
Fast-track Approvals Act 2024 (FTAA)
Comment on Draft Conditions
From WPL and NZRPGM
Re Te Ara Hauauru - Northern Busway (the Project)

To: The Expert Panel

From: Westgate Properties (2017) Limited (WPL)

And from: NZRPG Management (2017) Limited (NZRPGM)

Fast-track project: Te Ara Hauauru - Northern Busway (TAH)

Fast-Track Reference: FTAA- 2511-1146

1. Introduction

- 1.1. This submission relates to the New Zealand Transport Agency's (NZTA) application under the FTAA for the Project. It is submitted on behalf of WPL and NZRPGM (together, **NZRPG**). The submission explains the changes NZRPG seeks to the Draft Conditions. As requested by the Panel¹ NZRPG's changes are set-out in marked-up form in the attached **Schedule A**.
- 1.2. NZRPG maintains that the Draft Conditions do not sufficiently protect affected parties and that the conditions it proposed in its earlier submissions should have been adopted. Without prejudice to that position, and given the Panel's Draft Decision and Conditions, NZRPG addresses only three (3) conditions in response to the Panel's request for feedback. It also confirms that, if its previously suggested conditions are not to be adopted, it supports the inclusion of the additional conditions suggested by the Panel's transport expert Mr. Hughes.
- 1.3. NZRPG highlights these matters because they do not appear to have been directly addressed by the Draft Decision or Conditions, and NZRPG is concerned that the Panel may not have fully understood the nature of the concerns and/or the effect of its Draft Conditions.

2. "CONDITION 1" – NEEDS AMENDMENT TO GIVE EFFECT TO ITS STATED PURPOSE

- 2.1. As the Panel recorded in the Draft Decision, NZRPG is concerned about the flexibility inherent in the consents sought by NZTA. NZRPG therefore sought a condition expressly confirming

¹ Panel Minute 18 paragraph 4

NZTA's commitment to tunnelling under Fred Taylor Drive. The Panel did not accept that approach.

- 2.2. The Panel accepted, however, that NZTA's desire for unfettered flexibility was problematic and suggested a modified 'Condition 1' type condition. The Panel's rationale is that, without some linkage between the Application's indicative design and final form, the final construction may be qualitatively or conceptually different from the consented Project, creating uncertainty and potential prejudice to stakeholders, especially in the populated urban receiving environment. NZRPG agrees with that reasoning but submits that the condition as drafted will not give effect to it and, on close analysis, is likely to be an ineffective measure.

The deeming mechanism is circular

- 2.3. The condition deems consistency with the Indicative Design established by compliance with the balance of the designation conditions and approval through the Outline Plan process. Neither requires any actual comparison with the Indicative Design drawings. Compliance with the other conditions is not a meaningful benchmark because it is already mandatory: works could depart entirely from the alignment, form, and scale shown in the Indicative Design and still comply with every other condition, none of which uses the Indicative Design as a design envelope. Such works would nonetheless be deemed consistent.
- 2.4. Approval through the Outline Plan process is equally incapable of performing the intended function. Section 176A(3) RMA requires an outline plan to address matters such as height, shape, bulk, likely finished contour, vehicular access, noise mitigation, and landscaping, but neither section 176A nor the condition as drafted directs the territorial authority to assess whether the works are qualitatively or conceptually the same as the Indicative Design. An outline plan may be approved, including by deemed approval under section 176A(4), without that comparison. The condition therefore sets a test with no objective benchmark, restates obligations already binding NZTA, and leaves the Panel's stated concern unaddressed.

Consequential issue for Westgate

- 2.5. This is not academic for NZRPG. As set out in its earlier submissions, NZRPG opposes the elevated viaduct over the Fred Taylor Drive/SH 16 interchange, given the material effects a structure of that scale would have on Westgate Shopping Centre. Because the Draft Conditions' deeming mechanism provides no real constraint, NZTA could proceed with an elevated structure at the interchange and the works would still be deemed consistent with the Indicative Design, without assessment against relevant objective criteria.

