

## **BEFORE THE TAKITIMU NORTH LINK – STAGE 2 EXPERT PANEL**

### ***In the matter of***

of the Fast-Track Approvals Act 2024 (the *FTAA*) and the deliberations and final decision of the Expert Panel appointed under section 50 and Schedule 3 of the FTAA to:

- (a) Construct, operate and maintain a 7.7km long four-lane median-divided highway to replace the existing State Highway 2 corridor between Te Puna and Ōmokoroa;
- (b) Carry out bulk earthworks, stream and wetland reclamation and stream realignment to enable the project;
- (c) Construct wetlands, swales and ponds for the purposes of stormwater attenuation and treatment;
- (d) Undertake environmental mitigation to address noise, landscape, visual, ecological, archaeological and cultural matters, including landscape and wetland planting and approximately 33.10 ha of wetland restoration near Ōmokoroa Road and Te Puna Stream; and
- (e) Alter the existing designations.

### ***Expert Panel***

Mary Hill  
(*Chair*)

Juliane Chetham  
(*Member*)

Euan Williams  
(*Member*)

## **Record of Decision of the Expert Consenting Panel under Section 87 of the Fast-Track Approvals Act 2024**

**Dated 19 March 2026**

**Decision:** The approvals are granted subject to conditions

***Date of Decision:***

19 March 2026

***Date of Issue:***

19 March 2026

---

**Comments received  
under Section 53 of the  
FTAA:**

9 December 2025

**Details of any hearing  
under Section 57 of the  
FTAA:**

No hearing was held.

PART A: EXECUTIVE SUMMARY .....	1
PART B: OVERVIEW OF THE APPLICATION AND PROCEDURE .....	1
Application.....	1
Procedure .....	11
PART C: LEGAL CONTEXT .....	23
Legal context for a listed project under the FTAA .....	23
Decisions on approvals .....	24
Ability to decline consent .....	25
Approvals relating to the Resource Management Act 1991 (RMA) .....	26
Approvals relating to a wildlife approval under the Wildlife Act 1953 .....	28
Approvals relating to an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014 .....	30
Approvals relating to approvals for complex fisheries activities .....	31
Fast-track Approvals Amendment Act 2025 (Amendment Act) .....	34
PART D: IWI AUTHORITIES .....	34
Section 18 Report for a listed project .....	34
Substantive application information .....	35
Comments .....	36
Statutory requirements.....	39
PART E: EVALUATION OF EFFECTS .....	42
POSITIVE EFFECTS.....	44
CULTURAL EFFECTS .....	46
LANDSCAPE AND VISUAL AMENITY EFFECTS.....	57
ECOLOGY EFFECTS .....	63
CONSTRUCTION EFFECTS .....	81
OPERATION AND IMPLEMENTATION EFFECTS.....	88
PART F: REGIONAL OR NATIONAL BENEFITS OF THE PROJECT .....	91
PART G: STATUTORY DOCUMENTS .....	93
National Policy Statements .....	93
National Environmental Standards.....	98
New Zealand Coast Policy Statement (NZCPS) .....	100
PART H: REGIONAL AND DISTRICT PLANNING FRAMEWORK .....	100
Bay of Plenty Regional Policy Statement (RPS) .....	101
Bay of Plenty Regional Natural Resources Plan (RNRP) .....	101
Western Bay of Plenty District Plan (District Plan) .....	101
Conclusion regarding consistency with the regional and district planning framework	101
Planning documents recognised by a relevant iwi authority and lodged with the Council.....	102
Treaty settlements .....	102
PART K: CONDITIONS .....	105

FTAA general requirements for conditions ..... 105  
FTAA requirements for conditions ..... 106  
Project conditions ..... 108  
PART L: RMA 1991 ..... 116  
PART M: FTAA, SECTION 3 ..... 117  
PART N: OVERALL ASSESSMENT ..... 117  
PART O: FINAL DECISION ..... 117

**APPENDIX A: CONDITIONS OF CONSENT (ATTACHED)**

**APPENDIX B: CONSENTS REQUIRED**

## DECISION MADE BY THE PANEL: TAKITIMU NORTH LINK – STAGE 2

### PART A: EXECUTIVE SUMMARY

- 1 This decision relates to an application to undertake a project known as Takitimu North Link – Stage 2 (**TNL2**) (**Proposal or Project**) by NZ Transport Agency Waka Kotahi (**NZTA or Applicant**) to construct, operate and maintain 7.7km of median-divided highway. Takitimu North Link is a proposed 13.8km four-lane section of State Highway 2 (**SH2**) running from Takitimu Drive to past Ōmokoroa Road in the Western Bay of Plenty. Stage 1 of the Project (**TNL1**) is currently under construction.
- 2 NZTA has applied for a range of resource consents, archaeological authorities, wildlife approval and complex freshwater fisheries approval to authorise TNL2, and has sought an amendment to the existing SH2 designation to enable the Project and authorise the land use aspects (collectively, **the Application**). The substantive application for approvals document is dated 1 August 2025 (**Substantive Application**). In summary, the Project encompasses the following:
  - (a) a new four-lane median-divided highway commencing from the termination point of TNL1, extending from near Loop Road to the Waipapa Stream. This includes a grade separated interchange at Ōmokoroa Road/SH2 intersection, a new bridge over Te Puna Stream, new intersections, roundabouts and overbridges, and changes to the local road network;
  - (b) retention and reconstruction of the existing SH2 road along the length of the Project to serve as a local-traffic road;
  - (c) construction of wetlands, swales and ponds for the purposes of stormwater attenuation and treatment;
  - (d) 3,400,000m<sup>3</sup> of bulk earthworks over an area of 100 ha;
  - (e) reclamation of 62,000m<sup>2</sup> of wetland habitat;
  - (f) modification and/or destruction both currently identified and unknown archaeology; and
  - (g) an offsetting and compensation package to address adverse effects of the removal of indigenous biodiversity through the wetland and stream removals, including landscape and wetland planting and approximately 33.10ha of wetland restoration.
- 3 The notice of requirement (**NOR**) seeks to alter the footprint of existing Designation D203 by extending its footprint over existing Designation D181 (superseding D181) and update its conditions. Amended D203 will cover the extent of the new highway and associated infrastructure. The total area of the designation boundary is 196ha (**Designation Boundary**).
- 4 The Project site (**Site**) includes 113 properties partially or fully within the proposed designation, located between Te Puna and Ōmokoroa. The legal descriptions and addresses of the Site are set out in Appendix 9.2 of the Substantive Application.

- 5 The Application was included as a listed project in Schedule 2 of the Fast-Track Approvals Act 2024 (**FTAA**). On 15 October 2025 an expert panel was appointed to determine the Application (**Panel**).
- 6 The Panel has assessed the Application applying the relevant statutory criteria within the purpose and context of the FTAA.<sup>1</sup>
- 7 The Panel received comments from parties invited to comment, including from Western Bay of Plenty District Council (**WBOPDC**), Bay of Plenty Regional Council (**BOPRC**), Department of Conservation (**DOC**), local residents, and Mana Whenua interests, and a response to those comments from the Applicant. Those comments and response raised a number of matters for our consideration including in relation to ecology, traffic and transportation, construction effects, and flooding and stormwater effects. The Panel has carefully reviewed that information in evaluating the Application.
- 8 The Panel is grateful to the Applicant, relevant administering agencies, and persons invited to comment for their input across the various stages of the FTAA process, including external specialists, which has been useful in informing the Panel.
- 9 The Panel has assessed the Application by applying the relevant statutory criteria in the FTAA. It has assessed the Application's alignment with the FTAA's purpose of facilitating the delivery of an infrastructure project with significant regional or national benefits.<sup>2</sup> Section 81(4) requires the Panel to consider the extent of the Project's regional or national benefits. An analysis under s81(4) has been undertaken and is set out at Part F. The Panel has concluded that the Proposal will have significant regional and national benefits.
- 10 The Project will also have a range of effects on the environment. The relevant effects are considered in Part E this decision. Issues relating to ecology (including wetland removal and loss of stream extent), provision for mana whenua interests, condition structure and wording, traffic safety, and stormwater management were the principal issues in contention. Many of these issues have been resolved or refined following referral of the Application to the Panel, substantially reducing the number of issues for the Panel's final determination.
- 11 The Panel must make a separate decision in relation to each type of approval sought in the Application. The Panel's key findings in relation to each approval (all of which have been granted by the Panel) are summarised below:
- 11.1 **Resource consent applications:** Schedule 5, clause 17 sets out the criteria and other matters for assessment of resource consent applications. In summary, the Panel is required to take into account the purpose of the FTAA (which must be given the greatest weight), the provisions of the Resource Management Act 1991 (**RMA**) that direct decision making on an application for resource consent, and the relevant provisions of any other legislation that directs decision making under the RMA. The Panel has concluded that the Application will have both national and regional benefits that are significant in the context of the FTAA, and the Panel has been able to assess the extent of those benefits as required by the FTAA. The Applicant's proposed approach to environmental offsetting and

---

<sup>1</sup> Legislation Act 2019, s 10; and FTAA, s 3 and Schedules 5, 6, 7, 8 and 9

<sup>2</sup> FTAA s 3

compensation, subject to the conditions imposed by the Panel, is appropriate as a mechanism to offset and/or compensate residual adverse environmental effects of the Project under s104(1)(ab) of the RMA. The various potential adverse effects of the Proposal are acceptable in light of the conditions imposed, and residual ecological effects will be appropriately managed including through the environmental offsetting and compensation required by the conditions.

