CONFERENCE PAPER

LAND USE DEVELOPMENT THROUGH RESOURCE CONSENTS AND THE ROLE OF AUCKLAND TRANSPORT

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ABSTRACT

The amalgamation of Auckland’s territorial authorities and regional council in 2010 created Auckland Council and Auckland Transport (a Council-Controlled Organisation). This brought all transport functions and operations for the city with a population of approximately 1.5 million, under one organisation. However, the creation of an arms–length entity to achieve this also presents challenges in terms of Auckland Transport’s role in assessing land use development applications, as the latter is a Council–led process.

This paper discusses the role of Auckland Transport in land use planning and transport integration, specifically in terms of the resource consent process.

With Council’s transport arm becoming an arms–length entity, Auckland Transport was prompted to adopt a collaborative approach in working with Auckland Council to assess development applications. The two organisations established a Service Level Agreement (SLA) to achieve this. Besides the legislative requirement, the SLA allows Auckland Transport to be attentively involved in the various stages of the consent assessment.

Case studies illustrate that a collaborative approach with Auckland Council generally achieves desired outcomes in terms of minimising traffic impact of private developments. Furthermore, Auckland Transport potentially plays a catalytic role in aligning land use planning and transport outcomes that communities seek through non–statutory documents, and what the planning framework allows for through resource consents.

Overall, collaboratively working on resource consents benefits both Auckland Council and Auckland Transport and, ultimately, the public that both organisations serve.
1.0 INTRODUCTION

The amalgamation of Auckland’s seven territorial authorities and regional council in 2010 created Auckland Council and Auckland Transport (a Council-Controlled Organisation mandated by central government). This brought all transport functions and operations for the city of approximately 1.5 million, under one organisation. Regional entities with various responsibilities for transport governance did exist prior to the amalgamation, although the governance of Auckland’s transport system as a whole was still fragmented over multiple agencies.

However, the region’s transport body being at an arms’ length to its parent organisation also presents challenges in terms of Auckland Transport’s role in assessing land use development applications, as the latter is an Auckland Council–led process.

This paper discusses the role of Auckland Transport in land use planning and transport integration, specifically in terms of the resource consent process. The paper:

- Briefly examines major pre–amalgamation issues identified with respect to transport (as relevant to the topic of this paper);
- Discusses Council’s transport input into consents pre–amalgamation, and the collaborative approach eventually adopted by Auckland Transport;
- Presents case studies of where the collaborative approach was adopted successfully;
- Discusses themes common to case studies.

2.0 PRE–AMALGAMATION ISSUES

The Royal Commission on Auckland Governance (“the Commission”) was established by the Government in October 2007 to respond to growing concerns about the workability of local government arrangements in Auckland. The objectives of the Commission’s inquiry, as set out in its terms of reference, were:

“We receive representations on, inquire into, investigate, and report on the local government arrangements (including institutions, mechanisms, and processes) that are required in the Auckland region over the foreseeable future in order to maximise, in a cost effective manner,–
(a) the current and future well-being of the region and its communities; and
(b) the region’s contribution to wider national objectives and outcomes”

Issues related to fragmented regional governance and associated inefficiencies appeared to be the overarching theme in the findings of the Commission.

The majority of the submissions made to the Commission in relation to transport in particular, highlighted issues with transport governance. Fragmented decision making was identified by all submitters and one of the Commission’s transport consultants, Barry Mein, as the primary deficiency of the present system. A common complaint was that there were too many disparate organisations involved in transport decisions in the Auckland region.

For instance, the Auckland Regional Council prepared the Regional Land Transport Strategy but had neither the ability to refer to individual activities or their prioritisation, nor the statutory authority to require other parties (i.e. territorial authorities) to comply with this strategy. In practice this meant that there could be conflicting regional and local objectives when it came to transport decisions. Figure 1 illustrates the complex nature of transport governance in Auckland pre–amalgamation.
From a land use development perspective, in particular, the complex governance structure above would have been exacerbating issues accompanied by a complex planning system. The Commission observed that a number of factors contributed to this complexity: “a large number of key decision makers who exercise resource management powers, the overlaps in jurisdiction, the number of plans and rules, and the number of resource consents that are often required to authorise development of land, buildings, business and infrastructure.”