A workable alternative that preserves the Panel's intended flexibility

- 2.6. NZRPG recognises that the Panel has deliberately avoided a traditional 'Condition 1' requiring general accordance with the Indicative Design and does not seek to reinstate it. However, to

preserve NZTA's flexibility while ensuring a nexus between the built project and Indicative Design, NZRPG submits that the Outline Plan process should include relevant objective evaluative criteria. If NZTA's plans change beyond that constraint, s.181 RMA provides additional flexibility for a genuinely major departure from the Indicative Design.

3. WOOLWORTHS CONDITIONS (13–15): MATERIAL ERRORS, INCLUDING FAILURE TO PROVIDE FOR THE ENTITY RESPONSIBLE FOR MANAGING WOOLWORTHS' USE OF THE SITE

- 3.1. Conditions 13 to 15, as drafted, proceed on the premise that Woolworths is the relevant party for consultation about access, delivery vehicle manoeuvrability, and construction traffic management at Westgate. That premise misidentifies the relevant stakeholder for the affected space. The conditions also contain material errors that mean they cannot presently be assessed or operated as drafted.

NZRPGM should be the named party

- 3.2. Woolworths does not own or manage the access, circulation, or loading areas at Westgate. It has a commercial lease of premises which requires the owner of the land to provide for the supermarket's operational requirements on its property. NZRPGM manages this relationship as Centre Manager, on behalf of WPL, the landowner. Woolworths leases specific premises within the Centre, and its rights over the servicing and circulation areas covered by these conditions are non-exclusive and held on the same basis as other tenants. NZRPGM coordinates and manages that shared space for all users, including Woolworths, on a daily and ongoing basis. A condition requiring consultation with Woolworths alone, about space it neither owns nor manages, is misconceived.
- 3.3. This is not a technical or administrative point. NZTA's evident purpose in Conditions 13 to 15 is to ensure that construction and operational effects on servicing and access at Westgate are properly managed and consulted on. That purpose is not served by consulting a tenant with no management function over the relevant space, while excluding the party that does, and that must coordinate outcomes across all affected tenants and the landowner.
- 3.4. Singling out Woolworths, to the exclusion of every other business operating from the Centre, is difficult to justify and, if left uncorrected, risks appearing arbitrary.
- 3.5. The remedy is not to remove Woolworths' protections, but to add NZRPGM, as the party responsible for managing the shared space for all Centre users including Woolworths, as a co-consultee throughout Conditions 13 to 15, and to widen those conditions from Woolworths-specific loading dock matters to the wider circulation, access, and pedestrian movement of the Centre as a whole. This applies with equal force to the CTMP process under Condition 15, governing the construction period: NZRPGM must be party to that consultation, and its scope should extend to construction traffic effects on the Centre generally, not the Supermarket loading docks alone.

Design of permanent access under Condition 14 requires NZRPG's direct involvement

- 3.6. The point is most pressing in relation to Condition 14, which addresses permanent access following completion of construction, as distinct from the construction-period CTMP process addressed above. Condition 14 requires NZTA to design its permanent works to meet specified minimum circulation and manoeuvrability outcomes for the Supermarket. NZRPG submits it must be a party to that design process, not merely informed of its outcome, given its position as owner of the land and premises leased by Woolworths. A condition that allows NZTA and NZRPG's tenant to settle, between themselves, the scope of access rights over NZRPG's land is untenable.
- 3.7. NZRPG is also conscious that decisions made now about the scope of permanent access provision for the Supermarket may have implications extending beyond the Project, including for the extent of land ultimately required from NZRPG under the Public Works Act. That prospect reinforces, rather than diminishes, the case for NZRPG's direct involvement in this design process, rather than a process conducted between NZTA and a tenant with no interest in the land other than provided through a lease contract.
- 3.8. NZRPG accordingly submits, in the strongest terms, that it must be a party to the design of permanent access arrangements under Condition 14, in recognition of its rights as landowner and its statutory position under the Public Works Act, and not merely as an ancillary consultee alongside Woolworths.

