

Before the Expert Panel

under: the Fast-track Approvals Act 2024

in the matter of: an application for resource consents, approvals and a notice of requirement to alter a designation, to construct a four-lane, median divided highway to replace existing State Highway 2 corridor between Te Puna and Ōmokoroa, known as 'Takitimu North Link - Stage 2'

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: 7 November 2025

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MEMORANDUM OF COUNSEL ON BEHALF OF NEW ZEALAND TRANSPORT AGENCY

- 1 This memorandum is filed on behalf of the New Zealand Transport Agency Waka Kotahi (NZTA) in relation to NZTA's application for resource consents, approvals and notice of requirement to alter a designation (together, the *Application*) to replace existing State Highway 2 corridor between Te Puna and Ōmokoroa, known as 'Takitimu North Link - Stage 2' (the *Project*).
 - 2 The purpose of this memorandum is to provide procedural suggestions to assist the Panel in its consideration of the Application. Specifically, this memorandum sets out NZTA's preferred approach on the process and timing for:
 - 2.1 Requests for information (*RFIs*) and comments;
 - 2.2 Expert conferencing (if required); and
 - 2.3 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 an **Appendix** to this memorandum.
- RFIs and comments process**
- 4 NZTA appreciates the Panel will need to ask and receive responses to RFIs in a timely manner, and is happy to receive and respond to RFIs from the Panel as required throughout the Application process.
 - 5 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.
 - 6 NZTA therefore seeks to avoid a situation where RFIs and 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. It 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 unnecessary as they will be answered by responses to comments.
 - 7 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 considers that:
 - 7.1 RFIs should not be asked during the comments period, except for on confined / limited matters (e.g., matters of factual clarification); and

7.2 RFIs should not be asked during the response to comments period.

- 8 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.
- 9 NZTA therefore respectfully requests that the Panel do not issue RFIs during the s53 comments and s55 response to comments periods, except as outlined in paragraph 7.1.

Expert conferencing

- 10 As noted in the Application and acknowledged in the various memoranda filed by the relevant parties prior to the Panel Convener Conference, NZTA has engaged extensively with the relevant administering agencies, councils and hapū in relation to the Project. As a result, NZTA's understanding is that the remaining areas of disagreement are discrete.
- 11 NZTA understands the main area of expert disagreement on the Project relates to ecological mitigation of Project effects on wetlands and streams, and quantum of mitigation required. These areas of disagreement have already been the subject of various discussions between the relevant experts (on behalf of NZTA, the Department of Conservation and Bay of Plenty Regional Council). Different positions between the respective experts remain, however NZTA considers these are differences of technical opinion which are unlikely to be resolved by any formal / Panel-directed process. As such, we submit they are merely matters of differing expert opinion for the Panel to consider and ultimately make a decision on as to what position it prefers.
- 12 That said, if the Panel are minded to direct expert conferencing (on these matters or others) NZTA respectfully requests that any conferencing:
 - 12.1 Be scheduled in the (approximately 2 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 would allow time for the Panel to consider those statements and RFI responses, and issue one more 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 the **Appendix**.
 - 12.2 Have a clear, agreed agenda prepared in advance of the conferencing, by the participants.

- 12.3 Involve the appropriate expert participants (i.e., objective and independent experts) with clear parameters as to their areas of expertise and agenda items of relevance.
- 12.4 Include a requirement for participants to prepare and lodge a 'will say' statement in advance of the conferencing.
- 12.5 Include a requirement for joint witness statements to be signed during the conferencing, by the participants.
- 12.6 Have an independent third-party facilitator.
- 13 NZTA considers the above requirements will ensure an efficient conferencing process and increase the likelihood of providing a clear conferencing outcome of most benefit to the Panel.

Closing legal submissions and comments on draft decision and conditions

- 14 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 Application).
- 15 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

- 16 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 next directions in due course.

Dated 7 November 2025



Rebecca Tompkins / Alice Hall
Counsel for New Zealand Transport Agency Waka Kotahi

APPENDIX – SUGGESTED PROCESS AND TIMING

Date/timing	Process step	Comments
28 October	Panel commencement.	
3 November – 11 November	<p>Panel considering application.</p> <p>First tranche of RFIs asked and responded to.</p> <p>Panel considering responses to first tranche of RFIs.</p>	Pre-comment RFIs collectively referred to as 'first tranche' – anticipated to be multiple RFIs at different times.
11 November	Panel request for comments.	<p>During comment period RFIs collectively referred to as 'second tranche' – anticipated to be multiple RFIs at different times, but limited in nature so as not to cut across comments.</p> <p>Panel consideration of Application and responses to first tranche of RFIs continues throughout this period.</p> <p>Panel preparation of second tranche of RFIs continues throughout this period.</p>
11 November – 9 December	<p>Comments period.</p> <p>Second tranche of RFIs (limited in nature and not related to potential</p>	

	matters for comment) asked and responded to.	
9 December – 16 December	Response to comments period.	Pause to RFI process during this period.
16 December – 19 December	Panel considering comments and response to comments. Third tranche of RFIs starts.	Post-comment RFIs collectively referred to as 'third tranche' – anticipated to be multiple RFIs at different times.
19 December – 10 January	RMA shutdown period	
10 January – 23 January	Expert conferencing (if required). Joint witness statements provided (if expert conferencing required). Third tranche of RFIs continued.	
23 January – 13 February	Responses to third tranche of RFIs provided. Fourth tranche of RFIs asked. Responses to fourth tranche of RFIs provided. Closing legal submissions lodged.	Post expert conferencing RFIs collectively referred to as 'fourth tranche' – anticipated to be multiple RFIs at different times. Closing legal submissions – date TBC.
13 February (TBC - Indicative)	Draft decision and conditions released.	
27 February (TBC - Indicative)	Comments on draft decision and conditions.	
11 March	Panel decision released.	