

Under the COVID-19 Recovery (Fast-track Consenting) Act 2020

Port Marlborough New Zealand Limited

Applicant

and

KiwiRail Holdings Limited

Applicant

and

Marlborough District Council

Applicant

**Memorandum of counsel responding to request for
information in relation to LP-14 Waitohi Picton Ferry
Precinct Redevelopment under COVID-19 Recovery (Fast-
track Consenting) Act 2020**

17 March 2021

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INTRODUCTION

1. On 3 March 2021, the Waitohi Picton Ferry Precinct Redevelopment Expert Consenting Panel (**Panel**) directed the Environmental Protection Authority (**EPA**) to request further information under clause 25 of Schedule 6 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (**CRA**), relating to the Waitohi Picton Ferry Precinct Redevelopment consent application (the **Project**).
2. The Project is a joint initiative between Port Marlborough New Zealand Limited (**PMNZ**) and KiwiRail Holdings Limited (**KiwiRail**) alongside the Marlborough District Council (**MDC**) and these parties (together, the **Applicants**) respond to the Panel's request for further information in Part 1 of this memorandum.
3. In addition to providing a response to the Panel's further information request, the Applicants also provide an updated condition set, which addresses the Panel's concerns on the conditions (detailed in the first (**RFI #1**) and third further information requests (**RFI #3**)). The updated condition set also incorporates conditions suggested by parties invited to comment on the applications where it was considered appropriate to do so, and any consequential changes resulting from responses to RFIs #2, #3 and #4.
4. In undertaking this exercise, some parties' comments on conditions were not accepted by the Applicants and the reasons for this are provided in Part 2 of this memorandum.
5. The Applicants note that where a condition is referenced in this memorandum, the Applicants are referring to the updated condition set provided to the Panel today, 17 March 2021.

PART 1: SPECIFIC INFORMATION REQUESTED

6. The focus of this further information request relates to the Project's effects on the three seabird species that are either threatened or declining: the Caspian Tern, torea tai and kororā. The Panel considers the field survey already undertaken should be supported by further

survey work, involving a year of field surveys before demolition and construction can commence.

Q1: Can the CMP and AMP be set up such that demolition and construction not commence for a year from the time of consent to accommodate such surveys?

7. The Applicants have confirmed at paragraphs [189]-[193] of RFI #1, in response to Specific Question 32, that it would be feasible to conduct a monthly bird survey for a year prior to commencement of works, subject to any accessibility or operational issues.
8. In relation to the nature of the monthly surveys, the Applicants note the following:
 - (a) The focus of the survey would be on two areas: Shakespeare Bay and the West Shore area.
 - (b) The monthly survey would involve short walk-throughs of each area over a couple of days to record species/note behaviours.
 - (c) To be useful for kororā, the survey would need a trained dog survey first, to locate all possible nests or roosts within the target areas, and then those sites would be revisited each month to see if they were occupied. It would be helpful to also check excluded nests and confirm whether the birds have returned.¹
9. A condition establishing this baseline survey has been included in the updated condition set at Condition PB2.4 and is set out below:

Avian Monthly Baseline Survey

- (a) Prior to the commencement of any demolition and construction related activities authorised by this consent, the consent holder shall commission a suitably qualified expert to undertake a monthly bird survey over the period of one year to record the presence of any

¹ PMNZ commissioned a kororā survey in November 2020 (using a trained dog) and this survey may be useful for this baseline for the monthly survey.

threatened or at-risk indigenous species within or within 100m of the project sites at Picton and Shakespeare Bay.

- (b) The bird survey must describe the survey method used and record the location, species and numbers present, and behaviour observed (e.g., foraging, roosting, or nesting/breeding). In particular, the survey must record the locations and number of nesting sites of any threatened or at risk indigenous species within or near to the project footprint, including any sites utilised at Shakespeare Bay.
- (c) The purpose of this year long bird survey is to inform the development and implementation of the Avian Management Plan in condition PB3.1.