- 11.2 **Designation:** Schedule 5, clause 24 sets out the criteria and other matters for assessment of an NOR (including for an alteration to an existing designation). In summary, the Panel is required to take into account the purpose of the FTAA (which must be given the greatest weight), the provisions of Part 8 of the RMA that direct decision making on designations,<sup>3</sup> and the relevant provisions of any other legislation that directs decision making under the RMA. The relevant RMA considerations include the effects of the activity on specific Māori land affected by the Project and on the rights and interests of Māori.<sup>4</sup> The Panel finds that the effects on the environment of allowing the requirement will be appropriately managed through the Panel's recommended conditions and that adequate consideration has been given to alternative sites, routes or methods of undertaking the work and that the work and designation are reasonably necessary for achieving the objectives of NZTA for which the designation is sought. The Panel has recommended to NZTA that it confirm the requirement subject to the recommended conditions, for the reasons given in Part K of this decision. The Panel has not waived the requirement for an outline plan.
- 11.3 **Wildlife Approval:** Schedule 7, clause 5 sets out the criteria for assessment of an application for a wildlife approval. In considering the Application and taking into account the matters required by clause 5 of Schedule 7 of the FTAA, giving the greatest weight to the purpose of the FTAA, those matters weigh in favour of the grant of approval. There are no outstanding matters in contention. The nature and extent of effects, and the methods by which those effects can be appropriately managed, have been broadly agreed by the Applicant and Department of Conservation (**DOC**). The Panel finds that the effects of the Project can be appropriately avoided or mitigated by the imposition of conditions. The Application is consistent with the purpose of both the FTAA and the Wildlife Act 1953 (**Wildlife Act**). In setting conditions on the wildlife approval, the Panel has considered the matters in clause 6 of Schedule 7 of the FTAA.
- 11.4 **Archaeological Authority:** Schedule 8, clause 4 sets out the criteria for assessment of an application for an archaeological authority. The Panel finds that the granting of the 62 archaeological authorities sought, to modify and/or destroy both identified and unknown archaeology within the Designation Boundary, and to approve Dr Warren Gumbley as the person nominated to undertake the authorised activities, would be consistent with the matters set out in section 59 (1)(a) of the HNZPT Act 2014 and with the relevant policy guidance.

---

<sup>3</sup> Except for s170 (discretion to include requirement in proposed plan)

<sup>4</sup> This assessment relates to Māori land at 10 Albert Lane, which was the subject of a decision by the Minister under s23 of the FTAA which determined that the project (in so far as it relates to that Māori land) is not an "ineligible activity"

- 11.5 **Freshwater Fisheries Approval:** Schedule 9, clause 5 sets out the criteria for assessment of applications for complex freshwater fisheries activities for temporary and permanent stream diversions. The Panel has imposed conditions considered necessary to manage the effects of the activity on freshwater fish species taking into account best practice standards and the New Zealand Fish Passage Guidelines and considers that the purpose of the FTAA and the other assessment criteria will be achieved.
- 12 Overall, the Panel considers that the purpose of the FTAA will be achieved through the grant of the approvals sought for the Project and that the other relevant statutory criteria will be satisfied taking into account the comprehensive suite of mitigation and management measures provided for through the conditions imposed.
- 13 The Panel therefore grants all approvals sought in the Application subject to the conditions in **Appendix A**. This determination is based on the statutory criteria for each of the approvals, giving the greatest weight to the purpose of the FTAA.
- 14 The Panel has determined that a 35-year duration for specific regional resource consents is appropriate, being the maximum duration that can be imposed. A 20-year duration is appropriate for the remaining regional consents and NES Contaminated Soil consent. This reflects the terms of consent sought by the Applicant.
- 15 Pursuant to clause 26 Schedule 5 of the FTAA, the date on which the resource consents granted in this decision lapse, unless earlier given effect to, is the date that is 20 years from the date of commencement of the resource consents, as sought by the Applicant.
- 16 The Panel has determined that the alteration to designations D181 and D203 should be granted, subject to the conditions in **Appendix A**. In making that determination, the Panel has considered Part 8 of the RMA and has, in accordance with the statutory directive, placed the greatest weight on the purpose of the FTAA.
- 17 Pursuant to clause 26 Schedule 5 FTAA, it is necessary to specify a lapse date for the alteration to designation to avoid the approval lapsing after two years.<sup>5</sup> There is case law which suggests that an alteration to an existing designation does not trigger a new lapse period, and therefore the original designation's lapse date continues to apply.<sup>6</sup> In this case it is unclear what the original lapse dates are, given that D108 and D203 (included in the District Plan) are themselves alterations to existing designations. It is also unclear whether the earlier designations have been given effect to. Given that the FTAA requires a designation approval to specify a lapse date to avoid application of the default lapse date of 2 years, we consider we are required to impose a lapse date. Accordingly, the date on which the alteration to existing designations granted in this decision lapses, unless earlier given effect to, is the date that is 20 years from when the designation approved under this decision is included in the District Plan. This is broadly consistent with the 20-year lapse dates sought by the Applicant for the other approvals sought, which we have imposed in this decision.

---

<sup>5</sup> Section 54(10) of the Fast Track Approvals Amendment Act 2025 inserted a default lapse date of 2 years if the designation approval does not specify a specific lapse date (Schedule 5, clause 26(3))

<sup>6</sup> *Director-General of Conservation v Taranaki Regional Council* [2021] NZEnvC 27 and *New Zealand Transport Agency v New Zealand Transport Agency* [2015] NZEnvC 210. Both cases consider this argument to have merit although neither case clearly determines the issue

- 18 The Panel has determined that the wildlife approval sought should be granted, subject to the conditions in **Appendix A**. The wildlife approval is granted for a term of 20 years. This finding is made on the basis of the statutory criteria for wildlife approvals and, in accordance with the statutory directive, places the greatest weight on the purpose of the FTAA.
- 19 The Panel has determined that the 62 archaeological authorities sought should be granted, subject to the conditions in **Appendix A**. The archaeological authorities are granted for a term of 20 years. This finding is made on the basis of the statutory criteria for the approvals and, in accordance with the statutory directive, places the greatest weight on the purpose of the FTAA.
- 20 The Panel has determined that the complex freshwater fisheries approval sought should be granted, subject to the conditions in **Appendix A**. The freshwater fisheries approval is granted for a term of 35 years, which reflects the term of the relevant resource consent and has been included in the standalone set of conditions now proposed for this approval. This finding is made on the basis of the statutory criteria for the relevant approvals and, in accordance with the statutory directive, places the greatest weight on the purpose of the FTAA.
- 21 This decision is made in accordance with section 87 FTAA. It addresses all approvals sought in the Application. This decision document includes:
- (a) The decision – throughout and summarised in Part N;
  - (b) The reason for the decision – throughout and summarised in Part N;
  - (c) A statement of the principal issues in contention – Part I and summarised in Part N;
  - (d) The main findings of the principal issues in contention – Part I and summarised in Part N;
  - (e) An explanation for the conditions imposed by the Panel – Part K.

## **PART B: OVERVIEW OF THE APPLICATION AND PROCEDURE**

### **Application**

- 1 All information regarding the Application and procedures of the Panel is provided on the Fast-track website on a dedicated Project webpage. For efficiency, documents on that webpage are referenced throughout this decision:  
<https://www.fasttrack.govt.nz/projects/takitimu-north-link-stage-2>
- 2 In particular, the website provides complete copies and/or details of the following:
  - (a) The Application;
  - (b) Panel information;
  - (c) Recordings of conferences held;
  - (d) Minutes issued by the Panel;
  - (e) Responses to the Minutes by the Applicant and other parties;
  - (f) Comments received from invited parties;
  - (g) Responses by the Applicant to comments received from invited parties;
  - (h) Reports and advice received; and
  - (i) Requests for Information (**RFI**) and responses to RFI.

### Applicant

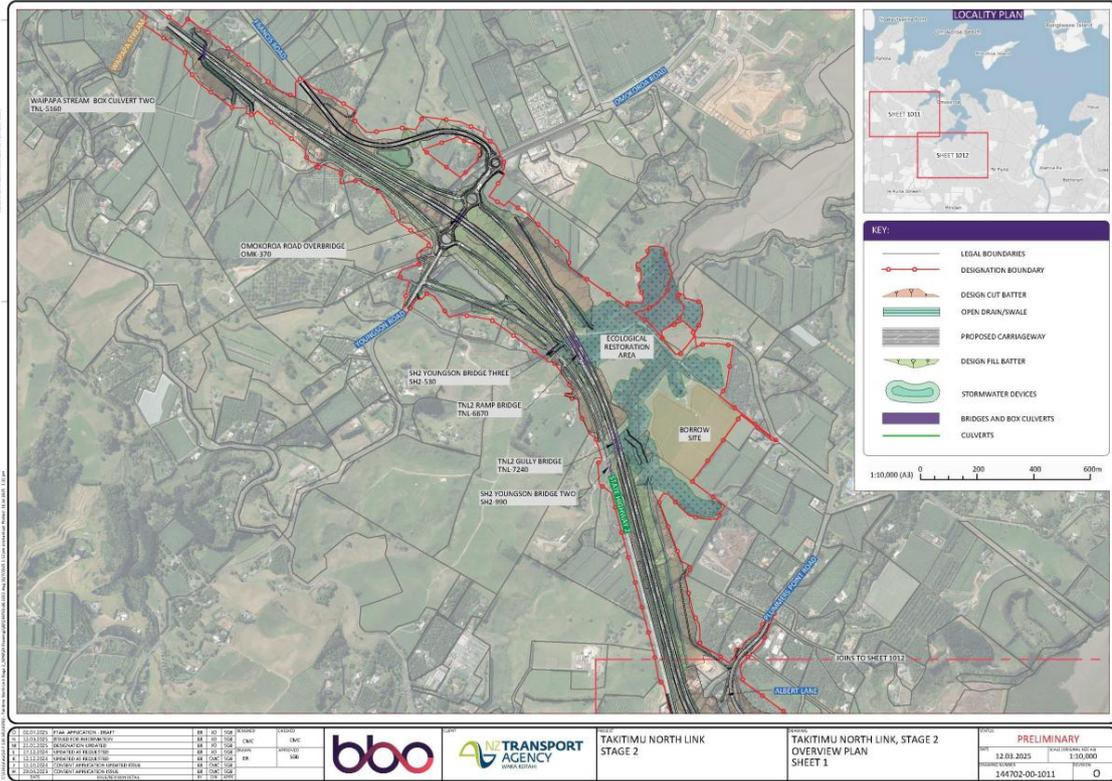
- 3 NZTA is the authorised person for the Takitimu North Link – Stage 2 (**TNL2**) Project entitled to lodge the Application pursuant to section 42 of the FTAA.