Errors in the Panel's Draft Conditions

- 3.9. Conditions 13 to 15 cannot presently be assessed on their merits, for two reasons. First, the Draft Conditions as circulated did not include Schedule C, the plan by reference to which the conditions operate; their effect cannot be determined without it. Second, the conditions as drafted do not appear internally coherent: they refer to a "Supermarket loading zone" by reference to Schedule C, which NZRPG has assumed to be the plan attached to the joint memorandum from NZTA and Woolworths (General Distributors Limited) of 29 July 2026. That plan does not identify any "Supermarket loading zone," and the version of the conditions attached to that memorandum does not use the term at all. These errors should be corrected before the conditions are finalised.
- 3.10. NZRPG seeks that the Panel adopt Conditions 13 to 15 in the amended form set out at **Schedule A** to this submission, which addresses the matters raised above by adding NZRPGM as a named co-consultee, broadening the scope of Conditions 13 -15 to the Centre generally, and correcting the drafting errors identified at paragraph 3.9.

4. NOT COMPLETION BUT PROTECTION OF NORTHSIDE DRIVE EXTENSION

- 4.1. NZTA has responded to NZRPG's submission on the Northside Drive Extension largely by addressing NZRPG's (and other submitters') request for a condition precedent requiring completion of that project. Its response to NZRPG's alternative request, that the Project not

compromise the existing physical provision for the Extension, has been limited and unconvincing. The Draft Decision does not address this question at all.

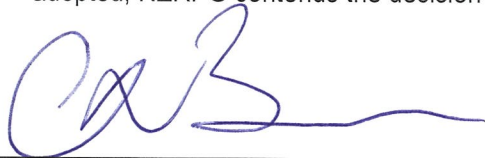
4.2. NZTA's substantive response does not withstand scrutiny. Firstly, there is no dispute, including from NZTA, that the Northside Drive Extension will be needed². However, NZTA states that the design requirements for a future Northside Drive Extension remain uncertain, further investigation is required, and funding is not confirmed. It then asserts that the Project will not preclude an appropriately designed overbridge at this location. NZTA cannot credibly claim both that future requirements are unknown and that removing the existing provision will not affect them. This is not a technical judgment based on investigation; it is an assertion, and one which is internally inconsistent.

4.3. NZTA's claim is also less credible given what is being removed. The abutments and centre span supports were engineered to link two existing fixed points on both sides of SH16. That is materially different from a purely hypothetical alignment. It is a substantially completed piece of infrastructure requiring completion over a very short distance³. The question is not whether it should be built, but whether this Project should be allowed to make delivery more difficult, or impossible without redesign and added cost, by removing the advanced provision already made for it. Given that acknowledged need, the onus falls on NZTA to justify removal, not on NZRPG to justify retention.

4.4. In the Draft Decision, the Panel rejected a requirement to complete Northside Drive as not having a nexus with TAH effects. It did not address the separate question of the protection of the existing provision for it. NZTA has identified no evidence that retaining or replacing the existing structures is physically incompatible with the busway Project. Without that evidence, removing built infrastructure that gives a head-start to a project all parties accept is needed, is inappropriate.

5. CONCLUSION

5.1. NZRPG has kept this feedback focused on the Draft Conditions. In its submission, the proposed amendments, particularly to Conditions 13–15, are necessary to ensure the conditions coherently address the relevant effects and parties' legal rights. If they are not adopted, NZRPG contends the decision may be subject to challenge.



Campbell Barbour
For and on behalf of NZRPG
Dated 19 August 2026

² AT Board Meeting - Agenda Item 3/12/19 Agenda Item No. 10.1 - [item-103-closed-october-2019-accelerated-mode-shift-plan-incl-attachments.pdf](#)

³ Furthermore, the Trig Road extension project which would link into this project was recently confirmed via the Supporting Growth Northwest applications.