Te Ātiawa shall be invited to identify a suitable person to take part in the survey to enable exercise of their kaitiakitanga role.

Q2: In the alternative, what would Dr Bramley and the applicants recommend could be undertaken safely in the vicinity of the terminal for the first year, so as not to harm the three species, impede on their nesting/breeding, and accommodate such a survey?

- 10. Given the Applicants confirm that demolition and construction activities can be delayed a year from the time of consent to accommodate such baseline survey, the Applicants consider no response to this question is required.

PART 2: RESPONSE TO PARTIES' COMMENTS ON CONDITIONS

- 11. This section responds to the following parties' comments on conditions, as well as other comments or questions contained in these parties' comments that were not addressed in any of the Applicants' other responses to the Panel's further information requests:
 - (a) MDC; and
 - (b) Te Ātiawa o Te Waka-a-Māui Trust (**Te Ātiawa**).
- 12. All other parties' comments have been addressed in:
 - (a) the Applicants' response to comments submitted on 5 March 2021 to the Panel;

- (b) RFI #1 submitted on 9 March 2021; or
- (c) the updated condition set submitted on 17 March 2021.

MDC

Operational Effects – Property Access

13. MDC suggested conditions at paragraph [32] of its comment in relation to property access as a result of the Dublin Street overbridge works. The Applicants have included a new condition² in the updated condition set accepting almost all of MDC's suggested conditions on this point.
14. Also at paragraph [32] of its comment, MDC proposed the following condition:

A minimum 6.0 metre wide heavy duty concrete vehicle crossing must be constructed from the kerb to the boundary of 49 Auckland Street in accordance with Council's Code of Practice for Subdivision and Land Development dated June 2008. If the new entranceway is not directly adjacent to an existing entranceway, there must be at least a separation distance of 7.5 metres between the centreline of the new vehicle crossing and the centreline of the successive vehicle crossing. Prior to the commencement of works, the consent holder must provide Council with confirmation obtained from Council's Roading Authority that the location, size, and construction details meet the required standards.
15. Instead of a 'minimum 6.0 metre wide' vehicle crossing, the Applicants have proposed a 'minimum 5.0 metre wide' at Condition PD2.2(c). The minimum 6.0 metre width sought by MDC is not achievable within the space available at 49 Auckland Street and the resource consent application specifically sought consent for this rule breach. The Applicants note that a total 8.5m width is achieved for the two immediately adjacent crossings of 49 and 61-65 Auckland Street with the Applicants' proposed 5.0m wide crossing; i.e. combined access will be 3.5m + 5.0m = 8.5m.

² See Condition PD4 Access standards.

Construction Effect – Picton School

16. MDC suggested a condition at paragraph [27] of its comment to address the issue of an increase in construction traffic going past Picton Primary School.
17. Transportation Engineer, Eliza Sutton, does not consider MDC's suggested condition is necessary or appropriate. The presence of Picton School and Picton Kindergarten is acknowledged and engagement with these facilities will be ongoing. It is important to have flexibility in construction traffic management at this stage in the Project. The Construction Traffic Management Plan is considered the more appropriate method to manage construction traffic in relation to Picton School.
18. Instead, the Applicants have included a more general condition to address MDC's concerns at Condition PA1.8(b) as follows:

Construction Traffic

The following shall be achieved through the implementation of section 7.1 of the CMP at condition PA2.5 and the Construction Traffic Management Plan (CTMP) at condition PA2.6:

[...]

- (b) Implementing appropriate traffic management measures to manage peak hour capacity on the road network for schools.

Operational Effects – Overflow parking

19. MDC considers the Applicants' recommended parking monitor surveys are not stringent enough and the Integrated Transport Assessment already loosely provides a parking strategy which would clearly be failing if the parking surveys exceeded 90%. MDC also notes that the survey does not cover on street overflow south along Auckland Street and beyond, which is likely to happen in periods of high demand. MDC have therefore suggested amended conditions in relation to monitoring usage of carparking spaces at the terminal at paragraphs [42]-[45] of its comment.

