

Before the Panel Convener

under: the Fast-track Approvals Act 2024

in the matter of: applications for resource consents and archaeological authorities and notices of requirement by the New Zealand Transport Agency Waka Kotahi to develop a rapid transit link and associated infrastructure and connections between Brigham Creek and Auckland City centre, alongside State Highway 16, known as 'North West Rapid Transit'

applicant: **New Zealand Transport Agency Waka Kotahi**
Requiring Authority and Applicant

Memorandum of counsel on behalf of the New Zealand Transport Agency Waka Kotahi

Dated: 9 April 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 New Zealand Transport Agency Waka Kotahi (*NZTA*) in relation to its substantive application for resource consents, archaeological authorities and notices of requirement (*NORs*) (collectively, the *Application*) for the North West Rapid Transit project (*Project*). The purpose of this memorandum is to provide procedural suggestions to assist the Panel in its consideration of the Project. It draws on NZTA's fast-track consenting experience under both the Natural and Built Environment Act 2023 and the Fast-track Approvals Act 2024 (*FTAA*), having obtained approvals for the Cambridge to Piarere and Takitimu Northern Link projects under those Acts.
- 2 This memorandum addresses:
 - 2.1 The Panel's overview conference;
 - 2.2 The Panel's site visit;
 - 2.3 Identification of landowners and occupiers to be invited to comment;
 - 2.4 The timing of requests for information (*RFIs*);
 - 2.5 Engagement with Auckland Council (*Council*);
 - 2.6 Expert conferencing (if any);
 - 2.7 Mediation (if any); and
 - 2.8 Closing legal submissions and comments on the draft decision and conditions.
- 3 A table setting out NZTA's proposed process and timing is included as **Appendix 1** to this memorandum.

PANEL OVERVIEW CONFERENCE

- 4 The Panel Convener's Minute 3 recommended that NZTA "*make arrangements for an Expert Panel briefing session ... ideally ... to be undertaken prior to the invitation to comment being issued*".¹
- 5 NZTA strongly supports such a briefing session (referred to as a 'panel overview conference' in the Conveners' Practice and Procedure

¹ Panel Convener Minute 3, paragraph 12.

Guidance) being scheduled. We understand the purpose of the briefing session will be to familiarise the Panel with:²

- (a) the content of the application for approvals;
- (b) the content and structure of proposed conditions;
- (c) the key points of evidence (technical reports, assessments and other information) provided in support of the application;
- (d) proposed site visit details;
- (e) relevant legal tests and legal issues in contention; and
- (f) other relevant procedural matters.

- 6 Matters (d) and (f) are addressed in this memorandum. NZTA intends to address matters (a) – (c) and (e) at the briefing session, subject to any Panel directions as to what would best assist it.
- 7 Based on our previous experience, we suggest that two hours is allocated for the briefing session. We will liaise with the EPA’s Application Lead regarding the date/time and location for the panel overview conference.

SITE VISIT

- 8 Minute 3 also recommended that NZTA “*make arrangements for an Expert Panel ... site visit, ideally ... to be undertaken prior to the invitation to comment being issued*”.³
- 9 NZTA will provide a map and list of locations that it recommends the Panel visit to the EPA’s Application Lead. All of these locations are publicly accessible. Project Team members are also available to accompany the Panel (if desired) in order to assist with orientation. We will liaise with the EPA’s Application Lead regarding arrangements for the Panel’s site visit.

IDENTIFICATION OF LANDOWNERS AND OCCUPIERS TO BE INVITED TO COMMENT

- 10 One point of potential administrative complexity for this Project is the number of persons that need to be invited to comment on the Project. As the Panel will appreciate, it is critical that all persons that

² Panel Conveners’ Practice and Procedure Guidance (22 July 2025), paragraph 13.11.

³ Panel Convener Minute 3, paragraph 12.

are required to be invited to comment are identified and receive the invite to comment.

- 11 Part 6 of the Application identifies 419 properties directly affected by the Proposed Designation and 771 more adjacent properties. To identify adjacent properties, NZTA was guided by:
 - 11.1 The EPA guidance document "Identifying adjacent land"⁴; and
 - 11.2 The *Bledisloe North Wharf and Fergusson North Berth Extension (Port of Auckland)* decision, in which the Panel determined that land separated from the project area by an arterial road was not, in the circumstances, adjacent land.⁵
- 12 Council's response to the EPA during the completeness check process identified a number of additional properties, largely as a result of subdivision processes. NZTA has since identified a small number of further properties that it considers should also be included (listed in **Appendix 2**).
- 13 NZTA has contacted the EPA's Application Lead to offer its assistance to ensure all owners and occupiers of the land to which the application relates, and adjacent land, are identified and invited to comment.