### Site and surrounding environment

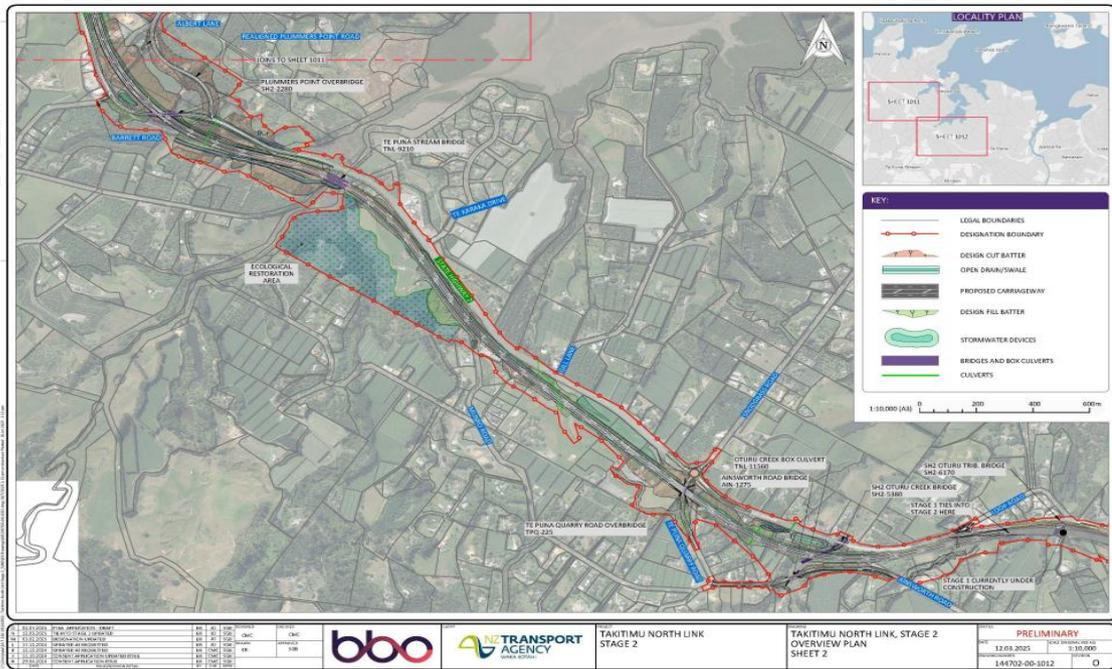
- 4 The Site includes: land within the proposed Designation Boundary that extends from the western extent of Takitimu Stage 1 near Loop Road, Te Puna to past Ōmokoroa Road prior to the Waipapa Stream; the area of proposed wetland restoration in the coastal margins of the Mangawhai Estuary; and the lizard release site in the Te Puna Quarry Park at 110 Te Puna Quarry Road. The majority of the construction works and operational effects are contained within the Designation Boundary.
- 5 The Site is located approximately 11km west of Tauranga's City Centre (at the current extent of the TNL1 construction works) and extends 7.7km further west in a linear direction. As described in the Substantive Application,<sup>7</sup> the Site is located within a rural environment and is predominantly zoned as such under the Western Bay of Plenty District Plan.

---

<sup>7</sup> Section 2.5 of the Substantive Application



**FIGURE 1: TNL2 SITE LOCALITY PLAN WESTERN SECTION - WAIPAPA STREAM TO PLUMMERS POINT ROAD (THE PROJECT EXTENT IS SHOWN IN RED)**



**FIGURE 2: TNL2 SITE LOCALITY PLAN EASTERN SECTION - PLUMMERS POINT ROAD TO LOOP ROAD (THAT THE PROJECT EXTENT IS SHOWN IN RED)**

- 6 Due to its size and footprint, the Site is subject to multiple zones under the District Plan. In addition to the predominant Rural Zone, there are a number of additional zones located within and adjacent to the Designation Boundary being the Lifestyle Zone, Rural-Residential Zone, Commercial Zone, Future Urban Zone, Medium Density Residential Zone and Industrial Zone. The surrounding land is zoned Industrial, Rural-Residential and Medium Density Residential near Ōmokoroa Road. That area is undeveloped as it was only rezoned from Future Urban in 2024.
- 7 The Site is characterised by undulating topography typical of the Western Bay of Plenty, with terrace areas, deeply incised gullies, knolls, and low-lying wetlands. The predominant land uses are horticultural (kiwifruit and avocado orchards), pastoral (grazing) and rural lifestyle properties. Commercial activities include service stations, retail and light industrial activities with direct access to SH2, and a rural engineering workshop. Te Puna provides local urban centre facilities for the surrounding area. Open space features in proximity to the Project include I'Anson Reserve (a QEII National Trust reserve) on Loop Road and Minden Reserve on Ainsworth Road, both containing extensive native planting and wetland species.
- 8 The transport environment consists principally of SH2, an existing two-lane arterial road classified as a Primary Arterial Road in the District Plan. In 2023, traffic volumes ranged from 12,300 vehicles per day (**vpd**) north of Ōmokoroa Road to 21,200 vpd between the Te Puna Stream Bridge and Loop Road, with approximately 5.9-6.3% heavy commercial vehicles. Local road connections include intersections with Loop Road, Ainsworth Road, Te Puna Quarry Road, Snodgrass Road, Gill Lane, Munro Road, Te Karaka Drive, Barrett Road, Plummers Point Road, Youngson Road, Ōmokoroa Road and Francis Road. All are priority-controlled 'T' intersections built to rural standards. This section of SH2 does not include dedicated cyclist or pedestrian routes.
- 9 The natural environment has been extensively modified and is predominantly managed for agricultural or horticultural purposes. The Site traverses three main catchments: the Oturu Creek catchment, the Te Puna Stream catchment, and the Waipapa Stream catchment, together with catchments draining two unnamed watercourses to the Mangawhai Estuary. Five perennial tributaries of Oturu Creek and one ephemeral stream traverse the Project Area. Terrestrial vegetation is predominantly exotic with occasional native species. The Ōmokoroa Wetland (Wetland 15) is a high-quality wetland feature that connects to the Mangawhai Estuary. The geological setting consists of the Tauranga basin infilled with volcanic ash, fluviially reworked volcanic sediments and pyroclastic flow deposits. Soil is generally classified as Orthic Allophanic, with Land Use Capability classifications of mainly 3e1 and 4e1.
- 10 The Site is close to Tauranga Harbour, an area rich in Māori history and of cultural significance. Within the Designation Boundary are 19 recorded archaeological sites in the New Zealand Archaeological Association Site Recording Scheme, classified as either Midden/Oven or Pit/Terrace sites, although the actual distribution of archaeology is anticipated to be greater. There are no identified wāhi tapu, heritage overlays (other than I'Anson Reserve), or Heritage Orders within the Site. Tawhitinui Marae and associated papākainga are located approximately 500 metres south of the Designation Boundary. A Preliminary Site Investigation has identified 55 areas within the Designation Boundary meeting the definition of a "piece of land" under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (**NES-Soil**), largely attributable to orchard use and commercial activities.

- 11 The surrounding locality has been subject to significant strategic planning through the SmartGrowth Strategy and the Urban Form and Transport Initiative, which identify the SH2 corridor as a key transport link supporting sub-regional population growth and economic development. The Site is required to provide transport infrastructure to support the growing Ōmokoroa urban area. Designation D203 for a four-lane highway has been in place since 2003, and the land use and strategic infrastructure planning of the sub-region is predicated on the Project proceeding. The Project has been identified as a Road of National Significance (**RoNS**) under the Government Policy Statement on Land Transport 2024-2034 and is included in the National Land Transport Programme 2024-2027 and the Bay of Plenty Regional Land Transport Plan 2021-2031 (**RLTP**) as a priority regionally significant activity.