The two parallel complexities would have contributed to another deficiency identified by the Commission i.e. the lack of linkage between roading and land use decisions. This referred more to the difficulties in co-ordinating the timing of new transport infrastructure with land use developments, due to the mixed responsibilities for transport provision and land use planning (Mein, 2008). In some cases, territorial authorities were found to have been unable promote planning changes to introduce land use intensification necessary to support public transport investment. For instance, for Dominion Road the Auckland Regional Transport Authority was reluctant to commit funds to develop a 24–hour bus lane unless Auckland City Council was prepared to introduce more intensive zoning provision alongside the corridor (Mein, 2008).

Funding arrangements for different transport modes was separated from the responsibility to manage these assets. This was also identified as an issue, as it constrained the ability of decision makers to take an integrated view and potentially led to suboptimal outcomes. Other issues identified were the lack of consistent regional approach towards the management of arterial roads; and the lack of clear organisational mandate to take all of the actions necessary to implement a particular transport policy including prioritisation of projects (Royal Commission on Auckland Governance, 2009).
The Commission’s findings highlighted two observations in particular, based on lessons learnt from overseas: a) governance structures appear to be more successful where decision makers are obliged to represent the interests of the metropolitan area as a whole and b) the more successful overseas models have the mandate to both develop and implement strategic plans (Mein, 2008). To resolve issues identified above, the Commission recommended that ‘a new Regional Transport Authority (‘RTA’) should be established as a council–controlled organisation with responsibility for the planning, development and management of arterial roads and all public transport infrastructure service planning and procurement’. In response to the Commission’s findings, the Cabinet authorised a governance framework in which the RTA would be responsible for the planning and delivery of local roading and public transport. The new Auckland Council would set council transport funding and be responsible for the development of the Auckland Regional Land Transport Strategy (Cabinet Office, 2009).

The Local Government (Auckland Council) Amendment Act 2010 (“LGA Amendment”) established Auckland Transport in November 2010. While remaining a Council–Controlled Organisation (CCO1), Section 46 of this amendment afforded Auckland Transport powers and functions of a road controlling authority thereby making it a separate statutory entity. Auckland Transport’s first Statement of Intent (SOI) was released in July 2011. The SOI sets out its strategic approach and priorities for the following three years and how they contribute to the longer–term outcomes that Auckland Council seeks to achieve through the Auckland Plan. It is essential that Auckland Transport’s SOI give effect to the Auckland Plan, which is the leading strategic document setting the vision for the region’s growth and development till 2040 (Auckland Transport, 2012).

3.0 RESOURCE CONSENT INPUT AND AUCKLAND TRANSPORT

3.1 Process in Place

Any land use development, unless permitted by the District Plan, requires resource consent. Resource consent is granted under the Resource Management Act (RMA) if a council deems the adverse effects of the development proposal to be ‘minor’ or ‘less than minor’. In the case of adverse effects being ‘more than minor’, consent can still be granted if appropriate measures to remedy or mitigate the effects are also proposed and accepted.

In general it was found that, prior to amalgamation, the consenting arm of territorial authorities utilised their transport arm largely in an ‘expert’ role. Depending on individual structures within the former territorial authorities, the transport arm of a council was therefore directly involved in assessing land use development proposals, and consequently had the ability to influence the final outcome2.

With the establishment of Auckland Transport as a separate statutory entity, coupled with the of Auckland Council’s consenting arm that incorporated its own traffic engineering experts, there was an increased risk of ‘silo’ decision–making as Auckland Transport would now have limited ability to review land use development proposals lodged with Council’s consenting arm. This would have led to pre–amalgamation issues identified (e.g. lack of linkage between roading and land use decisions, and the constrained ability of decision–makers to take an integrated view), to remain (if not exacerbated) post–amalgamation.

1 A CCO is a company or organization in which a local authority controls 50% or more of the votes, or has a right to appoint 50% or more of the directors or trustees.