20. The amendments proposed by MDC seeking further monitoring obligations are not accepted by the Applicants. Ms Sutton considers the monitoring conditions proposed by the Applicants are adequate, and MDC's suggested wording is unnecessarily onerous.
21. The Applicants consider that the monitoring requirements provided for in the condition set at Condition PB2.3 already exceed what can reasonably be expected or is required, particularly given the recent policy direction in the National Policy Statement on Urban Development 2020 (**NPS-UD**).
22. The NPS-UD car parking policies have the effect of removing minimum car parking rate requirements from the district plans.³ The NPS-UD seeks to shift the provision of car parking from minimum car parking requirements to a market-based approach to enable more housing and commercial developments, particularly in high density areas. Developers may still choose to provide car parking in many areas, but the number of car parks will be driven by market demand.⁴
23. In addition, PMNZ manages its various car parks on an ongoing basis as part of its usual business operations.

Review Condition

24. MDC consider given the nature and complexity of the Project, and the fast-tracking process, that the conditions may need to be changed more regularly, particularly as the designs have not yet been finalised. MDC proposes at paragraph [47] of its comment the following condition:

In accordance with section 128 of the Resource Management Act 1991, the Marlborough District Council may review the conditions of this consent for the purpose of ensuring unforeseen adverse effects are avoided, remedied or mitigated. Such a review can be undertaken after the designs have been

³ Policy 11 and Clause 3.38 NPS-UD.

⁴ Ministry for the Environment and Ministry of Housing and Urban Development 2020 - *Recommendations and decisions report on the National Policy Statement on Urban Development* at 63-64 and Ministry for the Environment *National Policy Statement on Urban Development 2020 – car parking fact sheet* (July 2020) at 1.

finalised, and six monthly thereafter with notice of review for such purposes may be given between 1 February to 30 July for the duration of the consent.

25. The Applicants' consider a six monthly review unnecessarily onerous and an annual review as proposed in the Applicants updated condition set at Condition PA3 is sufficient and in line with usual practice. As stated at paragraph [24] above, one of MDC's reasons for the suggested amendment is that the conditions may need to be changed more regularly, particularly as the designs have not yet been finalised. However, MDC's amended condition refers to the review of conditions being undertaken after the designs have been finalised and six monthly thereafter.
26. The Applicants note that in the Te Ara Tupua - Ngā Ūranga ki Pito—one - Shared Path Decision of the Expert Consenting Panel, the review condition at GC.6A provides that the relevant Councils may review the conditions of the relevant resource consents every third year following the commencement of construction works.
27. Providing for an annual review of the conditions is considered to be sufficient for this Project because the management plans certification and review processes will provide the ability to make changes to construction methodology to ensure the effects of the construction works are appropriately managed.

Additional conditions

28. At paragraph [51] of MDC's comment, MDC proposes the following conditions, noting these are standard conditions on Marlborough subdivision resource consents:
 - New road carriageways must be constructed to at least the standard as indicated in Council's Code of Practice for Subdivision and Land Development, dated 26 June 2008. The carriageways must be two coat sealed (or some other surface approved by Council) to a minimum driveable width, which has been confirmed by Council's Roading Authority.
 - Any new road(s) must have kerb and channelling installed on both sides for their full length.

- A 1.4 metre wide concrete footpath must be constructed on both side of any new road(s).
- The carriageway of any new road must be designed to act as a stormwater secondary overflow path.
- LED lighting with totally underground reticulation must be installed in any new road. Prior to the commencement of works, the consent holder must check with Council's Roothing Authority that the proposed lighting plan meets the necessary standards. Following installation, the consent holder must obtain confirmation from Council's Roothing Authority that the lighting meets the necessary standards, and provide a copy of that confirmation to Council.
- The berm areas of any new roads must be top soiled and grassed to Council's satisfaction.
- All road signs, road markings, and road name signs must comply with the Waka Kotahi New Zealand Transport Agency Traffic Control Devices Manual (dated December 2008). Following construction and at the design phase, the consent holder must consult and obtain written confirmation from Council's Roothing Authority that all road markings or signs required by them have been installed correctly to meet these standards. The consent holder must provide a copy of this confirmation to Council.
- An appropriately experienced chartered professional engineer must design, supervise the construction, and upon completion certify the roads. The formation of the roads is to comply with Council's Code of Practice for Subdivision and Land Development dated 26 June 2008.
- Prior to installing any pipe or passing water through any pipe the Consent Holder must consult and come to an agreement with Assets and Services Department of Marlborough District Council in regards to the adequate access required to maintain, operate, and replace the pipe and associated structure which lies beneath any altered road.