Overview of the application

- 12 The TNL2 Project addresses safety, resilience, reliability and congestion problems associated with the existing SH2 route and gives effect to the strategic urban growth objectives of the Bay of Plenty Region.
- 13 Takitimu North Link is a proposed 13.8km four-lane highway running from Takitimu Drive to past Ōmokoroa Road. Stage 1 of the Project is currently under construction.
- 14 The overall proposal is described in the Substantive Application<sup>8</sup> as incorporating the following:
- (a) A 7.7km long four-lane median-divided highway from Takitimu North Link Stage 1, extending from near Loop Road to just before the Waipapa Stream. It is situated to the south of the existing SH2 between Loop Road and Barrett Road, then crosses over to the northern side of the existing SH2 between Barrett Road and Ōmokoroa Road;
  - (b) A 110km/hr design speed;
  - (c) A grade separated interchange at Ōmokoroa Road. This will replace the interim Ōmokoroa Road/SH2 roundabout currently under construction;
  - (d) A new bridge over Te Puna Stream immediately south of the existing bridge;
  - (e) Retention and reconstruction of parts of the existing SH2 road along the length of the Project to serve as a local road;
  - (f) Local road bridges over the new highway at Barrett Road/Plummers Point Road and Snodgrass Road/Te Puna Quarry Road;
  - (g) Closure of the existing connection of Francis Road to SH2, and realignment and extension of Francis Road to connect to Ōmokoroa Road;
  - (h) Realignment and reconstruction of local roads (including Ainsworth Road, Te Puna Quarry Road, Barrett Road, Plummers Point Road and Youngson

---

<sup>8</sup> Substantive Application for Approvals, Section 2.6.3

Road) to accommodate local road traffic and connect to the existing SH2 network;

- (i) Construction of temporary haul roads and site compounds;
- (j) Earthworks cuts and fills totalling 3,900,000m<sup>3</sup> with a total earthworks footprint of approximately 100 ha, all within the Designation Boundary, to achieve the design outcomes. Erosion and sediment control measures will be installed prior to bulk earthworks commencing and will be maintained throughout the duration of construction works. Up to 1.1 million cubic metres of material will be disposed of in offsite locations;
- (k) Implementation of erosion and sediment control measures;
- (l) Using land adjacent to the highway as a borrow site for additional fill and disposal of unsuitable fill material;
- (m) A roundabout at the intersection of the realigned Te Puna Quarry Road, SH2 and Snodgrass Road;
- (n) Creation of wetlands, swales and ponds for the purposes of stormwater attenuation and treatment from the proposed highway and realigned local roads;
- (o) Construction of new and altered culverts or bridges for streams to convey water, reduce upstream flooding and provide for fish passage under the new highway, the existing SH2 and the local roading network, including upsizing several culverts under SH2;
- (p) Diversion and permanent realignment of 15 existing streams, equating to 3500m;
- (q) Realignment of 13 culverts crossing the proposed state highway and/or local roads;
- (r) Reclamation of 62,000m<sup>2</sup> of natural inland wetland habitat;
- (s) Landscape and wetland planting;
- (t) Lizard release site within the Te Puna Quarry reserve;
- (u) Modification or destruction of 19 recorded archaeological sites;
- (v) Approximately 33.10 ha of wetland restoration near Ōmokoroa Road and Te Puna Stream, including 1.44ha of coastal margins within the Coastal Marine Area (**CMA**) of the Mangawhai Estuary; and
- (w) Relocation of the existing Powerco substation at 24 Albert Lane within the extent of the proposed Designation Boundary.

- 15 Ecological offsetting and compensation is required for the wetlands comprising:
- (a) Ōmokoroa wetland restoration (total size 18.42ha) – riparian vegetation on all slopes above the wetland feature from the highway to the estuary, pest plant and animal control, removal of in-wetland structures and barriers to connectivity such as farm fences and associated culverts;
  - (b) Merrin wetland restoration (total size 12.12ha) – riparian vegetation on all slopes above the wetland feature within the Merrin property, pest plant and animal control, underplanting and progressive control of willow canopy, removal of in-wetland structures and barriers to connectivity such as farm fences and associated culverts; and
  - (c) Wetland Creation (total size 2.56ha) – methods include wetland features on diverted watercourses, widening terrestrial areas adjacent to wetlands, and removal of artificial structures to restore historically lost wetland extent, followed by wetland and riparian planting, pest and animal control.
- 16 It is acknowledged the proposed reclamation of 2.56 ha of wetlands at Ōmokoroa and Merrin will have residual effects which cannot be mitigated. A comprehensive offsetting and compensation package is proposed to address those residual effects involving 33.10 ha of wetland, riparian vegetation, and saltmarsh restoration. The Application has been advanced on the basis that residual ecological effects will be managed by preparing an Ecological Management Plan (**EMP**) before works commence, with subplans for specific intervention requirements.<sup>9</sup> The EMP is expected to outline the requirements and mechanisms for the protection and long-term maintenance of restoration areas.
- 17 The Application includes a preliminary alignment and design of the Project, referred to as the specimen design. The final design and alignment will be confirmed through the detailed design process. All works will be limited to the footprint of the proposed designation. The Application includes a suite of proposed outcome-based conditions prepared on the basis of an 'envelope of effects' which set environmental bottom lines to ensure the effects on the environment will be appropriately avoided, remedied or mitigated, regardless of the final design and construction methodology for the Project.
- 18 NZTA's objectives for the Project, as set out in the Substantive Application<sup>10</sup>, are to:
- (a) Improve safety for all transport users and reduce deaths and serious injuries;
  - (b) Improve travel time reliability for all transport modes, including for freight transport to and from the Port of Tauranga;
  - (c) Support planned sub-regional growth and development in the Western Bay of Plenty, particularly at Ōmokoroa; and

---

<sup>9</sup> Appendix 9.4.4 EEA, section 5.1

<sup>10</sup> Substantive Application, Section 2.6.2

- (d) Improve the resilience of the state highway network by providing an alternative transport route from Takitimu North Link Stage 1 to west of Ōmokoroa Road.
- 19 NZTA has indicated that construction is anticipated to take six to eight years, meaning an anticipated completion date of 2033-2035. However, the Project may be constructed in two or more stages if desired by NZTA and/or the ultimate construction contractor. Two likely construction stages have been presented as follows:
- (a) Stage 2A from Loop Road to Gill Lane; and
- (b) Stage 2B from Gill Lane to Waipapa Stream Bridge.
- 20 The Applicant seeks a 20-year lapse period (under section 125 RMA) to give effect to the approvals sought.
- 21 The Substantive Application was submitted with proposed consent conditions relating to the proposed NOR, resource consents, archaeological authorities and wildlife approval. No standalone conditions were originally proposed for the complex freshwater fisheries approval on the basis that the proposed resource consent conditions would adequately manage the effects associated with those approvals. The AEE notes that, in accordance with clauses 5(4)(a), 6(1)(d), 6(1)(g), and 12(1)(b) of Schedule 5 of the FTAA, the proposed conditions are intended to ensure that potential adverse effects that may arise from the final/detailed design and construction / operation of the Project will be adequately avoided, remedied or mitigated.
- 22 The Substantive Application outlines the general approach as follows:
- 22.1 Many of the potential effects of the Project identified in the Application can be managed through the preparation and implementation of management plans. All management plans will be provided to BOPRC for certification or for information in accordance with the specific resource consent conditions. This management plan framework provides a degree of flexibility and adaptability that is suited to a complex linear infrastructure project based on a "specimen design" rather than a detailed design. It is also consistent with the assessment approach taken by the Applicant's experts for the Project, whereby they assessed an 'envelope of effects' rather than the specific alignment or specimen design. The management plans can be amended through a specified process of certification by BOPRC and may also be prepared and implemented in sections, which is important if construction works are staged.
- 22.2 We refer in this decision to the Applicant's general approach to consenting of this Proposal as a "flexible Specimen Design" approach. We acknowledge that the Project is the first of NZTA's projects to be considered under the FTAA and that NZTA is keen to ensure that the conditions are workable and do not set an unhelpful precedent for future projects. While each application must be considered on its merits and will have its own distinct features, and while our decision will not create a strict legal precedent, we acknowledge NZTA's submissions on this point.<sup>11</sup> For example, we appreciate the desirability in

---

<sup>11</sup> Closing legal submissions on behalf of NZ Transport Agency Waka Kotahi (**Closing Submissions**) dated 16 February 2026, in particular paras 5-9

pursuing a largely standardised and streamlined set of conditions which could become a standard approach for projects of this nature. However, there will often be local differences which require specific provision in each case. In our view NZTA's revised approach, following expert conferencing, of adapting the proposed conditions for this Project to ensure they are workable for the relevant administering agencies is to be commended. That is not to say that a more standardised approach is not achievable in other cases.

22.3 A set of draft resource consent conditions was included with the Substantive Application in Appendix 9.1.2.2. As referred to above, the conditions set out the management plans required and timeframes for their preparation. The proposed management plans include:

- (a) Biosecurity Management Plan;
- (b) Site Specific Erosion and Sediment Control Plan;
- (c) Erosion and Sediment Control Plan;
- (d) Ecological Management Plan including seven subplans;
- (e) Construction Management Plan;
- (f) Construction Air Quality Management Plan;
- (g) Chemical Treatment Management Plan;
- (h) Culvert and Stream Hydraulic Design Report;
- (i) Groundwater Drawdown Monitoring Plan;
- (j) Detailed Site Investigation Report;
- (k) Contaminated Site Management Plan;
- (l) Remediation Action Plan;
- (m) Site Validation Report; and
- (n) Stormwater Operation and Maintenance Plan.

#### Approvals relating to Notice of Requirement

- 23 Route protection will be achieved by way of an alteration to the existing designation D203 for the entirety of the Project. The alteration includes changes to the boundaries of the existing designation, change to the purpose of the designation, and proposes new and amended conditions. It is proposed that the boundaries of D203 will be changed so that it extends over all the land required for the Project works, including parts of D181. The residual, overlapped portion of D181 would then be removed, so that only the altered D203 would remain. D203 will include all of the necessary associated local road works, including Francis Road and Ainsworth Road realignments which were previously identified separately as D181.

- 24 The Application<sup>12</sup> describes the proposed alteration to designation as follows:
- (a) A change to the purpose of the designation from Road purposes – SH2 to: *Construct, operate, maintain, and improve a state highway, and associated infrastructure*. This more detailed purpose is more specific and is consistent with NZTA's description of designations across the country;
  - (b) Changes to the boundaries of D203, including extending the boundaries to include part of D181. The new areas of land subject to the proposed designation are shown on the designation plans numbered 144702-00-7511 to 144702-00-7520 in the drawing set in Appendix 9.6 of the Substantive Application. A schedule of the owners, legal descriptions and addresses of land affected by the alteration is included in Appendix 9.2 of the Substantive Application; and
  - (c) Changes to the existing conditions and imposition of new conditions. The existing D203/D181 conditions are outdated and require amendments to be consistent with current engineering and environmental standards and to improve overall environmental outcomes. New conditions are required to manage the effects of the alteration and to align it with new statutory requirements. A draft set of proposed designation conditions is included with the Application.

