

**BEFORE A BOARD OF INQUIRY
EAST WEST LINK PROJECT**

UNDER the Resource Management Act 1991 (the **RMA**)

AND

IN THE MATTER OF notices of requirement for designation
and resource consent applications by the
New Zealand Transport Agency for the
East West Link Project

**STATEMENT OF EVIDENCE OF DAVID JOHN MACPHERSON
ON BEHALF OF WARD DEMOLITION LIMITED**

Dated: 22 May 2017

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I, David John Macpherson, Planner of Auckland, state:

INTRODUCTION

1. My name is David Macpherson and I am a Planner with over 40 years' experience in New Zealand, Australia and Hong Kong. I am authorised to give this evidence on behalf of Ward Demolition Limited (**Ward**).
2. I hold a Bachelor of Arts and a Diploma in Town Planning, and am a full member of the New Zealand Planning Institute (member since 1977). I am a past member of the Australian and Hong Kong planning institutes, and a qualified Local Government Planner in New South Wales, Australia.
3. During my career, I have held a variety of public and consultancy positions at different levels of seniority. In June 2012, I set up practice on my own account.
4. In the course of my career I have processed and prepared planning and resource consents for a wide variety of different activities and types of development. I have worked as a policy planner, and have carried out physical planning roles here and overseas.
5. Specifically relevant to this particular project, I held the following roles:
 - 5.1. Waikato Expressway – reporting planner for the Waikato District Council.
 - 5.2. Taupo Bypass – dealing with various aspects as borough planner.
 - 5.3. Waikato River/Watercare water supply pipeline, for Papakura District, as Principal Planner for the Council.
 - 5.4. Tin Shui Wai, Hong Kong coordinating/consultant manager/planner for the Hong Kong government, including transport and road and infrastructure. Included light rail options.

- 5.5. Dominion Road, Auckland – widening proposals (for Auckland Council in regard to specific properties and also private property owners).
- 5.6. Pittwater to Palm Beach Highway upgrade by Department of Main Roads (DMR), Impact Assessment, for Warringah Shire Council Sydney.
- 6. Through involvement as a planner in these and other major infrastructure projects, I am aware of the positive and negative adverse effects that can be created by the planning implementation and operation of such schemes.
- 7. I have made over 20 appearances in relation to a variety of projects in the Environment Court, as well as attending numerous council hearings.
- 8. This evidence addresses the East West Link Project (the **Proposed Works**), and Notice of Requirement 1 for the designation of land required for the construction, operation and maintenance of a new arterial road from State Highway 20 west of the Neilsen Street interchange to State Highway 1 at Mt Wellington Highway and associated works (**NOR-1**).
- 9. I have provided planning advice to Ward in respect to their property at 13-17 Miami Parade, Onehunga, in relation to the Proposed Works. Mr Peter Ward will provide a detailed description of the business operations carried out on and from the site, as well as Ward's concrete recycling business.
- 10. Almost half of Ward's staff works out of the site and its machinery is housed there when not on active use on sites where demolition is being undertaken. The site is well located for the receipt of demolition material from around the region, as well as for of the recycling of those materials. The anticipated economic impacts will be further covered in expert evidence by Magdalena Dimitrova, Ward's Financial Controller.

CODE OF CONDUCT

11. I have read the Code of Conduct for Expert Witnesses contained in the Environment Courts Practice Note 2014. I have prepared my evidence in accordance with this Code and agree to abide by it. I confirm that my evidence is within my area of expertise except where stated otherwise. I have not omitted to consider material facts known to me that alter or detract from opinions that I express in this statement of evidence. My evidence should be read in conjunction with the evidence of the other Ward witnesses, and I defer to the expertise were necessary and relevant of Peter Ward, (concrete recycling business and Ward's general business), Magdalena Dimitrova (financial impact on Ward from the Proposed Works) and Bryce Marx (project management).