29. The Applicants' consider that these conditions are not necessary on the basis that the Project is not a subdivision and there are no new public roads being created as a result of the Project. The Applicants note that an outline plan of works (**OPW**) has been submitted to MDC for Project works within the parts of the site which comprise the MDC roading designation. This OPW covered the roading changes for the Project. This OPW was submitted and approved as appropriate under the Resource Management Act 1991.

30. Whilst the Applicants consider that the conditions detailed at paragraph [28] above are unnecessary, the standard advice notes on MDC's resource consents outlined at paragraph [52] of its comment, which are considered relevant to the Project, have been added at Condition PA1.2. These include:
- (a) A Corridor Access Request (CAR) must be lodged with Council's Roading Authority prior to any works within road reserve, including the installation of services and vehicle entranceways.
 - (b) The proposal that is the subject of this permit/consent involves the installation of pipelines and/or infrastructure within the road reserve/public land. Before any work commences a licence to occupy this land must be obtained. Please contact APL Property, Blenheim, for further information.

Contaminated Land Management

31. The Applicants note that some of questions that were raised in MDC's comment have not been directly responded to in the Applicants responses to the Panel's further information requests.
32. MDC has noted at paragraph [57] of its comment that:
- On concept design plan 5MB987C-WSP-01-22-DR-C-1032 (Appendix CA Part 1 (1of 4) – Construction Laydown Areas Waitohi Reserve – Where is the proposed storage area for topsoil which is being stripped from the reserve?
33. The Applicants note that at this stage the exact details where the proposed storage area for topsoil is to be located is unknown, and will be confirmed at a later stage when details are finalised.
34. MDC has also noted at [58] of its comment that:
- On concept design plan 5MB987C-WSP-01-ZZ-DR-C-1031 (Appendix CA Part 1 (1of 4) – spoil storage and lay-down /spoil storage areas identified – are these permanent storage areas? i.e. disposal areas or just temporary? And are these for all soil – cleanfill and non-cleanfill?

35. The Applicants have stated at paragraph [95] of the response to RFI #1, in response to Specific Question 6, that dredge spoil may be temporarily stored and dried at the “The Farm” or the “Cleanfill Site” if the main Port site (as a first option) or log yard (as a second option) are not available due to space constraints.
36. The other lay-down/spoil storage areas identified in WSP Plan C-1031 Rev. H (Appendix CA Part 1 (1of 4) (which was updated to identify the spoil sites and attached as Appendix 1 to RFI #1) will be used for the duration of the construction of the Project. Both soil/spoil and dredge spoil which is classified cleanfill and non-cleanfill will be stored at these soil/spoil storage areas.
37. MDC has also queried at paragraph [60] of its comment whether stockpiles of potential contaminated soil will be stored directly on the ground surface or isolated, and if directly on the ground surface whether testing be undertaken once the pile has been removed to ensure ground contamination has not occurred.
38. As noted at paragraph [101] of RFI#1, in response to Specific Question 8, the Applicants confirm that dredge spoil (that may be contaminated) will be placed within geotextile containers. This is confirmed in Condition PB2.6(h) as follows:

Dredge Spoil Management

The following shall be achieved through the implementation of the Dredging Management Plan at condition PB3.4.

[...]