#### Approvals relating to resource consents

- 25 The Project triggers the need for various resource consents under several statutory planning documents. The Panel has reviewed the documentation and the further information provided by the Applicant and the participants and has summarised the necessary consents required at **Appendix B** of this decision.
- 26 The relevant consents sought are broadly summarised as follows:
- (a) Consents under the National Environmental Standards for Freshwater Regulations 2020 (**NESFW**) (Clauses 45, 47 and 71);
  - (b) Land use consent required under the Bay of Plenty Regional Natural Resources Plan (**RNRP**) (s9 RMA);
  - (c) Consents for the use of beds of rivers and land use consents under the RNRP (ss9 and 13 RMA);
  - (d) Discharge permits required under the RNRP (s15 RMA); and
  - (e) Water permits required under the RNRP (s14 RMA).

#### *Overall assessment of activity status*

- 27 The consents have been 'bundled' to assess activity status. The Panel agrees with the Applicant that, in terms of the relevant provisions of the RNRP (including relevant proposed plan changes) and the NESF and NESCS, overall, the Application is a

---

<sup>12</sup> Substantive Application for Approvals, Section 4.1.1

Discretionary activity<sup>13</sup> and therefore s104B RMA applies.

*Resource consent lapse periods*

- 28 The Applicant seeks a 20-year lapse period from the date of commencement of the various resource consents sought.<sup>14</sup>

*Resource consent durations*

- 29 A duration (term) of 35 years is sought for operation-related activities, including structures in streams, activities within 100m of wetlands, discharge of water within 100m of wetlands, groundwater and stream diversions, and stormwater discharge.

Approvals relating to a wildlife approval under the Wildlife Act 1953

- 30 NZTA seeks a wildlife approval under the Wildlife Act 1953 for the handling, salvage, transfer/relocation and release (and incidental killing) of native lizards for a duration of 20 years.<sup>15</sup>
- 31 Schedule 7, clause 5 of the FTAA sets out the criteria for assessment of an application for a wildlife approval. The following must be taken into account (giving the greatest weight to the purpose of the FTAA):
- (a) The purpose of the FTAA;
  - (b) The purpose of the Wildlife Act 1953, and the effects of the Project on native lizards that are to be covered by the approval; and
  - (c) Information and requirements relating to the native lizards (including the New Zealand Threat Classification System or any relevant international conservation agreement).

- 32 The Substantive Application states that granting the wildlife approval would be consistent with the purposes of both the FTAA and the Wildlife Act by allowing NZTA to undertake the necessary activities to facilitate the Project, including wildlife activities to protect and control interactions with native lizards. The approval is sought primarily to relocate lizards, thereby protecting them from potential harm caused by vegetation clearance activities, and reducing the injury / mortality of lizards within areas of required vegetation clearance.

Approvals relating to an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA)

- 33 NZTA seeks 62 archaeological authorities under the HNZPTA to modify and/or destroy both currently identified and unknown archaeology within the Designation Boundary for a duration of 20 years.<sup>16</sup> NZTA also seeks approval of Dr Warren Gumbley as the approved person pursuant to s45 of the NZHPTA.

---

<sup>13</sup> Substantive Application, at 1.3

<sup>14</sup> Substantive Application, at 4.1.3

<sup>15</sup> Substantive Application, Section 5

<sup>16</sup> Substantive Application, Section 6

Approvals relating to complex fisheries activities

- 34 The Project design includes 15 permanent stream realignments that divert water from the natural stream channel, and temporary diversions for construction that will be in place for more than three months. These are captured by the definition of “complex freshwater fisheries activity” (“works”) in section 4 of the FTAA. Accordingly, approvals for complex freshwater fisheries activities under section 42(4)(j) of the FTAA are required and form part of the Application.

**Procedure**

- 35 The following matters of procedure are relevant for this decision.

Meetings and site visits

- 36 The Panel held an initial on-line meeting with representatives of the Applicant on 30 October 2025. The Applicant’s representatives presented a series of slides which provided an overview of the Project area and the approvals sought prior to the Panel attending the Site visit.
- 37 The Panel Chair and one Panel member visited the Site on 3 November 2025. The other Panel member visited the site on 30 January 2026 given they were unable to attend the initial visit. Both visits were assisted by a representative of the Applicant who was able to orient the Panel in relation to the relevant features of the Application and the Site. Due to the significant area covered by the Proposal, and for safety reasons, the visit was primarily undertaken by vehicle. The proposed lizard relocation site at Te Puna Quarry Reserve was also viewed. The Site visits were very useful for the Panel’s understanding of the Project.
- 38 The technical advisors appointed by the Panel<sup>17</sup> in relation to ecological, traffic/transportation and stormwater issues attended a Site visit on Monday 15 December together with the Panel Chair and representatives of the Applicant. We thank the Applicant representatives for facilitating the Site visits.
- 39 Much of the Panel’s correspondence, deliberations and decision-making occurred over email following review of the information provided by the Applicant and parties invited to comment, including responses to the further information request(s), the joint witness statements produced following facilitated expert conferencing (**JWS**), and technical advice obtained by the Panel. The Panel also held meetings (via MS Teams) on the following occasions:
- (a) 23 October 2025;
  - (b) 30 October 2025;
  - (c) 10 November 2025;
  - (d) 19 November 2025;

---

<sup>17</sup> Graham Ussher (ecology), Phil Harrison (traffic and transportation), and Mark Pennington (stormwater and flooding).

- (e) 4 December 2025;
- (f) 11 December 2025;
- (g) 18 December 2025;
- (h) 14 January 2026;
- (i) 20 January 2026;
- (j) 27 January 2026;
- (k) 9 February 2026;
- (l) 17 February 2026;
- (m) 23 February 2026;
- (n) 11 March 2026
- (o) 12 March 2026; and
- (p) 16 March 2026.

Other advice and reports obtained

*Section 18 Report – Treaty Settlements*

- 40 Pursuant to section 52 of the FTAA, the Panel Convener provided the Expert Panel with a report obtained under section 18 on Treaty settlements and other obligations dated 19 September 2025 (**Section 18 Report**). The Section 18 Report is further addressed in this decision at Part D: Iwi Authorities.

*Section 51 Report – Wildlife Approval*

- 41 Pursuant to section 51(2)(c) of the FTAA, if a wildlife approval is sought then the Panel Convener must direct the EPA to obtain a report from the Director-General of Conservation (**DOC**) addressing the matters set out in clause 3 of Schedule 7.
- 42 A section 51 report was provided on 25 November 2025 (**Section 51(2)(c) Report**). The contents of the Section 51(2)(c) Report are further discussed in this decision report in relation to the wildlife approval assessment criteria at Part D, the effects evaluation at Part J, and the Panel’s evaluation of the wildlife approval sought at Part O.
- 43 We record DOC’s position stated in the Section 51 Report that, subject to recommended conditions, the Applicant’s proposed activities relating to native lizards are broadly consistent with the purpose of the Wildlife Act.<sup>18</sup>

---

<sup>18</sup> DOC section 51(2)(c) wildlife approval report for FTAA-2507-1085 Takitimu North Link Stage 2 dated 25 November 2025 at [3]

*Section 51 Report – Complex Freshwater Approval*

- 44 Pursuant to section 51(2)(e) of the FTAA, if a complex freshwater approval is sought then the Panel Convenor must direct the EPA to obtain a report from DOC addressing the matters set out in clause 4 of Schedule 9.
- 45 A separate Section 51 Report was provided on 25 November 2025 (**Section 51(2)(e) Report**). The contents of the Section 51(2)(e) Report are further discussed in this decision, in relation to the complex freshwater approval assessment criteria at Part D, the effects evaluation at Part J, and the Panel’s evaluation of the complex freshwater fisheries approval sought at Part O.
- 46 We record DOC’s position stated in the Section 51(2)(e) Report that the proposed design principles for stream realignments and culverts appear appropriate in concept, aiming to replicate natural habitat and provide fish passage. However, DOC notes that detailed designs for the diversions have not been provided, specifically in relation to fish passage. DOC recommends that appropriate conditions be imposed to ensure that compliance with the guidelines is maintained throughout implementation.<sup>19</sup>

*Section 51 Report – Archaeological Authority*

- 47 Pursuant to section 51(2)(d) of the FTAA, if an archaeological authority is sought then the Panel Convenor must direct the EPA to obtain a report from HNZPT addressing the matters set out in clause 4 of Schedule 8.
- 48 A section 51 Report was provided by HNZ on 25 November 2025 (**Section 51(2)(d) Report**). The contents of the Section 51(2)(d) Report are further discussed in relation to the archaeological authority assessment criteria at Part D, the effects evaluation at Part J, and the Panel’s evaluation of the archaeological authorities sought at Part O.
- 49 We record HNZPT’s position stated in the Section 51(2)(d) Report that, subject to recommended conditions, the granting of archaeological authorities for this Project would be consistent with the matters set out in section 59(1)(a) of the HNZPTA.<sup>20</sup>

Invitations to comment

- 50 The Panel invited comments on the Application in its Minute 1 dated 11 November 2025, with responses required by 9 December 2025. The Panel would like to thank all parties who commented for their contributions. The following is a summary of the matters raised in the comments:
- (a) Kerstin Krueger expressed concern that the cycleway design has been reduced by half. A full-length cycleway was strongly supported by the community during all preconstruction consultations. She has requested that a dedicated cycle lane be re-instated in line with the original plans.
  - (b) Stephen and Fleur Bos requested measures to address the shorter road profile and various amenity effects related to the widened and speed increased highway (including a noise control and visual barrier and suitable landscaping on the fill batter). They also seek clarity around the

---

<sup>19</sup> DOC Section 51(2)(e) complex freshwater fisheries approval report for FTAA-2507-1085 Takitimu North Link Stage 2 dated 25 November 2025 at [7.6]

<sup>20</sup> HNZPT Section 51(2)(d) archaeological authorities report for Takitimu North Link Project Stage 2 [FTAA-2507-1085] dated 25 November 2025 at 27

future use, maintenance and ownership of the wetland. They expressed interest discussing procurement of surplus land adjacent to their property.