2 As possible within the constraints of the RMA process.
As a result, a Service Level Agreement (SLA) was set up to formalise the relationship between Auckland Council and Auckland Transport, so that the latter had the ability to review resource consents. The overall intention was to ensure that development proposals are complementary to any aspirations that Auckland Transport have for the road reserve, and vice versa. In essence this SLA:

- Established key goals for customer service. These required both organisations to ensure that services are delivered such that consents can be processed within statutory time-frames while providing a seamless customer experience;
- Set relationship protocols wherein Auckland Council and Auckland Transport would ensure alignment all relevant issues prior to these being conveyed to the applicant. This includes a requirement on Auckland Transport to take a consistent approach throughout the consent process (subject to any material change in circumstances);
- Set the triggers for a resource consent application to be referred to Auckland Transport by Auckland Council. These triggers generally relate to trip generation, scale of development and modification of the road reserve;
- Defined the stages of the consent processes that would be included in the review by Auckland Transport; and
- Established the interface between Auckland Council and Auckland Transport to implement the SLA. The Principal Consent Specialist at Auckland Transport was considered the primary agent of executing the SLA.

The implementation of the SLA is examined by way of two case studies where Auckland Transport provided input into resource consents via the above mechanism.

### 3.2 Case Study A: Shopping Mall Re-Development

#### Background

An existing shopping mall of approximately 30,000m$^2$ was proposed to be re-developed to include an additional 18,000m$^2$ of gross floor area (GFA). The development was within:

- A ‘metropolitan centre’ as identified in the Auckland Plan;
- Close proximity to a public transport hub, where recent investments had been in made in upgrading rail and bus infrastructure;
- A larger area subject to a Plan Change, the purpose of which was to enable high-density residential development to support public transport investments;
- A larger area subject to an Urban Plan (a non-statutory document); and
- A frontage on to a major regional arterial road, capacity on which was planned to reduce in the off-peak period to enable a town centre environment to be established.

The original proposal included a number of aspects that conflicted with aspirations for the network. With reference to Figure 2, the key concerns were:

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3 A metropolitan centre is considered a growth node meant to serve a sub-regional catchment. A key characteristic of a metropolitan centre is dense development to support the adjacent public transport corridor. Eight metropolitan centres are proposed in Auckland.
1. Capacity of the arterial was proposed to be increased solely to provide for traffic for the development, when further east Auckland Transport had invested in transforming the arterial corridor to create a town centre environment.

2. The inclusion of a dedicated left turn lane into the site from the arterial road entrance, at the expense of the public footpath. This footpath was proposed to be moved into the site and be subject to easements.

3. The location of an alternative entrance too close to another intersection, which would preclude any meaningful upgrade to the entrance (e.g. signalised with pedestrian phases on all approaches) should the site be developed at a later stage.

4. Ramps leading directly into the bars/restaurants and away from the footpath were situated within the road reserve.

5. Dominant building façade, existing narrow footpath and limited road reserve contributed to a poor pedestrian environment.

6. Poor pedestrian connectivity within the site, from the signals and consequently, to the secondary exit of the nearby railway station.

7. Strategically, the additional land use ‘faced away’ from the focal point of the town centre and at an increasing distance from the transport hub.

Analysis

Auckland Transport was engaged in discussions with the developer through Auckland Council’s official pre-application process. Council engaged its independent traffic engineer to
provide input on the proposal, with Auckland Transport being represented by its Principal Consent Specialist and any other specialists considered appropriate.

The resource consent application was made under the framework developed for Plan Change 17. Agreed site objectives between Auckland Transport and the developer during the Plan Change stage therefore permeated through to feedback given at the resource consent stage. Here it is observed that the benefits of amalgamating transport governance under a single regional authority were realised to an extent, as ‘high-level’ network objectives sought in the Plan Change translated into tangible design outcomes once specific development proposals were lodged.

The keen observer would note that while points 1-4 above related to the road reserve i.e. area directly under the jurisdiction of Auckland Transport, the other key issues were more to do with the design of the site itself. This raised the question of which issues were considered within Auckland Transport’s remit as a road-controlling authority. It was observed that while roads primarily provide an access and movement functions, their place function, especially within town centre environments, cannot be overlooked. In this case therefore, Auckland Transport’s remit was reasonably expanded to include commentary on urban design issues and strategic land use issues as relevant to the place function of their network.