(h) For drying of dredge spoil, all dredge spoil shall be:

- (i) placed in geotextile bags or an alternative method agreed with MDC that are designed to contain all sediment; and
- (ii) the dredge spoil drying containment site shall include:
 - stormwater catchment ponds/bunding with impermeable lining (the impermeable lining may either be part of the

geotextile bag or part of the alternative method) to enable the collection of all liquid from the dredge spoil; and

- silt fences around the down slope side of stormwater catchment pond/bund;

39. The Applicants also refer to paragraph [57] below, which provides more detail on how the management of dredge spoil is adequately addressed in the Applicants' updated condition set.

Waitohi Reserve

40. MDC requests at paragraph [63] of its comment that Condition 1.10 Waitohi Reserve include the addition of management requirements for the site for the period post completion of construction works, and grass cover establishes sufficiently to prevent erosion and dust/off site sediment movement.

41. The Applicants consider this has been adequately addressed at Condition PA1.10(b), which provides that the consent holder shall reinstate any grassed areas in the Waitohi Reserve and monitor and maintain the grass for two growing seasons, or as agreed with MDC. However, the following underlined wording has been added to further address MDC's comment:

Waitohi Reserve

[...]

- (b) Within the next growing season after the completion of construction works, the consent holder shall reinstate any grassed areas in the Waitohi Reserve which were disturbed by the installation and use of the Project construction laydown areas, as depicted in the WSP Plan C-1032 Rev. F and continue to monitor and maintain the grass and retain the silt fencing to manage sediment runoff for two growing seasons after the completion of the construction works to prevent erosion and dust/off site sediment movement.

Landscaping

42. MDC notes in its comment at paragraph [68] that the following matters should be taken into account for the final design of the Dublin Street overbridge:

- The proposed wall gardens should be removed due to the difficulty and expense of maintenance.
- A bollard should be considered at the northern end of Market Street to secure the domain from unauthorised vehicle access.
- Informational and directional signage is needed.
- Lighting is required under and around the overbridge.
- An anti-graffiti coating on the bridge graphic is required.

43. As stated in the Summary of Applications submitted with the application, the Project is made up of three resource consents and two OPWs, which are to be submitted to MDC for the project works within the parts of the site which comprise the KiwiRail designation and MDC roading designation. The figure below illustrates the applications and how they fit together as a comprehensive consenting package:⁵

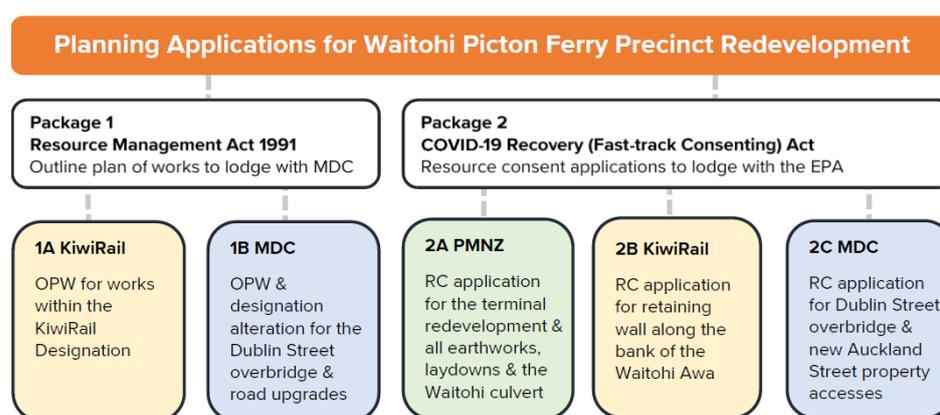


Figure 1: Waitohi Picton Ferry Precinct Redevelopment Consenting Packages

44. The land use components of the proposed overbridge are addressed in OPW 1B (the outline plan of works for the overbridge within the MDC roading designation in the proposed Marlborough Environment Plan). This has been submitted to and approved by MDC. Regional resource

⁵ Summary of Applications at 1.

consent is also required as the overbridge crosses over the Waitohi Awa (Application 2C). Therefore, the Applicants consider that these landscaping matters do not need to be detailed in the condition set as landscaping was addressed in OPW 1B.

