

Before the Panel Convener

under: the Fast-track Approvals Act 2024 (FTAA)

in the matter of: applications for resource consents, notices of requirement, wildlife approvals and archaeological authorities by the New Zealand Transport Agency Waka Kotahi to develop a section of a road (being SH1) and associated infrastructure between Te Hana and State Highway 15 (Port Marsden Highway).

applicant: **NZ Transport Agency**

Requiring Authority and Applicant

Memorandum of counsel on behalf of the NZ Transport Agency
Waka Kotahi

Dated: 26 June 2026

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**MEMORANDUM OF COUNSEL ON BEHALF OF NEW ZEALAND
TRANSPORT AGENCY WAKA KOTAHI**

- 1 This memorandum is filed on behalf of the NZ Transport Agency Waka Kotahi (*NZTA*) in relation to the Brynderwyn Hills section of the Alternative to the Brynderwyn Hills project (*Project*). It responds to the Department of Conservation's (*DOC*) 19 June 2026 memorandum in response to the Panel Convener's Minute 3 (*DOC's Memorandum*).

NZTA's approach to DOC's comments

- 2 NZTA has carefully considered DOC's Memorandum and the concerns raised. NZTA considers there will be adequate opportunity for the concerns outlined by DOC to be addressed by NZTA and considered by the Panel through the FTAA statutory process (including requests for information, comments, responses to comments, expert engagement, etc). As such, and in the interests of avoiding procedural complexity, NZTA will not be providing a response to DOC's Memorandum at this stage in the process (with the exception of the minor points of clarification noted below).
- 3 NZTA will respond to DOC's concerns as required through the formal FTAA process and will also continue its ongoing engagement with DOC to seek to resolve these issues directly between the parties where possible.

Points of clarification

- 4 NZTA wishes to provide clarification on two limited aspects of DOC's Memorandum, as it considers clarification may assist the Panel Convener and the Panel:

NZTA's position on Freshwater Fisheries Approvals

- 4.1 As outlined in its Application,¹ NZTA has chosen, based on the expert assessments undertaken, not to apply for a Complex Freshwater Fisheries Approval (*CFFA*) at this stage of the Project. NZTA does not currently consider a CFFA is required.
- 4.2 The current culvert/diversion design is indicative only and will not be confirmed until the detailed design phase of the Project. If, at that stage, approvals under the Freshwater Fisheries Regulations are needed, NZTA will of course apply for those approvals at that time, with the benefit of detailed design.
- 4.3 The decisions as to which approvals NZTA seeks as part of the FTAA process, and which are deferred to a later stage pending detailed design, are a matter for NZTA to determine as the applicant.

¹ Substantive Application, Appendix A: FTAA Substantive Application Form, pages 13, 15, 18, 22, 74 and 75.

NZTA is not seeking a Wildlife Approval for bats

- 4.4 As outlined in the Application,² NZTA has not sought an approval under the Wildlife Act in relation to bats.

Dated 26 June 2026



Paula Brosnahan / Rebecca Tompkins
Counsel for the NZ Transport Agency Waka Kotahi

² Volume A, at A6.3.