A number of physical modifications were proposed to the road reserve. This also highlighted the potentially conflicting role that Auckland Transport plays in terms of asset-owner versus that of an expert considering the effects of the development from an RMA perspective. For instance, the installation of signals may be required to effectively manage traffic impact from the development. According to the RMA the effects may be deemed ‘minor’ and therefore the consent application may not warrant notification under the planning framework. However, Auckland Transport requires consultation from the neighbours on all physical modifications to the road reserve. The feedback from the consultation may result in modification of the development proposal versus that which has been consented. This creates the potential for conflict, and frustration for all parties involved i.e. the developer (in terms of delays), the neighbouring properties consulted (for not being party to proceedings earlier), and Council and Auckland Transport (for being perceived unresponsive to stakeholder and community views and associated political ramifications).

The opportunity for engaging early with the applicant in conjunction with Council in the consent process, therefore provided a clear direction on stages to be achieved subsequent to the consent being received (such as approval of detailed design plans, approvals for any road encroachments etc). Furthermore, it is noted that Auckland Transport had invested in the town centre upgrade further east of the site but had no developed designs for the section fronting the site. Consequently, the communication process set in motion by the SLA also became a catalyst for realising network objectives in the vicinity of the site. Ultimately, key concerns identified in points 1-6 were resolved to Auckland Transport’s satisfaction. Point 7 was disregarded, as it was acknowledged that strategic land use aspirations for the area were not part of the statutory obligations under Plan Change 17, but only desirable / foreseen under the Urban Plan. The latter is not a statutory document and therefore not considered to have any ‘weight’ in the consent process. It is noteworthy that, Auckland Transport’s investment in the public transport infrastructure and arterial upgrades in the vicinity of the site were based on the vision of the Urban Plan. With the proposed re-development (the most significant landmark in the larger area), not required to give heed to the Urban Plan, it is seen how there can be a disconnect between the vision that communities set through non–statutory documents and what the planning frameworks allow through resource consents. This is discussed further in Section 4.
3.3 Case Study B: Supermarket

Background

An existing vacant site was proposed to be developed to include a new purpose-built building for a supermarket and five retail units with a gross floor area of approximately 3,500 m². In order to accommodate the proposed land use activity, especially with visitor parking and goods deliveries, the road frontage required some upgrades and modifications. As illustrated in Figure 3, these include:

1. Relocation of a pedestrian refuge on the frontage road;
2. Introduction of new parking controls;
3. Widening of the footpath to 3 m, of which 1 m was within road reserve; and
4. Realignment of existing bus stop and associated relocation of the bus shelter.

![Figure 3: Proposed changes to road reserve due to supermarket development](image)

Analysis

Similar to Case Study A, the Principal Consent Specialist as the point of contact for Auckland Transport was engaged in discussions with the developer via Auckland Council’s consenting processes – from the pre-application and concept design inputs through to the detailed design stage. Following limited notification by the Council to affected parties and the participation of the Principal Consent Specialist in a resource consent hearing, the consent was granted with the conditions on the road network upgrades. From there, the detailed design of the development, including the road upgrade in question was submitted to the Council for an Engineering Plan Approval (EPA).

Even though the EPA process is led by Auckland Council’s Development Engineering team, the proposed changes within the road reserve are to be reviewed and commented by Auckland Transport. This is enabled by the SLA. At the same time, any road network modifications, incorporating traffic and parking control changes, require the changes to be formally resolved by delegated authority. This is called the resolution process. These requirements under the Land Transport Management Act 2003 are within Auckland Transport’s jurisdiction.
This case in particular highlighted how the physical implementation of an approved resource consent plan requires approval by both Auckland Council and Auckland Transport in apparently parallel processes. Depending on how the processes are managed, they could result in conflicting or complementary outcomes.

It was recommended for the EPA process (for the changes to the assets in the road reserve) and the resolution process (for the parking and traffic restrictions) to be undertaken simultaneously. With Auckland Transport’s review of the EPA application (a Council-led process) being enabled via the SLA, the Principal Consent Specialist could identify any discrepancies between the two parallel plans. Additionally, Auckland Transport is required to consult publicly whenever physical changes to the network are proposed. Feedback from the consultation as part of the resolution process could result in improvements to the EPA design, thereby avoiding multiple iterations to plans as a result of two agencies being involved in approving the same aspect of physical works.

Of note here and in the previous case study is that, ownership of consent-related process within Auckland Transport is held with the role of Principal Consent Specialist. Due to the visibility of the consent process that the SLA allows, this results in Auckland Transport being actively engaged in the consent process from concept stage to physical implementation thus ensuring that agreed objectives at the concept stage are not lost due to constraints that may become apparent at the detailed design stage.