45. Further, Condition PD2.1 provides for the detailed design of the Dublin Street Overbridge. This notes that the consent holder shall provide the Compliance Manager – Marlborough District Council with the architectural design details for the exterior structure of the Dublin Street overbridge and the pedestrian walkway under the overbridge.

Te Ātiawa

Design elements

46. Te Ātiawa noted in their comment at paragraph [5.1] that they expect design elements and developments within the site to be based on enhancing the āhuatanga, including the health of te taiao. This includes:
- (a) The use of local sustainably grown timber, natural kōhatu (stone), and green walls and roof. These building materials, which are locally sourced and culturally significant to Te Ātiawa, as Mana Whenua, should be explored in the design process.
 - (b) Use of recessive colours that favour views of both landscape and seascape.
 - (c) Idiosyncratic features:
 - (i) Features that speak of/to the Treaty Partnership - Māori and the Crown
 - (ii) Features that speak of/to the local community - Te Ātiawa (opportunities for obvious cultural expression) and the balance of the Waitohi community
 - (iii) Features that speak of/to both Te Waipounamu and Marlborough. This facility is both a gateway and a point of departure.

- (d) Water, energy and material resources are conserved, remediated and re-used.
 - (e) In terms of manaaki, community wellbeing and resilience is enhanced.
 - (f) Climate Change implications of developments are considered.
 - (g) Daylighting, restoration and planting of waterways.
 - (h) Rainwater collection systems, grey-water recycling systems and passive solar design opportunities are explored in the design process.
47. Whilst the Applicants' appreciate the suggestions put forward by Te Ātiawa above at paragraph [46], these design elements are unable to be committed to by the Applicants at this early stage of the Project.
48. The Applicants have worked closely with Te Ātiawa in the development of the Project resource consent applications, including in developing the proposed condition sets submitted with the applications.⁶ Whilst design elements cannot be committed to at this stage of the Project, the Applicants' appreciate the importance of Te Ātiawa being involved in the design phase of the Project. This has been recognised at Condition PB2.1, where the consent holder shall convene a Design Forum, which shall include a representative nominated by Te Ātiawa. The purpose of the Design Forum is to provide specific recommendations to the consent holder on the final design elements of the Waitohi Picton Ferry Precinct, including landscaping, Māori cultural expression and the terminal building's external materials and finish.
49. The Design Forum will provide the appropriate opportunity to discuss Te Ātiawa's design element expectations.
50. The Applicants also note that the terminal building and landscaped zone of the terminal precinct are to be 5 star rated using the New

⁶ As noted in the Assessment of Environmental Effects for Package 2A Port Marlborough New Zealand Limited, section 6.2: A number of hui have been held to date with Te Ātiawa, and a group has been formed within the various parts of Te Ātiawa (Te Rōpū Manaaki) to engage with the project partners.

Zealand Green Building Council's (NZGBC) Green Star Design and As Built V1.0 tool. This is to support KiwiRail's and Port Marlborough's focus on sustainability for the precinct redevelopment and therefore many of the suggestions in paragraph [46] above will be considered in order to meet this 5 star rating.⁷

Design Forum Representatives

51. Te Ātiawa seeks that both places on the Design Forum to be filled by Te Ātiawa mandated representatives, as they are the only iwi with mana whenua in Waitohi.
52. The Applicants prefer not to limit iwi representatives to Te Ātiawa as other Te Tau Ihu Iwi also have indicated interests in the Project area.
53. The preferred approach is to ensure at least one of the iwi representatives is from Te Ātiawa, in recognition of the significance of the area to Te Ātiawa. This is provided for in PB2.1, which notes that the Design Forum shall include up to two iwi representatives, including at least one nominated by Te Ātiawa.