RFIs AND COMMENT PROCESSES

- 14 NZTA appreciates the Panel will need to ask and receive responses to RFIs in a timely manner, and NZTA is happy to receive and respond to RFIs from the Panel as required throughout the Application process.
- 15 However, NZTA wishes to ensure the RFI process is procedurally efficient for all involved, and results in a reasonable number of comprehensive responses that best assist the Panel in its consideration of the Application.
- 16 NZTA therefore seeks to avoid a situation where RFIs and comments/responses to comments 'cross over' one another. This situation could result in multiple and potentially repetitive responses to the same or similar points raised by both the Panel and commenters, which the Panel and commenters will then have to navigate. Such a cross-over is also likely to result in more RFIs than would otherwise be the case, as the Panel may need to issue further RFIs following up on matters raised in the comments. Some RFIs and responses may also ultimately become redundant or

⁴ https://www.epa.govt.nz/assets/Uploads/Documents/Fast-track-consenting/FTC_GUIDANCE_MATERIAL_Identifying_Adjacent_Land.pdf

⁵ Decision of the Expert Panel, *Bledisloe North Wharf and Fergusson North Berth Extension (Port of Auckland)* at [75] - [77].

unnecessary as they will be answered by NZTA's responses to comments.

- 17 In the interests of procedural efficiency and clarity for all involved, and to ensure its responses to RFIs are as comprehensive and as helpful as possible for the Panel, NZTA asks that:
- 17.1 RFIs not be asked during the comments period, except for on confined / limited matters (e.g. matters of factual clarification); and
- 17.2 RFIs not be asked during the response to comments period.
- 18 This approach will mean the Panel will be able to consider comments and NZTA's responses to those comments collectively, and then issue RFIs informed by and with the benefit of those comments and responses.
- 19 NZTA therefore respectfully requests that the Panel does not issue RFIs during the s53 comments and s55 response to comments periods, except as outlined in paragraph 17.1.

ENGAGEMENT WITH AUCKLAND COUNCIL

- 20 The Panel Convener's Minute 3 also recommended that "*the Applicant continue its constructive engagement with Auckland Council to identify or narrow issues in contention and confer on conditions*".⁶
- 21 NZTA has established fortnightly meetings with the Council's regulatory team to ensure that engagement continues throughout the consenting process. At this stage, there are some fundamental differences between NZTA and Council, and we do not expect further engagement to resolve all of those matters. While NZTA will endeavour to work with Council to identify and narrow issues, we expect there will be matters of difference for the Panel to consider and ultimately make a decision as to what position it prefers.

EXPERT CONFERENCING

- 22 If the Panel is minded to direct expert conferencing, NZTA respectfully requests that any conferencing:
- 22.1 Be scheduled in the (approximately two-week) period immediately after responses to comments, while the Panel is considering comments and responses and whether further RFIs are required. The Panel could then consider joint witness statements at the same time as any responses to further RFIs. This scheduling would allow time for the Panel to consider

⁶ Panel Convener Minute 3, paragraph 12.

those statements and RFI responses, and issue another round of RFIs prior to releasing its draft decision, should the Panel wish to do so. See the indicative process and timing suggestions included in **Appendix 1**;

- 22.2 Have a clear, agreed agenda prepared by the participants in advance of the conferencing;
 - 22.3 Involve the appropriate expert participants only (i.e. objective and independent experts) with clear parameters as to their areas of expertise and agenda items of relevance;
 - 22.4 Include a requirement for participants to prepare and lodge a 'will say' statement in advance of the conferencing (unless expert evidence / statement has already been lodged);
 - 22.5 Include a requirement for joint witness statements to be signed during the conferencing by the participants. The joint witness statements should clearly set out the points of agreement and points of disagreement, and reasons, in order to assist the Panel in its decision-making role; and
 - 22.6 Have an independent third-party facilitator.
- 23 NZTA considers the above requirements will ensure an efficient expert conferencing process and increase the likelihood of providing a clear conferencing outcome of most benefit to the Panel.

MEDIATION

- 24 NZTA is open to the Panel directing mediation if it considers it would assist the process.
- 25 In the event the Panel directs a mediation, NZTA respectfully requests that the Panel does not combine expert conferencing and any mediation. NZTA's experience is that sessions that attempt to combine these different purposes result in inefficiency and confusion around outcome, process, and party attendance.
- 26 NZTA also requests that any mediation:
 - 26.1 Be scheduled after any joint witness statements and responses to further RFIs are available;
 - 26.2 Have a clear, agreed agenda prepared in advance of the session, by the participants;
 - 26.3 Be attended by the parties' representatives (including because cost is a fundamental component to be considered before any conditions could be agreed), their legal counsel and planning experts only; and

26.4 Have an independent third-party facilitator.

- 27 NZTA considers the above requirements will ensure an efficient mediation and increase the likelihood of providing clear outcomes that benefit the Panel.