Schedule A

NZRPG Redline – Draft Designation Conditions

Legend: underlined blue text = proposed insertion | ~~strikethrough red text~~ = proposed deletion

NoR Number	Condition Number	Condition	Summary of NZRPG Reasons for Amendment
ALL	1A	Consistency with drawings The works enabled by this designation, including its alignment and layout, shall be undertaken in a manner consistent with the Indicative Design West drawings and Indicative Design East drawings as set out at Schedule A to this set of conditions. Work will be deemed to be consistent with those drawings if it is compliant with the balance of these designation conditions and has been approved via the Outline Plan process. <u>not represent a material change in the nature, scale, location, or effects of the Project as described by the Indicative Design West and Indicative Design East drawings at Schedule A (Indicative Design).</u> <u>Without limiting the generality of the foregoing, a material change includes (but is not limited to) any change to:</u> <u>(a) the general alignment corridor of the busway as shown in the Indicative Design;</u> <u>(b) the number and general configuration of traffic lanes at road/busway interfaces;</u> <u>(c) the general form (at-grade, elevated, or below-grade) of structures at each station and interchange location, including at Royal Road and the Fred Taylor Drive/State Highway 16 interchange;</u>	Condition 1A Refer to paragraph 2.1-2.6 Submission 19 Aug. - The Panel accepted that unfettered design flexibility could create uncertainty and prejudice for affected stakeholders. - The current deeming mechanism is circular because it treats compliance with other conditions and outline plan approval as consistency with the Indicative Design. - Those steps do not require any real comparison with the Indicative Design, so major changes could still be deemed consistent, thus not delivering on the Panel's stated purpose. - The amendment adds objective criteria to preserve flexibility while ensuring material departures are assessed.

NoR Number	Condition Number	Condition	Summary of NZRPG Reasons for Amendment
		<u>The Outline Plan submitted under section 176A of the Resource Management Act 1991 for any stage of the works shall include a written assessment, prepared by a suitably qualified person, addressing whether the proposed works give rise to a material change as described above. Where the assessment identifies a material change, the Outline Plan shall not be approved unless the requiring authority satisfies the territorial authority that the change does not increase the actual or potential adverse effects of the Project beyond those assessed in the application, or that appropriate mitigation is provided."</u>	
2	13.	Supermarket Access – Woolworths Westgate Shopping Centre For the purposes of Conditions 13A, 14 and 15: (a) "Supermarket" means the supermarket located at Lot 31 Deposited Plan 425328. (b) "Supermarket loading docks" means the loading docks as shown on Schedule C and any modification to those docks that changes how Delivery Vehicle(s) access those docks (compared to the docks as at [date of designation being confirmed]) that is approved in writing by the Requiring Authority. (c) "Supermarket loading zone" means the area shown on Schedule C. (d) "Delivery Vehicle(s)" means a class 5 vehicle - i.e., a 23m long truck and trailer. (e) "Manoeuvrability" or "manoeuvrability requirements" means compliance with RTS-18 New Zealand on-road tracking curves for heavy motor vehicles with a 12.5m radius of turn.	Conditions 13–15 Refer to paragraph 3.1-3.10 Submission 19 Aug. • These conditions wrongly treat Woolworths as the best party for consultation about access, loading, circulation, and construction traffic effects. • NZRPGM, as Centre Manager, manages the shared access, circulation, and loading areas for all centre users, including Woolworths. • Including a Centre Manager definition ensures the conditions identify the party responsible for the affected shared space.