SUMMARY OF FINDINGS

12. My evidence comments on the effects of the Proposed Works on Ward's demolition and concrete recycling business operations at its Miami Parade site, in terms of the broad environmental effects, and including presumably unintended knock-on effects to Auckland's regional economy. Ironically, while the East West Link Project is aimed at providing for growth, the rapid growth being experienced in the region would in my opinion be hindered by the Proposed Works causing Ward's operation to be ineffective. Accommodating growth in the region means demolition to enable construction of new infrastructure and buildings. This will be thwarted by Ward's need to find a new replacement site. This will affect regional growth prospects in terms of development and redevelopment of social and physical infrastructure and buildings, as well as Ward's viability.
13. Having been in the field of both the processing and preparing resource consents for over 40 years, due to the level of heavy transport and nuisance effects associated with concrete recycling, finding a new site and obtaining the necessary approvals could take a considerable amount of time. In fact, a timescale of years rather than months would

be realistic. Suitable sites within the city would be extremely hard to find, and it seems most likely that it would be outside the city, probably south of Pukekohe – adding to heavy truck movements on the motorway system and other more sensitive parts of the already congested road network. There are currently around 31,000 truckloads generated by Ward’s business per annum.

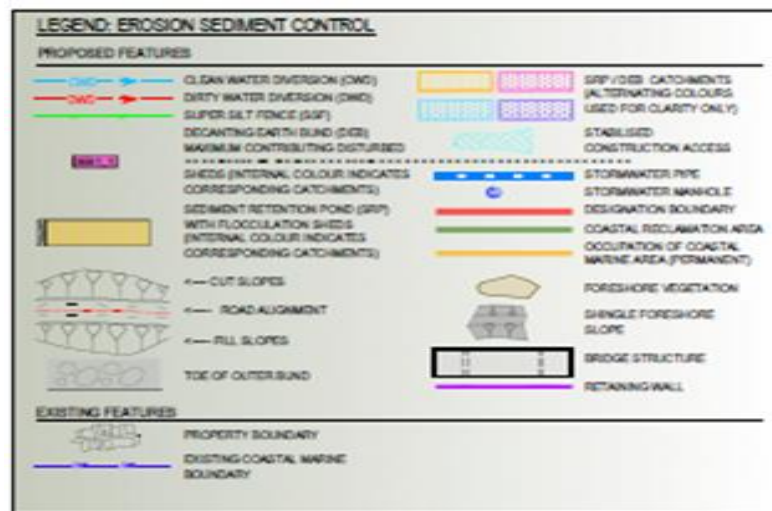
14. In my view and experience of planning matters, the Auckland region, particularly in regard to the central parts of it, have passed the “tipping point” whereby additional roading and transport infrastructure links can be provided at grade, or where there might be apparently soft option routes without regard to lower impact alternatives such as elevated structures or tunnelling (for example, Waterview and Victoria Park in Auckland). This is clearly evident from looking at the nearest neighbouring larger cities in Australia, such as Melbourne and Sydney, that have for these very reasons resorted to extensive tunnelling. This is by user pays, but I understand we already have this legislation available in New Zealand. See for example the Northern Gateway Toll Road. Tolling does not appear to have been considered either.

DESCRIPTION OF PROPOSAL

15. This will be well traversed by others and but very briefly in terms of the relatively “site specific” nature of my evidence, the Ward Demolition site would be encroached upon by part of the proposed four-lane connection for the new Link running from SH 20 to SH.1. This is shown in the figure below as it affects the Ward Demolition site.



