is capable of being developed, such as between the footpath and cycle path between 265 Albany Highway and Appleby Road, in order to provide good growing conditions for street trees. Note that construction of such planting trenches shall take into account potential conflict with utilities.*

## **6. Paving Materials**

- *The use of a coherent system of paving materials and signage to distinguish footpaths, cycle paths, and shared paths. Such materials should complement each other so that they contribute to visual amenity. Signage and graphics should similarly contribute to amenity,*
- *The use of paving for pedestrian refuge areas within the central median consistent with that used for shared paths on the adjacent berms. This approach could be extended to pedestrian crossover areas of roads feeding into the highway subject to traffic engineering recommendations.*

7. *Other detailed Design Issues*

- *Impractical berm configuration that results in acute angles for planting or grassed areas that will not support successful plant establishment e.g. LP002 adjacent 221 Albany Highway and LP011 east side of corridor adjacent Lucas Creek tributary.*
- *Potential conflict between lighting standard and vehicular access points e.g. LP007 adjacent 427 Albany Highway.*
- *Potential conflict between bush shelter and vehicular access points LP007 adjacent 419 Albany Highway.*
- *Feasibility of retaining existing trees e.g. LP008 adjacent 437b Albany Highway. (Note: the general approach of retaining existing significant trees/notable trees is supported in principle).*
- *Practicality of footpath layout e.g. LP008 absence of paved link between bus stop and footpath near 460 Albany Highway.*
- *Comprehensive treatment of all berms e.g. LP012 adjacent R21 where no treatment is shown for the berm between the shared cycleway/footpath and the property boundary*
- *Review of the intersection widths and radii to reduce pedestrian crossing distances and turning vehicle speeds down.*

8. *Reserves*

*Parkhead Reserve R8*

- *Replacement planting within the Reserve to reinstate the existing well established leafy reserve character that prevails.*
- *Attention should also be paid to the sensitive design of any level changes between the highway and reserve to ensure an attractive and seamless transition between the two. Retaining, if required, should be detailed so as to avoid interfering with the open expansive feel between the carriageway and reserve and should be either formed in a high quality material that does not require screening or screened by low planting or a self clinging climber.*

*R323*

- *Replacement planting of two totara in the adjacent reserve.*

*Oteha Stream R473*

- *To encourage the use of clean and simple lines, and visually recessive colours and avoid the use of applied motifs for Days Bridge.*

*Albany Cemetery*

- *It may be appropriate to consider the use of an alternative species to kanuka within the Albany Cemetery as replacement for the existing trees.*

- *Use of natural stone facing material on the retaining wall below the Cemetery.*
34. All planting in the road reserve will be subject to normal Council maintenance after the specific period identified in the Landscape Mitigation Plan.
35. All landscape mitigation planting shall be implemented no later than in the first planting season following completion of the project construction works providing climatic conditions are suitable, otherwise at the first practical opportunity. Following completion of planting, the Requiring Authority shall submit to the Council a report by an independent and appropriately qualified landscape architect on the implementation of the Landscape and Urban Design Plan providing a quantitative and qualitative assessment of the performance criteria detailed in the plan. During the maintenance period, the landscape architect shall carry out a qualitative and quantitative inspection every three months during the first 12 months following planting (or more frequently if considered necessary), and then six monthly for a period up to 24 months from completion of each planting area or until the performance standards detailed in the maintenance contract are met.

### **Stormwater/Contaminants**

36. Prior to the lodgment of the Outline Plan of Works, consultation shall be undertaken with the Auckland Council Stormwater Unit on the proposed treatment and discharge of stormwater.

#### *Advice Notes:*

1. *Consultation should be undertaken with the Auckland Council Stormwater Unit regarding the following bullet points relating to the stormwater management infrastructure catering for the proposed road design:*
  - *Operation and maintenance of proposed stormwater management devices*
  - *Maintenance access requirements for stormwater management ponds (or other such devices) located within private property*
  - *Interim and long term responsibility for pond maintenance and other such devices*
  - *Maintenance access requirements for stormwater management devices located within the road corridor*
  - *Location of stormwater manholes within the road corridor*
  - *Connection of existing stormwater infrastructure into any new roading stormwater network*
  - *Any maintenance requirements for stormwater management devices immediately prior to any transfer of responsibility of those devices to Auckland Council, including but not limited to a full clean-out of proprietary devices including filter medium and cartridge replacement where required.*

2. *Stormwater pond(s) (or other such devices) located on private property that have been identified for the purpose of treating stormwater runoff from the proposed road corridor should, if possible, have an Easement in Gross over the private land to enable routine maintenance and operation of the stormwater management pond(s). The area comprising the stormwater pond(s) should, if practicable be defined as an Easement for Drainage Purposes, or become a Drainage Reserve vested in Auckland Council.*
3. *Operation and maintenance access to any stormwater pond should be provided to an 'all weather' standard as per the legacy Council requirements - NSCC-IDSMS 2009 Issue 10.*
4. *Operation / Maintenance Manuals with Engineering Drawings should be provided to Auckland Council Stormwater Unit for all stormwater devices, including ponds. The manuals should include catchment plans, summary calcs, drawings, as built, etc - as per the legacy Council requirements - NSCC IDSMS 2009 Issue 10.*
5. *The forebays of existing ponds should be jointly inspected before road works commence, assessed, and photos taken. Any road construction wash materials / debris identified that have accumulated during the construction phase of the project should be removed from the forebay(s) by the Requiring Authority upon completion of the activity, at no cost to Council and to Councils satisfaction. Liaison regarding any required stormwater pond forebay clean out is with Auckland Council's Stormwater Consents Engineer.*