NoR Number	Condition Number	Condition	Summary of NZRPG Reasons for Amendment
		(f) "Existing Turning Area" means the area shown on Schedule C provided the Supermarket Operator is lawfully entitled to use that area for manoeuvring of delivery vehicles at the time of commencement of detailed design and has provided written evidence of that lawful entitlement to the Requiring Authority. Conditions 13A - 15 do not apply if the Supermarket Operator does not provide such evidence within 20 working days of being requested to do so by the Requiring Authority. (g) "Supermarket Operator" means General Distributors Limited or any related company as defined in section 2(3) of the Companies Act 1993, or any other company that operates the Supermarket at the relevant time. (h) "Project Works" means that part of the Project within the Existing Turning Area. <u>(i) "Centre Manager" means NZRPG Management (2017) Limited, or its successor as manager of the Westgate Shopping Centre, or any other company appointed to manage the Westgate Shopping Centre at the relevant time or if there is no owner of the Centre owner of Supermarket.</u>	
	13A	Conditions 13A, 14 and 15 apply if the Supermarket <u>or the Westgate Shopping Centre</u> is operating at the commencement of detailed design of the Project Works, unless operation of the Supermarket <u>and the Westgate Shopping Centre</u> is planned to cease prior to commencement of construction of the Project Works.	
	14.	(a) The Requiring Authority must design and construct the Project Works so that:	Conditions 14 Refer to paragraph 3.1-3.10 Submission 19 Aug.

NoR Number	Condition Number	Condition	Summary of NZRPG Reasons for Amendment
		(i) Permanent works do not prevent Supermarket Delivery Vehicles from using the Existing Turning Area or accessing the Supermarket loading docks in accordance with the Manoeuvrability requirements; or (ii) If Condition 14(a)(i) cannot be achieved then, subject to Condition 14(b): A. Supermarket Delivery Vehicles can enter and exit at the Maki Street Entrance shown on Schedule C in a forward direction; and B. Supermarket Delivery Vehicles can access and exit from the Supermarket loading docks, in accordance with the Manoeuvrability requirements. (b) If Condition 14(a)(i) cannot be achieved then the Requiring Authority must consult with the Supermarket Operator <u>and the Centre Manager</u> during the detailed design process as to how Condition 14(a)(ii) will be achieved. As a minimum, the Requiring Authority must: (i) Advise the Supermarket Operator <u>and the Centre Manager, at the same time,</u> in writing of the proposed design of the Project Works ("Draft Design"); (ii) Meet with the Supermarket Operator <u>and/or the Centre Manager</u> to discuss the Draft Design, if requested by the Supermarket Operator<u>either of them;</u> (iii) Allow 45 working days for the Supermarket Operator <u>and the Centre Manager</u> to give feedback on the Draft Design (from the date the Supermarket Operator is<u>Supermarket Operator and the Centre Manager are</u> advised of the Draft Design);	Condition 14 wrongly treat Woolworths the sole party who should have input into the permanent design of the accessway around the completed project, when NZRPGM, as manager of the lease and representative of the landowner this the best party for consultation about permeant access provision

NoR Number	Condition Number	Condition	Summary of NZRPG Reasons for Amendment
		(iv) Consider any feedback on the Draft Design, update the Draft Design to address that feedback to the extent practicable, and advise the Supermarket Operator and the Centre Manager in writing of the updated proposed design of the Project Works ("Updated Design"); (v) Meet with the Supermarket Operator and the Centre Manager to discuss the Updated Design, if requested by the Supermarket Operator; and (iv) (vi) Within 45 working days of receiving any feedback from the Supermarket Operator or the Centre Manager (pursuant to (iii) above), advise the Supermarket Operator and the Centre Manager of: A. What feedback it has or has not accepted and why; and B. The confirmed design.	
2	15.	(a) The Requiring Authority must consult with the Supermarket Operator and the Centre Manager when preparing the relevant CTMP required by Conditions 16 and 16D in relation to access, traffic management, and circulation activities that directly interface with Supermarket operations or the wider operation of the Westgate Shopping Centre. The CTMP must include details of any construction works that could adversely affect access or egress to and from the Supermarket loading docks, or vehicle and pedestrian circulation, parking, or access within the wider Westgate Shopping Centre. (b) The Requiring Authority must: (i) provide a draft of the relevant CTMP ("Draft CTMP") to the Supermarket Operator and the Centre Manager, at the same time;	