Figure 1- Ward Demolition site and surrounds. Submitter's site marked red x



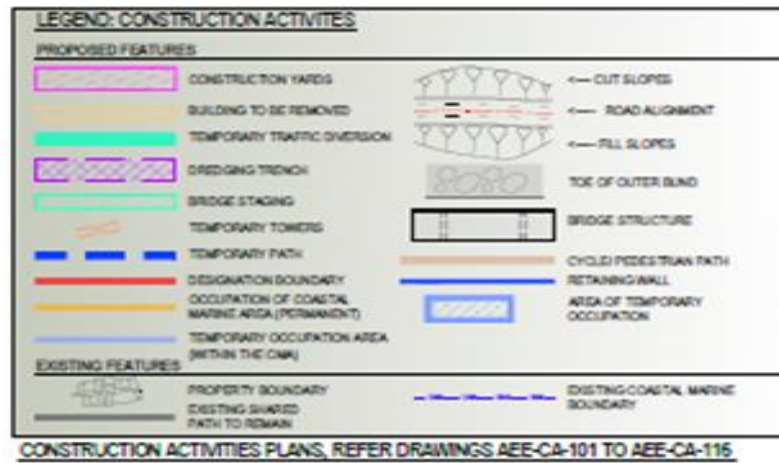


Figure 2 – Ward demolition site – affected land cross hatched.

SUBMITTER'S SITE

16. As shown in Figure 3 below, the site is zoned for “Heavy Industry” under the Auckland Unitary Plan (O in P version). The supply of land in this category in the region and particularly where it is centrally located is limited. The main locations where this category of industrial land can be found within the region are limited, as shown in Figure 4.

17. The site has an area of 12,935m². As can be seen, it is essentially a yard operation, and therefore it is difficult to contain noise and other nuisance effects.