- (c) Mark Simpson did not provide any substantive comments on the Application but asked to receive process updates.
- (d) Giselle Brosnahan expressed concern about the planned closure of Youngson Road access to State Highway 2 during the Stage 2 works and seeks clarification on the operational measures to manage impacts on residents.
- (e) Norm and Maureen Bruning through Mike Beattie acknowledge the strategic importance of the Project but raise concerns relating to the noise assessment and request a site-specific noise assessment and various measures to address noise effects and visual effects, and operational matters such as access relating to management of their dairy unit. They also seek inclusion of an additional piece of their land within the NOR.
- (f) Ziaotong Lin raises operational concerns around traffic management during construction and access and increased noise and visual impacts on their property.
- (g) Craig Lemon also raises concerns relating to construction traffic management particularly along Plummers Road/Barrett Roads.
- (h) Penny Hicks (based on evidence from planning consultant Matthew Kerr-Ridge)<sup>21</sup> acknowledges the need for the Project and accepts the general proposed designation alignment, but raises concerns about the proposed realignment and extension of Francis Road and its integration with the planned future urban environment, including the alternatives assessment, and the proposed conditions. Mr Kerr-Ridge provides some recommended additional conditions to address these concerns and recommends that the Panel require additional information relating to alternatives, environmental effects, planning assessments, and the local road alignment.
- (i) Robert Hicks does not state explicit opposition to the Project but raises concerns regarding the Francis Road alignment adjacent to family property. He proposes an alternative route which he considers would prevent wastage of residential land and improve the streetscape.
- (j) Robin Hicks does not state explicit opposition to the Project but raises concerns about the Francis Road alignment and requests that an alternative route be investigated to better provide for development of medium density residential land and address traffic noise.
- (k) Mike and Sandy Smith acknowledge the need for the proposed designation but raise concerns relating to construction noise, wetland protection, geotechnical matters, and visual and amenity effects. They

---

<sup>21</sup> Statement of Evidence of Matthew Kerr-Ridge on behalf of Penny Hicks dated 9 December 2025, provided with Ms Hicks' comments on the application

request construction and maintenance of appropriate fences and landscape screening to manage these effects and assurances relating to geotechnical matters and access to their property.

- (l) HNZPT records its support for the Project and has recommended approval of the archaeological authorities applied for.
- (m) Powerco records a neutral position on the Application noting its primary concerns relate to ensuring the continued operations of its networks and ability to maintain its assets. It supports inclusion of NZTA's proposed updated designation conditions and seeks the opportunity to comment on the draft conditions. We observe that Powerco did not ultimately provide any comments on our draft conditions.
- (n) DOC acknowledges the Project has significant national and regional benefits and supports it in principle but raises concerns about the ecological assessments and effects management, particularly relating to At Risk-Declining species, the under-ranking of several 'low value' areas, and the under-estimate of magnitude of effects. It considers that stream realignments are inherently risky and can lead to poor outcomes and therefore realignment should be treated as an 'offset' not 'remedy'. DOC recommends an Stream Offset Management Plan with quantitative loss/gain calculations and measures to achieve no-net-loss of stream extent and values. It seeks consideration of 'potential values' and improvement of streams through stock exclusion and riparian planting. DOC also recommends requiring a Lizard Management Plan as a resource consent condition to manage habitat effects and preparation of a Bat Management Plan to address various potential effects on bats and bat habitat. It also seeks strengthening of management plan conditions and specific amendments relating to biosecurity, aquatic fauna, stream management, ecological restoration, concrete discharge, and culvert design.
- (o) WBOPDC has worked closely with the Applicant prior to lodgement and is satisfied there are no material outstanding matters of contention. Key issues and effects can be managed through appropriate conditions particularly the proposed management plans. In WBOPDC's opinion the relevant expert assessments provided with the Application (which WBOPDC has peer reviewed as appropriate) relating to transport network, construction, vibration, operational noise and contaminated land effects are appropriate. However, WBOPDC's experts raised potential limitations in relation to the landscape and natural character assessments and works within the coastal environment. WBOPDC does not support the "deemed certification" approach to management plans.
- (p) BOPRC's comments raise various concerns about a range of technical matters but also identify areas of agreement with the Application. Broad agreement has been reached in relation to water quality and quantity, stream realignments for conveyance, erosion and scour protection, culvert and bridge design, downstream flooding effects, construction management, the overall approach to freshwater and marine ecology, groundwater assessment, and mitigation for construction and air quality effects. The key areas of disagreement relate to the "deemed

certification” provisions, SQEP certification, application of the effects management hierarchy for stream replacement, the ratio and maintenance period for wetland restoration, conditions relating to contaminated soils, water quality limits for temporary discharges, frequency of stormwater sampling, and monitoring of heavy metals. BOPRC has recommended condition wording to address its concerns. BOPRC does not consider that consent for discharge of dust during earthworks is required (dust control measures should ensure compliance with permitted activity rules).

- (q) Ngāti Taka acknowledge the Project's regional significance but emphasise that their cultural values as mana whenua and the Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025 and Deed of Settlement must be upheld. They seek a formal Treaty-based partnership relationship with NZTA and that all effects be addressed through statutory conditions, not non-statutory processes. They seek co-development of all management plans, training opportunities, input into detailed design of stream realignments and monitoring of effects on mahinga kai, and a Tangata Whenua Values Monitoring and Management Plan, followed by a Cultural Monitoring Framework, extending for the term of the consents. They also seek resourcing of their input, additional compensation for cultural heritage losses, and a preference for ownership of esplanade reserves to preserve access to culturally important sites and mahinga kai.
- (r) Pirirākau’s comments explain that they are recognised mana whenua for the TNL2 corridor. They emphasise they are distinct from Ngāti Taka with their own mana motuhake. They do not oppose the Project in principle but have significant concerns about process, governance and unresolved Stage 1 harm. They seek that the Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025 and Deed of Settlement be upheld and expect mitigation, compensation and cultural governance to be agreed directly with them. They seek co-development of all management plans, taonga species relocation, ecological restoration and offset, and archaeological investigation design. They also seek that decision authority on tikanga-critical matters remain with Pirirākau and the Crown rather than devolved to contractors, and stronger tikanga-driven protocols for koiwi discovery and reinterment. They raise specific concerns about archaeological site U14/1284 (known as Haumu) and request appropriate mitigation for its destruction; construction and operational noise effects on Tawhitinui Marae (located about 350m from Project area) and request conditions to manage effects on cultural practices; and impacts on directly affected whānau who should be compensated by transfer of surplus designated land. They rely on their Cultural Impact Assessment and the Pirirākau-Waka Kotahi Relationship Agreement (finalised on 20 October 2025). They also oppose the “deemed certification” provisions.
- (s) The Minister of Infrastructure, the Minister for Regional Development, and the Associate Minister of Transport record their support for the Project.
- (t) The Minister for the Environment is neutral on the outcome of the Application. Her comments focus on the timing and sequencing of the proposed management plans which were not provided in draft as part of the Application and whether the approach of requiring development and

certification of management plans following the decision on the Application is appropriate.

#### Applicant's response to invited persons' comments

- 51 On 16 December 2025 the Applicant provided a response to the comments received on the Application from those persons who were invited to comment under Section 53 of the FTAA. On 22 December 2025 the Applicant provided an updated set of draft consent conditions in response to those comments.
- 52 The Panel has considered the Applicant's responses and (where appropriate) refers to those responses within Section E of this decision. The Panel notes that, since the Applicant's response to comments, the Applicant has undertaken further engagement with parties who have participated in the process, including the relevant administering agencies and hapū, which has resulted in resolution of many of the issues raised in the comments from invited parties.

#### Appointment of technical advisors

- 53 On 15 December 2025 the Panel appointed Graham Ussher, Phil Harrison, and Mark Pennington as technical advisors to provide the Panel with technical advice in relation to ecology, transportation and stormwater/flooding issues respectively<sup>22</sup> Those appointments were made under clause 10(3) of Schedule 3 of the FTAA.

#### Further information

- 54 The Panel issued several requests to the Applicant for further information in accordance with section 67 of the FTAA. Those requests and the information provided in response are summarised below and have been uploaded to the Project website:
- (a) Minute 1 dated 3 November 2025 relating to the addresses of properties/buildings potentially affected by daytime noise levels and vibration. The Applicant responded on 7 November 2025.
  - (b) Minute 2 dated 15 December 2025 relating to road safety implications north of the Project. The Applicant responded on 16 January 2026.
  - (c) Minute 3 dated 19 December 2025 relating to Francis Road Options Assessment. The Applicant responded on 16 January 2026.
  - (d) Minute 5 dated 12 January 2026 relating to stormwater and national policy direction. The Applicant responded on 16 January 2026 and 19 January 2026.
  - (e) Minute 8 dated 29 January 2026 relating to the Waipapa Stream Bridge. The Applicant responded on 5 February 2026.
  - (f) Minute 11 dated 16 March 2026 relating to the Designation Lapse date. The Applicant responded on 17 March 2026.