NoR Number	Condition Number	Condition	Summary of NZRPG Reasons for Amendment
		(ii) allow 20 working days for the Supermarket Operator <u>and the Centre Manager</u> to provide feedback on the Draft CTMP; (iii) meet with the Supermarket Operator <u>and/or the Centre Manager</u> to discuss the Draft CTMP, if requested by the Supermarket Operator<u>either of them</u>; (iv) within 20 working days of receiving any feedback from the Supermarket Operator <u>or the Centre Manager</u> (pursuant to (iii) above), advise the Supermarket Operator <u>and the Centre Manager</u> of: A. What feedback it has or has not accepted and why, <u>including, where feedback from the Supermarket Operator and the Centre Manager conflicts, the reasons for preferring one approach over the other</u>; and B. The confirmed CTMP. (c) During Project construction, the Requiring Authority must: (i) As far as practicable, maintain vehicle access and manoeuvrability for Delivery Vehicles from Maki Street to the Supermarket loading docks, <u>and general vehicle and pedestrian access and circulation within the wider Westgate Shopping Centre</u>, between 5am and 5pm, 7 days a week. Delivery Vehicle access at the Maki Street Entrance shown on Schedule C must be in a forward direction. (ii) Where it is not practicable to comply with (i) above, minimise the duration of disruption to Delivery Vehicles <u>and to general customer and staff access and circulation within the wider Westgate Shopping Centre</u> by ensuring:	

NoR Number	Condition Number	Condition	Summary of NZRPG Reasons for Amendment
		A. any closure of access (including Manoeuvrability) to one Supermarket loading dock must not exceed two weeks without the prior written agreement of the Supermarket Operator; B. any closure of access (including Manoeuvrability) to both Supermarket loading docks must not exceed 12 consecutive hours without the prior written agreement of the Supermarket Operator; <u>C. any closure or material restriction of vehicle or pedestrian access to the wider Westgate Shopping Centre (other than the Supermarket loading docks addressed at A and B above) must not exceed [duration to be confirmed with Centre Manager] without the prior written agreement of the Centre Manager; and</u> <u>D.</u> G. provide the operator of the Supermarket <u>and the Centre Manager</u> with at least 15 working days' notice in writing of the above. (d) Condition 15(c) must not apply in the case of an unforeseen emergency, however the Requiring Authority must minimise as far as practicable the duration of disruption to Delivery Vehicles in that event and must notify the Supermarket Operator <u>and the Centre Manager</u> as soon as practicable of any emergency affecting access.	
2	23A (new)	<u>Protection of Northside Drive Extension Provision</u> <u>The works enabled by this designation shall not remove, demolish, or otherwise compromise the existing physical provision for the Northside Drive Extension over State Highway 16, including the existing abutments and centre span supports, unless:</u>	New Condition 23A – Northside Drive Refer to paragraph 4.1-4.4 Submission 19 Aug. NZTA has not shown that retaining or replacing the existing Northside Drive Extension provision is incompatible with the Project.

NoR Number	Condition Number	Condition	Summary of NZRPG Reasons for Amendment
		(a) <u>equivalent physical provision enabling the future construction of the Northside Drive Extension in substantially its currently provided-for alignment and form is incorporated into the Project's works and is in place prior to removal of the existing provision; or</u> (b) <u>the requiring authority demonstrates, by written evidence prepared by a suitably qualified structural or transport engineer and provided to the territorial authority prior to removal, that retention of equivalent physical provision is not reasonably practicable, and that the removal will not preclude or materially increase the cost or difficulty of delivering the Northside Drive Extension in the future.</u> <u>For the avoidance of doubt, this condition does not require the requiring authority to construct, fund, or complete the Northside Drive Extension, and does not impose any condition precedent on the commencement or continuation of works enabled by this designation.</u>	• The existing abutments and centre span supports are a materially advanced provision for a future crossing, not merely a speculative option. • The amendment does not require NZTA to build the extension; it only prevents the Project from removing or materially compromising existing provision without justification.