CLOSING LEGAL SUBMISSIONS AND COMMENTS ON DRAFT DECISION AND CONDITIONS

- 28 To assist the Panel, NZTA intends to provide closing legal submissions to the Panel prior to the release of its draft decision and conditions under s70 (assuming the Panel is minded to grant the approvals).
- 29 NZTA wishes to provide its closing submissions at the appropriate time so as to best inform the Panel's decision-making and draft conditions. To this end, NZTA would welcome any indication of timing of the Panel's draft decision and draft conditions, when the Panel is in a position to do so.

CONCLUSION

- 30 NZTA wishes to extend its thanks to the Panel for the opportunity to provide suggestions as to the processing of the Application, and looks forward to receiving the Panel's directions in due course.

Dated 9 April 2026



Paula Brosnahan / Nicola de Wit
Counsel for New Zealand Transport Agency Waka Kotahi

APPENDIX 1 – SUGGESTED PROCESS AND TIMING

Date	Process step
13 April	Panel commences work
TBC but before 28 April	Project overview conference Site visit
13 – 28 April	Panel considering application First tranche of RFIs asked and responded to - limited in nature so as not to cut across comments/response process Panel considering responses to first tranche of RFIs
28 April	Panel invites comments
28 April – 25 May	Comments period Second tranche of RFIs asked (limited in nature and not related to potential matters for comment) and responded to.
26 May	Comments close
27 May – 3 June	Applicant response to comments period No RFIs during this period
3 June	Applicant response to comments provided
3 June – 17 June	Panel considers comments and response to comments Third tranche of RFIs Expert conferencing and joint witness statement(s) (if required) Mediation (if required)
17 June – 1 July	Fourth tranche RFIs asked and responded to
TBC – 1 July	Closing legal submissions lodged
TBC – 15 July	Draft decision and conditions released
TBC – 15 July – 29 July	Panel seeks and receives comments from Minister for Māori Crown Relations: Te Arawhiti and Minister for Māori Development (comments due 10 working days after invitation)

TBC – 24 July	Participant comments on conditions provided
TBC – 31 July	NZTA response to participant comments on conditions provided (due five working days after participant comments on conditions due) NZTA response to Ministers comments (if any)
6 August	Panel final decision released

APPENDIX 2 – LIST OF ADDITIONAL PROPERTIES IDENTIFIED

Address	Title	Owner name	Owner postal address
232A Triangle Road			
2/252 Triangle Road			
256A Triangle Road			
1/39 Huruhuru Road			
2/39 Huruhuru Road			
39 Huruhuru Road			
37 Huruhuru Road			
1/302 Triangle Road			
1/1038 Great North Road			
3/1038 Great North Road			
1/47 Ivanhoe Road			
1/49 Ivanhoe Road			
1/77 Ivanhoe Road			
2/77 Ivanhoe Road			

Adjacent properties

Address	Legal Description	Name of Owner	Owner postal address (if different to 'address' and known)
313 Te Atatu Road			
1032 Great North Road			
1046 Great North Road			

Address	Legal Description	Name of Owner	Owner postal address (if different to 'address' and known)
1054 Great North Road			
1/1058 Great North Road			
1062 Great North Road			
1066 Great North Road			
1090 Great North Road			
1090B Great North Road			
1086 Great North Road			
1102I Great North Road			
1102J Great North Road			
1130 Great North Road			
1104 Great North Road			
1170 Great North Road			
1172 Great North Road			
16 Marewa Street			
365 Triangle Road			
359 Triangle Road			
332 Triangle Road			
312 Triangle Road			
308 Triangle Road			
10 Kasia Close			
58 Makora Road			

Address	Legal Description	Name of Owner	Owner postal address (if different to 'address' and known)
141 Royal Road			
139 Royal Road			
13 Berridge Ave			
15 Berridge Ave			
10 Berridge Ave			
10 Niger Street			
11 Keppell Street			
21 Kirk Street			
139 Royal Road			
11 Alwyn Avenue			
11A Alwyn Avenue			
15 Alwyn Avenue			
1/7 Alwyn Avenue			
19 Alwyn Avenue			
3 Alwyn Avenue			
1221 Great North Road			
139 Fred Taylor Drive			