4.0 DISCUSSION

The examples presented above are instances of Auckland Transport successfully collaborating with Auckland Council and the developer, to ensure that development proposals are complementary to wider network objectives, and vice versa. Furthermore, Auckland Transport’s input into the development proposal was holistic as there was a clear mandate to incorporate any high-level objectives envisioned for the area into tangible design solutions during the resource consent stage. Factors common in successful collaboration are discussed below.

Given that Auckland Transport is not a democratically elected organisation, its greater involvement in the consent process can be questioned. Theoretically, an arms–length entity could result in a less publicly accountable and more technocratic approach to decision–making in land use development. Observations made in case studies with respect to this issue are also discussed .

4.1 Factors in Successful Collaboration

Factors in success of the above case studies, in individual case studies and common to both, are considered below.

1. Established process and early engagement

Both case studies highlighted the advantages of having a formal and established process (via the SLA) in place to obtain Auckland Transport’s input. From the developer’s point of view, cohesive transport planning and traffic engineering input, especially early in the consent process, had a material impact on the design of the development. Early identification of unacceptable design elements and/or agreement on key principles instil confidence in not only the developer (as the financial investor), but also the consenting arm of Auckland Council as it essentially prevents cases where conditions imposed may
not be acceptable to Auckland Transport⁴, thereby resulting in a non-implementable development.

It is also noted that ambiguity exists in the area of whether Auckland Transport can be referred to in conditions for mitigating effects of the development. In such a case too, engaging early ensures that key concerns are addressed in a manner that any conditions subsequently imposed on the development are not fundamental to the degree that effects are managed solely through the conditions (rather than the design of the site).

2. Single point of contact and decision making

Following from the above, the ‘established process’ referred to in point 1 relates not just to the SLA and the process of consultation between Auckland Council and Auckland Transport, but also how Auckland Transport manages this process internally.

The SLA clearly identifies the Principal Consent Specialist at Auckland Transport as the leader of the process, and the representative of the organisation on consent–related matters. Responsibility for review, commentary and decision–making is therefore clearly communicated to internal and external parties.

Figure 4 illustrates how the Principal Consent Specialist is involved in each of the resource consent process stages. Processes in the dotted blue box are led by Auckland Transport, and those in the plain green box are led by Auckland Council. The diagram illustrates how Auckland Transport ensures consistency in the input provided into land use development proposals. This not only results in the Principal Consent Specialist being able to review the resource consent proposal from inception to execution, but as highlighted in Case Study A also, any previous high–level objectives set at the Plan Change stage also easily translate into the design of individual sites. In addition, this also presents the opportunity for Auckland Transport to consider complementary measures that may be required to ensure the optimum outcome for the road user. Ultimately therefore, the established process delivers value to both internal (Auckland Council) and external (developer, all road users) stakeholders.

3. Clear understanding and demarcation of roles

Case Study A highlighted the importance of clarifying the role of Auckland Transport, and especially the scope of its input, in the Council–led resource consent process. In both case studies, engagement was required as the proposals modified the road reserve which Auckland Transport managed. However, there was no clarity on the degree to which changes to the design within the site can be influenced by Auckland Transport. In Case Study A it was noted that the question was whether the design of the site results in any traffic impact on the network, or undermines any of the network objectives to be achieved, including the role of surrounding roads in placemaking of a larger area. The answer to this question would determine the scope of Auckland Transport’s commentary.

4. Perception of fairness

All discussions between Auckland Council, Auckland Transport and the developer had traffic engineers present for all parties. While this may be perceived as an additional cost by many developers, it also introduces a degree of fairness in the proceedings. Any

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⁴ i.e. not acceptable to Auckland Transport in its capacity as asset manager where the development proposal modified their assets.
perception of bias that each of the parties has would be removed if there is unanimous agreement or disagreement on certain issues.

It is noted that the latter perception of fairness can only be cemented if the aforementioned themes of early engagement, clear lines of communication and decision-making and clear understanding and demarcation of roles have also been apparent in the consent process (and the implementation of the SLA). In other words, cases where the first three themes have not been present, have resulted in less than optimal outcome for all parties involved. Therefore to consistently achieve desired outcomes on a regional basis, the implementation of all the success factors outlined above will be required.