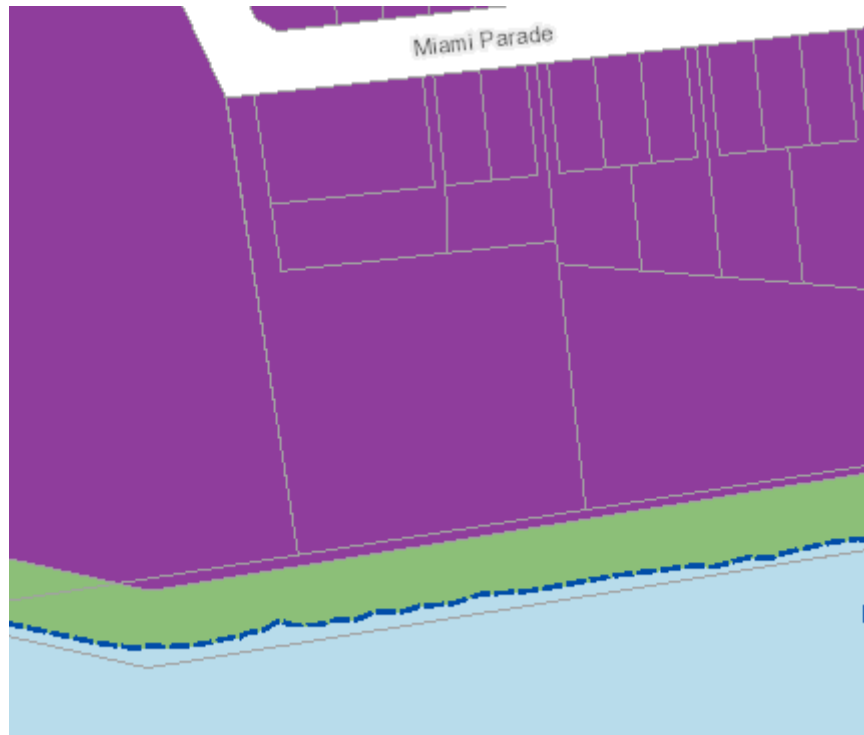


Figure 4 – AUP's – (O in P version) the site is zoned for Heavy Industry

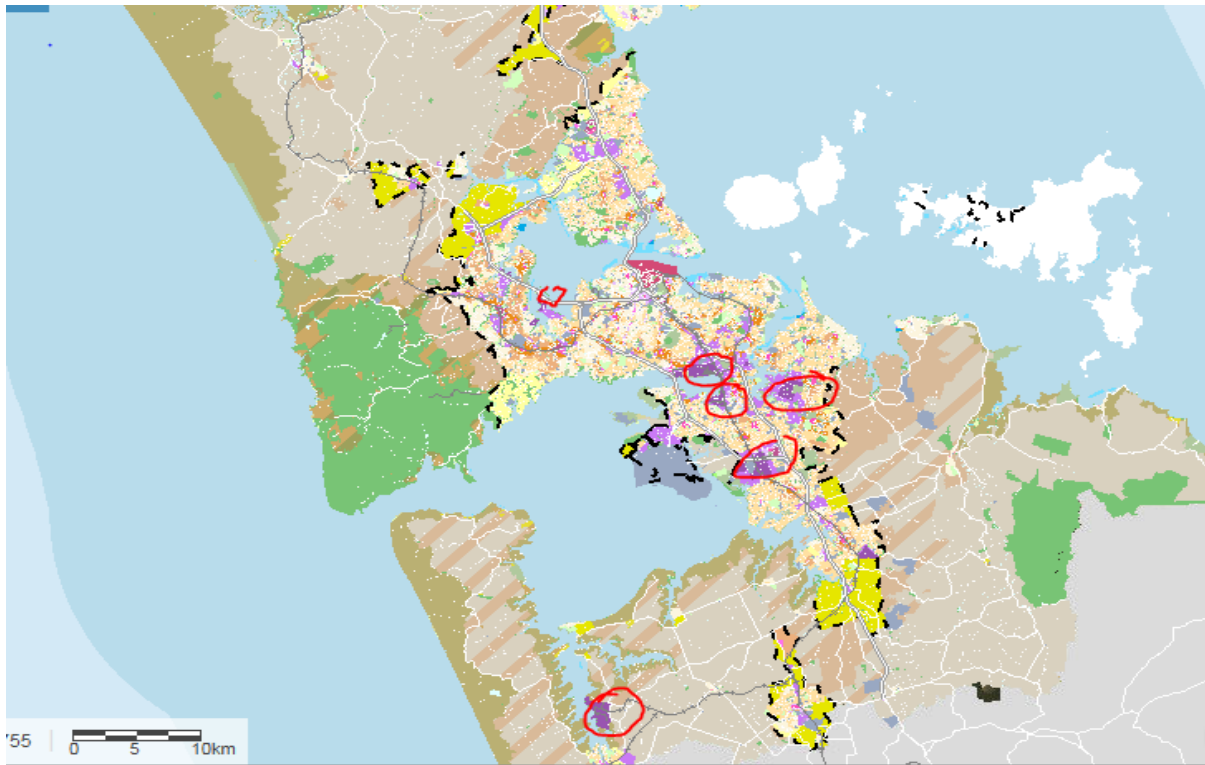


Figure 5- Main locations of land zoned Heavy Industry in the region, shown circled.

EVALUATION

Community and Business disruption

18. The Proposed Works are very large in scale, complex and have a seven-year duration (if there are no overruns). Even with comprehensive planning, works will be very disruptive in an old, intensively developed urban area already suffering considerable stress from traffic congestion. The area provides homes for many industrial businesses and is one of Auckland's largest areas of heavy industry. It will be highly disruptive to other non-industrial businesses in the area, including warehouses and yard activities. Inevitably, the Proposed Works would also have an adverse effect in terms of the economic and social and well-being of people and businesses in the area, particularly in terms of noise and traffic congestion.