---

<sup>22</sup> Minute 2, dated 15 December 2025

### Conferencing

- 55 The Panel issued Minute 3 dated 19 December 2025, advising that it had reviewed the requirements for expert conferencing and confirmed that the only topic requiring formal expert conferencing related to ecology. This was facilitated by Marlene Oliver and took place in Tauranga on 20 January 2026. Planners for some parties also attended at the request of the Panel, to address interrelated planning matters. To assist with the expert conferencing, the experts for all other parties attending the ecology expert conference, including the Applicant, circulated summary statements of position on 16 January 2026 in response to the conference agenda and Mr Ussher's report dated 13 January 2026. The Panel also asked for parties' comments as to whether a facilitated conditions workshop would be useful. A conditions workshop was subsequently arranged for 21 January 2026 in Tauranga. Hapū representatives attended both the expert conference and conditions workshop.
- 56 Two JWS were received and reviewed following expert conferencing, which set out the matters agreed and matters that remained outstanding between the participants for the attending parties.<sup>23</sup> The JWS Conditions indicated that the Applicant intended to engage in further discussions with the relevant administering agencies and Hapū to see whether agreement could be reached or issues narrowed on the outstanding issues. The Panel issued Minute 7 on 27 January 2026 to address the process following expert conferencing and provide a preliminary indication on certain outstanding issues.<sup>24</sup>

### Conditions – resource consents

- 57 The Application included a set of draft conditions. The Applicant provided updated conditions on 24 October 2025, 22 December 2025 and together with its Closing Submissions on 16 February 2026.<sup>25</sup> WBOPDC and BOPRC, in their capacity as regulatory authorities, provided detailed feedback and a set of amended draft conditions with their formal comments as invited commentors. DOC, Ngāti Taka, Pirirākau, HNZPT and Penny Hicks (through Mr Kerr-Ridge) also commented on the proposed conditions provided with the Application.
- 58 The Panel has considered those comments and the JWS Conditions and acknowledges the efforts by the participating parties in seeking to resolve as many outstanding issues as possible under tight timeframes. As a result of that process the following matters have been advanced or resolved.
- 59 At the time of writing our draft decision, the Applicant and BOPRC had resolved an important issue relating to the structure of the conditions, with NZTA agreeing to follow BOPRC's preferred approach, and have resolved all other outstanding issues except those matters set out in Appendix 1 to BOPRC's letter dated 16 February 2026, submitted with the Applicant's Closing Submissions. In summary the outstanding issues at the time of our draft decision related to the "deemed certification condition",

---

<sup>23</sup> Joint Statement in Relation to Workshop on Conditions dated 21 January 2026 (**JWS Conditions**) and Joint Witness Statement Ecology and Planning dated 20 January 2026 (**JWS Ecology**)

<sup>24</sup> Relating to management plans, issues raised by hapū and formatting of conditions. The Minute records that the Panel has not made any firm findings on these matters, but wishes to provide an opportunity for the Applicant to address them before the Panel issues its draft decision and conditions

<sup>25</sup> Closing legal submissions on behalf of NZ Transport Agency Waka Kotahi dated 16 February 2026 (**Closing Submissions**)

certain ecological issues focussed on wetland and stream methodology, and temporary stormwater discharges.

- 60 At the time of our draft decision the Applicant and WBOPDC had reached agreement on all outstanding matters including contaminated land conditions (also agreed with BOPRC) which now require implementation of certified Detailed Site Investigation reports and associated management plans. WBOPDC supports amendments to the designation conditions to reflect agreed outcomes contained in the JWS Conditions, which address construction traffic management arising from disposal of earthworks cut to waste<sup>26</sup> and integration of the landscape plans and the Francis Road realignment with planned urban development.<sup>27</sup>
- 61 With the exception of whether there should be a requirement for a lizard management plan in the resource consent conditions in addition to the Wildlife Authority, and the ecological issues addressed in Part E of this Decision, the Applicant and DOC had also resolved all outstanding issues.
- 62 The Applicant and Hapū continued to engage in relation to the provision for cultural values and the Applicant proposed a number of improvements to the conditions framework as a result, including an *Augier* condition requiring preparation of a Tangata Whenua Values Monitoring and Management Plan (**TWVMMP**) with Hapū input, which would address cultural indicators and cultural monitoring. The construction noise effects on Tawhitinui Marae were also proposed to be addressed through an engagement requirement with Pirirākau. NZTA intends this approach to address Hapū requests for a “co-development” approach to management plans, along with amendments to allow Hapū input into any substantive changes to management plans. While NZTA has indicated a commitment to ongoing kōrero with Hapū about their aspirations and role in relation to the Project (outside of the FTAA process), it does not consider that additional consent conditions are necessary. In our draft decision, we adopted the set of conditions included with the Applicant’s closing which included the *Augier* condition. The Hapū comments on that approach and our final findings are addressed in Part K below. Specific outstanding issues raised by Hapū in relation to ecological issues and the “deemed certification” condition are addressed further in Part E below.
- 63 At the time of our draft decision, the Applicant and Penny Hicks, who engaged a planner (Matthew Kerr-Ridge) who participated in expert conferencing, had partially resolved Ms Hicks’ concerns relating to the integration of the Project with planned urban development in the Francis Road area, through amendments which require the landscape plans to illustrate how the Francis Road realignment will be integrated with existing and planned urban development where practicable. In his comments on our draft decision, Mr Kerr Ridge pursued conditions specifying further detail to be provided in the conditions, rather than awaiting development of the draft landscape management plan. The Panel has proposed some additional amendments to address this issue which are explained further in Part K below, but is otherwise satisfied that sufficient details are included in the Landscape Management Plan conditions to ensure that the LVMP will address the relevant effects.

---

<sup>26</sup> An issue raised by the Panel in its Minute 7 dated 14 January 2026

<sup>27</sup> Addressing (in part) concerns raised by Matthew Kerr-Ridge, the planner engaged by Penny Hicks

- 64 Some of the concerns raised by other parties relating (in summary) to cycleway provision, offering back surplus land, provision of private mitigation such as fencing or access, and / or compensation for various matters, are unable to be resolved through this decision because they relate to matters outside of the Panel's statutory jurisdiction under the FTAA or are more onerous than necessary. The Panel is satisfied that concerns relating to operational matters (such as traffic management, road closures, property access, speed limits, and construction noise) will be appropriately addressed at the time of detailed design through the conditions requiring certification of management plans (noting that the Panel has not accepted the "deemed certification" approach proposed by the Applicant). The Panel encourages NZTA to continue to engage with affected parties to ensure their concerns are appropriately taken into account through the detailed design phase and has imposed an additional requirement in the designation conditions to ensure that this engagement occurs.

Conditions – alteration to designation D203

- 65 The Application included a set of draft designation conditions. The Applicant provided an updated set of conditions on 24 October 2025. WBOPDC, in its capacity as regulator of the designation, provided detailed feedback on the draft conditions with its formal comments as an invited commentor. In summary, its position is that the potential effects from construction work (including earthworks, traffic and access) can be appropriately managed through a Construction Management Plan and Construction Traffic Management Plan as provided for in the proposed designation conditions.
- 66 The Panel has reviewed the Applicant's proposed designation conditions provided with its Closing Submissions on 16 January 2026 and the recommendations in the comments provided by WBOPDC. The Panel has largely accepted the Applicant's proposed conditions but has imposed additional conditions relating to outline plan of works, removal of reference to deemed certification, and a new operational condition to address a safety issue relating to the northern transition of the Project with the State Highway. The Panel's further amendments to respond to the parties' comments on our draft conditions are addressed in Part K below.

Conditions – wildlife approval

- 67 The Panel has reviewed the proposed set of wildlife approval conditions provided with the Applicant's Closing Submissions on 16 January 2026 and the recommendations in the Section 51(2)(c) Report provided by DOC, including the conditions proposed in Appendix A to that Report.
- 68 DOC's recommendations include the removal of "deemed certified" wording and the addition of a number of conditions. In our draft decision we accepted the set of conditions proposed by the Applicant, which included a subsequent amendment to provide for Hapū to review and comment on updated management plans, where practicable.<sup>28</sup> The Panel has removed the "deemed certification" provision and the "where practicable" wording for the reasons explained further below.

---

<sup>28</sup> Contained in the version of conditions provided with the Applicant's Closing Submissions on 16 February 2026

Conditions – complex freshwater fisheries approval

- 69 The Applicant considers that its proposed resource consent conditions adequately provide for managing the effects of the proposed complex freshwater fisheries activities, in particular the preparation and implementation of a Stream Management and Monitoring Plan (**SMMP**). The Panel has reviewed the recommendations in the Section 51(2)(e) Report provided by DOC, including the proposed conditions in Appendix B to that Report. The Panel considers the Applicant’s proposed conditions to be generally appropriate.
- 70 DOC also recommended additional conditions to ensure the Applicant follows the good practice design standards outlined in the New Zealand Fish Passage Guidelines (Version 2.0, MfE, 2024). The Panel considers that the Applicant’s proposed wording on this issue accurately reflects the legal requirements under the FTAA, which only require the Panel to “take into account” those Guidelines.<sup>29</sup>

Conditions – archaeological approval

- 71 The Panel has reviewed the Applicant’s proposed archaeological approval conditions and the recommendations and conditions proposed in the Section 51(2)(d) Report provided by HNZPT.
- 72 Following the Conditions Workshop the Applicant has updated the archaeological authority conditions to reflect the outcomes of the JWS Conditions and engaged with HNZPT and the Hapū in relation to conditions relating to the archaeological management plan (**AMP**), archaeological research and mitigation strategy (**ARMS**) and cultural induction provisions. As a result of that engagement, changes have been made to provide for Hapū engagement on the AMP and ARMS (provision for written Hapū feedback and reasons if feedback is not incorporated, and requiring research and mitigation to be informed by tikanga and cultural values), which NZTA understands are supported by the Hapū. NZTA also understands that those amendments address HNZPT’s concerns although confirmation from HNZPT has not yet been provided. Other structural amendments have been made to reflect NZHPT’s preferred structure. Outstanding issues raised by HNZPT are the inclusion of definitions which do not align with its condition portal, the requirement in the AMP to manage kōiwi finds “in general accordance with” the Guidelines for Kōiwi Tangata/Human Remains (AGS8 2014) (**Kōiwi Guidelines**), which is opposed by HNZPT, and a proposed “catch-all” provision sought by HNZPT which would enable it to decide whether or not to approve the AMP for any reason. We agree with the Applicant’s position (outlined in its Closing Submissions) on these issues. In summary, we agree that it is sensible to include definitions in a schedule to the Authority, which should be possible given property references are also scheduled. We also agree that it is appropriate to only require general compliance with the Kōiwi Guidelines, given they are a substantial document which provides guidance only rather than imposing requirements to be strictly followed. Finally, we agree that it is not appropriate to reserve a general discretion to HNZPT to decline an approval if it does not include “any other matter” required by HNZPT. HNZPT reiterated these concerns in its comments on our draft conditions. No new reasons were provided which have persuaded the Panel to change its conclusions on these issues.