4.2 Public Accountability in Auckland Transport's role in Resource Consents

Not being a democratically elected organisation could raise questions about Auckland Transport’s greater involvement in the consent process. Observations made in case studies with respect to this issue are also discussed.
Both case studies highlight the important role a road has in the place function of an area. Consequently Auckland Transport, as the road–controlling authority, also plays a large role in achieving this function. While this may raise the question of why a separate CCO should undertake such a central role in the placemaking of communities, this would essentially question the Ministerial recommendation of establishing a regional transport authority (RTA) as a CCO.

Prior to amalgamation the Minister had considered options that integrated transport function within Auckland Council, versus that which established a separate transport CCO. The former option was considered to provide comparative simplicity, integration, and the direct accountability offered by an elected council. But ultimately preference was given to the focus, continuity (in investment and operational decisions), wider pool of expertise and reduced political interference that an RTA, or arms–length entity, would result in (Office of the Minister of Transport [OMT], 2009).

Also, Auckland Transport through its SOI, not only sets out its plan to achieve Auckland Council’s vision in the Auckland Plan, but also protocols for engaging with local boards. Engagement protocols with local boards especially refer to the sharing of decision–making in ‘place–shaping’ (Auckland Transport, 2012). Indeed, the Ministerial recommendation authorising the creation of a separate RTA in Auckland also extended to authorising the transport function of local boards. This function includes acting in an advisory capacity to Auckland Council and Auckland Transport [then an RTA], and funding place–shaping transport improvements (OMT, 2009).

Case Study A showed how Auckland Transport had implemented physical works so that a town centre environment could be realised in the area, as per the vision of Auckland Council (and its predecessor) and the Local Boards. However, this investment as per non–statutory documents risked being undermined by private development through the resource consent process which did not give any weight to such documents. It is therefore observed that while a CCO and an arms–length entity may be perceived as less publicly accountable and given to technocratic decision–making, Auckland Transport playing a catalytic role in aligning integrated transport / land use outcomes sought by the elected body as a result of a) the collaboration that it is required to undertake with its parent organisation, b) the veto–power that Section 46 of the LGA affords it with respect to management of the road reserve, and c) its involvement in the consent process through the SLA.

Conversely, both case studies highlighted how, without the SLA, the consent process does not adequately allow Auckland Transport to assert its asset–owner role where it ultimately has to approve changes to the road reserve. This is because both cases covered development proposals that would require changes to the road reserve and therefore engage in seemingly parallel processes to approve the detailed design of the development.

Notwithstanding all of the above, it is clear that the involvement of Auckland Transport in the consent process via the SLA results in more informed decision–making. This benefits both Auckland Council and Auckland Transport and ultimately, the public that these organisations serve.

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5 At the time of writing, the changes envisaged in the forthcoming Unitary Plan that would replace the legacy District Plans have not been reviewed. It is expected however, that this statutory document would give weight to the vision set out in the Auckland Plan, thereby better aligning land use and transport planning in the region.
5.0 CONCLUSION

Experience to date shows that adopting a collaborative approach with Auckland Council in the realm of resource consents through a Service Level Agreement (SLA) generally achieves desired outcomes for Auckland Transport. These outcomes predominantly relate to not only minimising adverse traffic impacts of private developments, but also realising high-level transport planning objectives through the resource consent process.

Factors common to successful collaboration include: a) having an established process that allows Auckland Transport to be involved and engage early with all relevant parties, b) clarifying lines of communication and decision-making, c) clear understanding and demarcation of the roles of Auckland Council and Auckland Transport and d) creating a decision-making environment that is perceived to be fair.

It has been further observed that Auckland Transport potentially plays a catalytic role in aligning land use planning and transport outcomes that communities seek through non-statutory documents, and what the planning framework allows for through resource consents, as a result of a) its responsibilities towards Auckland Council as a CCO, b) its statutory status through the LGA Amendment and c) its involvement in the consent process through the SLA.

The purpose of this paper has not been to advocate a greater role for Auckland Transport in the assessment of resource consents, which is a Council-led process, but to simply discuss the role that it has played in this area since its inception. Observations made in the case studies and through the discussions above, do highlight the benefit that collaboratively working on resource consents provides to both Auckland Council and Auckland Transport and, ultimately, the public that both organisations serve.

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