Coastal Margin and Mangere Inlet

19. Mangere Inlet is already a fragile, shallow and degraded body of water with low biodiversity values, and severely affected by historic environmentally poor practices (although often not properly recognised as such at the time).
20. Past practices, include dumping of unsuitable material, reclamation and leaching of contaminants has already made inroads into the natural foreshore. Further reclamation with some environmental improvements is in my view a trade-off that, while well intended, falls short of being a satisfactory means of justification for the present scheme, given the contemporary state of environmental awareness and knowledge in 2017 and the close proximity of an already degraded estuary with a fragile ecology.
21. Some token partial rehabilitation of the coastline should not be based on a trade-off of some ecological environmentally beneficial “bolt on” improvements attached to a major piece of development by way of mitigation when the net effect will still remain adverse. Such rehabilitation should be done as a separate exercise, as part of improving the recreation and open space use of this coastline. The present proposal involves 800,000m³ of reclamation covering approximately 18.3ha. This is considered to perpetuate the lack of concern in the past, in regard to a coastline that has already been extensively modified with adverse consequences and few minor improvements (for example, a walkway).
22. The Proposed Works’ inclusion of a four lane highway will have adverse visual impacts that would not exist if a programme of rehabilitation and regeneration took place along the coastline without a four lane highway.
23. There is no compelling functional and operational need for a coastal location. Its major attraction appears to result from it being the easiest

(soft) option, in terms of much of it being unoccupied by major infrastructure and buildings, and much of it being in public ownership.

Option Analysis

24. For designations under the RMA, the requiring authority is obliged to analyse alternatives.
25. Section 171(1)(b) of the RMA states that, when considering a requirement, a territorial authority must consider the effects on the environment of allowing the requirement, having particular regard to:

Whether adequate consideration is being 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 significant adverse effect on the environment.
26. NOR-1 has been put forward as the preferred alternative following a narrowing down of 16 corridor options to a shortlist of six. It is difficult to see how a route along the coastline could reach the top of a selection list unless ease of implementation (ie can be expected to reduce land take negotiations and problems, land acquisition costs, and injurious affection claims) were given considerable weighting. While this may be a practical and expedient approach, there is a high environmental cost for a jurisdiction such as New Zealand (with its “green” credentials and a high priority on the environment). These values do not appear to accord with the selection of this route. A more appropriate method or alternative would be the extensive use of tunnels and or flyovers and the avoidance of important business sites and other more sensitive areas.
 27. It is considered in this regard that both statutory heads apply. First, the requiring authority does not have an interest in the land that is sufficient for undertaking the work; and second, there would be

significant further adverse effects. The final test therefore can be addressed: whether or not there has been adequate consideration of alternative sites, routes or methods of undertaking the work. I would contend that there has not been. The alternative of complete or partial tunnelling and/or flyovers does not seem to have been extensively explored; nor has the analysis of impact on important business sites along the preferred route. Should economics be an overriding concern, legislation already exists for private toll-way systems (eg the Northern Gateway Toll Road).

Whether work subject to the designation is reasonably necessary.

28. For designations, section 171(1)(c) mandates the requiring authority to consider the effects on the environment having particular regard to:

Whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought.

29. In broad terms, the objective of the requiring authority is to increase the capacity of roading between SH1 and SH20. While the roading capacity under the Proposed Works would undoubtedly be increased, there would be significant disruption to the community and businesses such as Ward. There would also be environmental effects, particularly in respect of Mangere Inlet and traffic movement in the area during the seven year construction period. The level of impact could be greatly reduced by the extensive use of tunnelling or flyovers. This does not appear to have been fully considered. Nor has there been any evident serious consideration of a dedicated railway link to Auckland Airport, or other forms of mass transport. Consequently, the designation (in its present form) can be said to be not reasonably necessary in terms of section 171(1)(c).

30. With regard to statutory matters, and the obvious business and community disruption, it is considered in particular that the proposal is contrary to Section 5 of the RMA, which sets out the purposes and principles of the Act. Section 5 identifies the purpose of the RMA as

the sustainable management of natural physical resources. This means managing the use of natural and physical resources in a way that enables people and communities to provide for their social cultural and economic well-being, while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment. The business and community disruption involved is disproportionate and not considered compatible with this.