Dredging

54. At paragraph [5.3] of their comment, Te Ātiawa sought further information around expectations of volumes and frequency of ongoing dredging. Additionally, Te Ātiawa noted that it should be considered how spoil can be disposed of without progressively increasing the area impacted near the dredging site, in line with best practice.
55. The maximum volume for the dredging to be assessed is 70,000m³.
56. As discussed at paragraph [95] of RFI #1, in response to Specific Question 6, the Applicants intend to store all dredge spoil material within the main Port site (within Picton Harbour) as a first option. Storing the spoil within the Port site in Picton Harbour avoids the need to transport this material to another site. However additional sites have

⁷ Assessment of Environmental Effects for Package 2A Port Marlborough New Zealand Limited, at section 4.2.1.

been identified to store and de-water/dry dredge spoil depending on the final timetable for the dredging activities and the quantities involved.

57. The Applicants understand that careful management of the dredge spoil is required. Dredge spoil management is addressed at Condition PB2.6, which notes that, among other things, the following will be achieved through the implementation of the Dredging Management Plan (**DMP**):

Dredge Spoil Management

The following shall be achieved through the implementation of the Dredging Management Plan at condition PB3.4.

[...]

- (f) Containment sites and processing areas for dredged spoil shall be managed so as not to result in stormwater discharges that are greater than the pre- development stormwater discharge volume. (Note conditions PB2.6(i) – PB2.6(l) below manage discharges quality from dredge spoil drying);
- (g) The consent holder shall take the following steps to avoid spillage of dredged sediment transported to the containment sites:
 - (i) Inspections of the site area, including entry and exit points of the containment sites, to identify whether spillages have occurred. Inspections should occur twice per day during transfer of dredged sediment; and
 - (ii) Prompt removal of any identified spillage and transport to a containment site; and
- (h) For drying of dredge spoil, all dredge spoil shall be:
 - (i) placed in geotextile bags or an alternative method agreed with MDC that are designed to contain all sediment; and
 - (ii) the dredge spoil drying containment site shall include:
 - stormwater catchment ponds/bunding with impermeable lining (the impermeable lining may either be part of the geotextile bag or part of the

alternative method) to enable the collection of all liquid from the dredge spoil; and

- silt fences around the down slope side of stormwater catchment pond/bund.

58. Condition PB3.3 provides that a CMAPMP will set out the methodology for the dredging activity and will describe key mitigation measures to be employed as appropriate to manage the effects of the dredging activity. Dredge spoil management and reuse will be managed via the Dredging Management Plan at condition PB3.4. Therefore, the Applicants consider Te Ātiawa's concerns around appropriate management of dredging has been adequately addressed in the updated condition set.

Freshwater Ecologist – Fish Passage

59. In their comment, Te Ātiawa seeks involvement from an appropriately qualified freshwater ecologist to ensure adequate fish passage through Waitohi Stream.
60. As noted in paragraphs [149]-[150] of RFI #1, only minor instream works will be required in the Waitohi Awa to allow construction machinery access for the retaining wall construction. While these works will involve temporary diversion of water, the diversion will allow full, normal, non-flood flow to continue down a temporary narrower riverbed, ensuring there will always be a water flow for fish passage.⁸
61. In addition, the Applicants consider that the updated condition set adequately ensures fish passage through Waitohi Awa (including the culvert) without the need for a freshwater ecologist.
62. Condition PC2.1(a) requires that the consent holder shall ensure that, during works in the Waitohi Awa, the flow of water past the works is sufficient to maintain fish passage in accordance with the applicable National Institute of Water and Atmospheric Research New Zealand Fish Passage Guidelines April 2018 (**Fish Passage Guidelines**), unless otherwise agreed with MDC. Additional fish passage conditions

⁸ Assessment of Environmental Effects for Package 2B KiwiRail Holdings Limited, section 8.8.

regarding the Waitohi Culvert are at Condition PA1.5. The Erosion Sediment Control and Stormwater Management Plan (**ESCSMP**) will include the methodologies to be implemented to provide appropriate fish passage during works in the Waitohi Awa to ensure compliance with the Fish Passage Guidelines, as required by Condition PA2.9.1(c)(iii).



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Counsel for Port Marlborough New Zealand Limited, KiwiRail Limited and Marlborough District Council

Dated 17 March 2021