31. I also consider that section 171(1)(d) applies – the authority must have regard to “any other matter considered reasonably necessary”.
32. In this regard, Ward’s business is relevant. It has considerable regional significance and plays an important role in accommodating the growth requirements of a region that is struggling to meet its housing and other social and physical infrastructural needs. “Brownfields” development means demolition must proceed before any redevelopment work that is required to accommodate the rapid population growth of the region can take place. Current statutory planning documents place an emphasis on brownfields development as the primary means of providing space for growth. In my view, Ward’s operation and other nearby similar businesses need to be considered and accommodated in respect to up-grading the road transport capacity in this area. This does not appear to have been considered.
33. In regard to those matters covered by resource consents, the overall status of the Proposed Works is that of a Non-Complying activity on a bundled basis. It is necessary to consider these, subject to Part 2 of the RMA, the matters set out in sections 104, 104B, 104D, 105 and 107, in particular the gateway test under section 104D(1)(a) or (b). Without attempting to assess the Proposed Works in terms a multitude of zones, in the site-specific context of Ward it is my view that in terms of the current zoning of the site (Heavy Industry), the Proposed Works would be contrary the objectives and policies associated with this

zone. The zone seeks to provide for and enable heavy industrial uses to be carried out. The Proposed Works, in terms of the resource consents required that go hand in hand with the Designation, would prevent this on the Ward site.

34. Hence I do not consider that section 104D(1)(a) is met as the proposal is inconsistent with the relevant objectives and policies. With regard to the other gateway test, section 104D(1) or (b), for reasons I have already covered in my evidence, I consider that there are adverse environmental effects associated with the proposal that are more than minor, and not least those on the necessary business of ensuring regional growth is provided for by enabling demolition and concrete recycling businesses to operate in an effective and efficient manner. Consequently, in my view there is no need to consider the associated resource consents further as they do not pass the gateway tests.
35. Even if this were not the case, I do not consider that the proposal would be consistent with section 5 that identifies the purpose of the RMA as the sustainable management of natural physical resources. This means managing the use of natural physical resources in a way that enables people and communities to provide for their social, cultural and economic well being while sustaining those resources for future generations, returning to the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.
36. This is because:
 - 36.1. without an effective demolition and concrete recycling businesses, the rapid growth in the region will be thwarted;
 - 36.2. recycling materials for reuse is going to be substantially set back impacting on sustaining resources for future generations; and

- 36.3. there will be adverse impacts on ecosystems and the adverse effects are not sufficiently mitigated .
37. With regard to section 6 of the RMA and matters of National Importance, I consider that the proposal would be contrary to:
- (a) the preservation of the natural character of the coastal environment (including the coastal marine area) wetlands, lakes and rivers and their margins, and the protection of them from inappropriate subdivision use and development.
 - (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers.
38. With regard to section 6(a), while it can be argued that the natural character has been modified already, this is not in my view justification to further adversely impact on the coastal margins. With regard to section 6(d), a four lane motorway will not enhance the public experience even if they do have access.
39. Section 7 covers other matters. In this regard I consider that the Proposed Works would be contrary to:
- (b) the efficient use and development of natural physical resources.
 - (c) the maintenance and enhancement of amenity values.
 - (f) maintenance and enhancement of the quality of the environment.
 - (g) any finite characteristics of natural and physical resources.
40. By way of explanation I have included (g) in the context of concrete recycling.

CONCLUSION

41. In my opinion the Proposed Works would have unacceptably high adverse environmental effects, both on the area along the route generally, and specifically on Ward's land and business, including the knock-on effects in terms putting a brake on demolition and concrete

recycling that is necessary in providing for rapid growth in the Auckland region. Further, the consideration of alternatives takes insufficient consideration of low impact methods, such as extensive use of tunnelling (and if funding is an issue, legislation exists for private tolling). Further, in my view the proposal does not pass the relevant statutory tests.

22 May 2017

A handwritten signature in blue ink, appearing to read 'D. Macpherson', with a long horizontal flourish extending to the right.

David John Macpherson