---

<sup>29</sup> Clause 19(2), Schedule 5 and clauses 5(b) and 6, Schedule 9, FTAA

### Conclusion on conditions

- 73 The Panel received input from its technical advisors (ecology, stormwater / flooding and transportation) in relation to the Applicant's proposed conditions, undertook its own review, and proposed amendments to give effect to its draft decision. In accordance with section 70 of the FTAA the Panel provided draft conditions to the persons invited to comment on 25 February 2026, requiring responses by 6 March 2026.
- 74 The Panel received comments from the following seven parties on the draft conditions:
- (a) The Applicant;
  - (b) DOC;
  - (c) HNZPT;
  - (d) Pirirākau and Ngāti Taka;
  - (e) BOPRC;
  - (f) WBOPDC; and
  - (g) Penny Hicks (through her agent, Maven).
- 75 The Applicant was provided with a final opportunity to comment by 13 March 2026, and did so.
- 76 The Panel has considered all comments received on the draft conditions, including the Applicant's response, as required under section 70 FTAA. We have taken further advice from our technical advisors where considered necessary to assist us with our final deliberations. We have amended the conditions in response to the comments received where appropriate. We have addressed the comments throughout this decision report and provided an explanation for our final amendments to conditions in Part K: Conditions below.
- 77 Under section 72 FTAA the Panel invited comment from the Ministers for Māori Crown Relations: Te Arawhiti and Māori Development on 24 February 2026. The Ministers were required to respond by 11 March 2026.<sup>30</sup>
- 78 Comments were received from Hon Tama Potaka, Minister of Māori Crown Relations and Māori Development dated 11 March 2026. Those comments did not address the draft decision or draft conditions directly, but supported earlier comments made by the Minister for the Environment<sup>31</sup> in relation to the proposed management plan approach, and suggested that requiring key cultural and iwi management plans to be in place prior to granting the approvals sought may provide greater clarity around implementation and monitoring requirements and improve alignment with relevant national direction.

---

<sup>30</sup> Minute 10 of the Panel dated 25 February 2026

<sup>31</sup> Comments by Hon Penny Simmonds dated 9 December 2025

### Hearing

- 79 The Panel has exercised its discretion not to require a hearing on any issue under section 56 FTAA. The Panel was able to adequately consider all issues based on the information available including the Application, comments received, responses to comments and the further information provided by the Applicant, the Council and invited persons, the JWS, and the advice received from its technical advisors who also participated in expert conferencing. The material issues involved were comprehensively addressed in the documentation provided, substantially resolving the experts' differences of opinion. Residual issues were sufficiently clear for the Panel to consider.
- 80 The Panel considers that the absence of detailed design information supplied through the Application process can be appropriately addressed through conditions requiring a post-consent certification process by the relevant authorities and through the outline plan of works process and has imposed conditions requiring this. The Panel has not accepted the "deemed certification" approach sought by the Applicant for the reasons explained in this decision.
- 81 The Panel has been mindful of the emphasis on time limited decision-making in the present process, the purpose of the FTAA in section 3 (to facilitate the delivery of infrastructure and development projects with significant regional or national benefits) and the procedural principles in section 10 FTAA that require the Panel to take all practicable steps to use timely, efficient, consistent, and cost effective processes that are proportionate to the Panel's functions, duties or powers.

### Timing of the Panel decision

- 82 In accordance with the Panel Convenor minute dated 15 October 2025 the time frame for the Panel to issue its decision documents under sections 79 and 88 FTAA is 11 March 2026. A six working day suspension was requested by the Applicant and granted by the Panel in its Minute 9 dated 4 February 2026, extending the due date for the final decision to **19 March 2026**. The Panel's draft decision and conditions were released on 25 February 2026 for comment. This final decision and associated conditions was issued on 19 March 2026.

## **PART C: LEGAL CONTEXT**

### **Legal context for a listed project under the FTAA**

- 83 In accordance with section 42, an authorised person<sup>32</sup> for a listed project may lodge a substantive application with the EPA. The substantive application is required to follow the process set out in sections 43 and 44 FTAA. The Applicant lodged the substantive application on 1 August 2025.
- 84 The EPA decided that the Application was complete and within scope<sup>33</sup> on 22 August 2025. The EPA made a recommendation on whether there are competing applications or existing resource consents for the same activity on 5 September 2025.<sup>34</sup> The EPA then provided the Application to the Panel Convenor and at the same time requested a report from the responsible agency under section 18 FTAA. The EPA then provided the

---

<sup>32</sup> FTAA, sections 4 and 42

<sup>33</sup> FTAA, section 43

<sup>34</sup> FTAA, section 47

Application to the Panel Convenor and at the same time requested a report from the responsible agency under section 18 FTAA. A report was received on 19 September 2026 (**Section 18 Report**). Other procedural steps are described in Part C above.

- 85 The approvals that would otherwise have required consent under the RMA sought in the Application are:
- (a) Land use consent (ss 9 and 13 RMA);
  - (b) Water permit (other than coastal marine area) (s14 RMA);
  - (c) Discharge permit (other than coastal marine area) (s15 RMA); and
  - (d) Alteration to designation.

### **Decisions on approvals**

- 86 Section 81 describes the decision-making framework under the FTAA and is relevant to the approvals sought. Section 81 FTAA states:

#### **81 Decisions on approvals sought in substantive application**

- (1) A panel must, for each approval sought in a substantive application, decide whether to—
  - (a) grant the approval and set any conditions to be imposed on the approval; or
  - (b) decline the approval.
- (2) For the purpose of making the decision, the panel—
  - (a) must consider the substantive application and any advice, report, comment, or other information received by the panel under section 51, 52, 53, 55, 58, 67, 68, 69, 70, 72, or 90;
  - (b) must apply the applicable clauses set out in subsection (3) (see those clauses in relation to the weight to be given to the purpose of this Act when making the decision);
  - (c) must comply with section 82, if applicable;
  - (d) must comply with section 83 in setting conditions;
  - (e) may impose conditions under section 84;
  - (f) may decline the approval only in accordance with section 85.
- (3) For the purposes of subsection (2)(b), the clauses are as follows:
  - (a) for an approval described in section 42(4)(a) (resource consent), clauses 17 to 22 of Schedule 5;
  - (b) for an approval described in section 42(4)(b) (change or cancellation of resource consent condition), in relation to a condition of a coastal permit specified under section 186H(3) of the Fisheries Act 1996, clauses 20 to 22 of Schedule 5;
  - (c) for any other approval described in section 42(4)(b) (change or cancellation of resource consent condition), clause 23 of Schedule 5;
  - (d) for an approval described in section 42(4)(c) (certificate of compliance), clause 27 of Schedule 5;
  - (e) for an approval described in section 42(4)(d) (designation), clauses 24 and 25 of Schedule 5;
  - (f) for an approval described in section 42(4)(e) (concession), clauses 7 to 9 of Schedule 6;
  - (g) for an approval described in section 42(4)(f) (land exchange), clauses 29 to 33 of Schedule 6;
  - (h) for an approval described in section 42(4)(g) (conservation covenant), clauses 45 and 46 of Schedule 6;
  - (i) for an approval described in section 42(4)(h) (wildlife approval), clauses 5 and 6 of Schedule 7;
  - (j) for an approval described in section 42(4)(i) (archaeological authority), clauses 4 and 5 of Schedule 8;
  - (k) for an approval described in section 42(4)(j) (complex freshwater fisheries activity approval), clauses 5 and 6 of Schedule 9;
  - (l) for an approval described in section 42(4)(k) (marine consent), clauses 6 and 7 of Schedule 10;

- (m) for an approval described in section 42(4)(l) (access arrangement), clauses 7, 9, and 10 of Schedule 11:
  - (n) for an approval described in section 42(4)(m) (access arrangement), clauses 8, 9, and 10 of Schedule 11:
  - (o) for an approval described in section 42(4)(n) (mining permit), clauses 19 to 21 of Schedule 11.
- (4) When taking the purpose of this Act into account under a clause referred to in subsection (3), the panel must consider the extent of the project's regional or national benefits.
  - (5) For the purposes of subsection (4), if the substantive application was made under section 42(1)(b), the panel—
    - (a) must treat the stage of the project to which the application relates as constituting the project; but
    - (b) may consider the regional or national benefits of the whole project, having regard to the likelihood that any later stages of the project will be completed.
  - (6) Despite subsection (2)(a), the panel—
    - (a) is not required to consider any advice, report, comment, or other information it receives under section 51, 53, 55, 67, 69, 70, or 72 after the applicable time frame; but
    - (b) may, in its discretion, consider the information as long as the panel has not made its decision under this section on the approval.
  - (7) To avoid doubt, nothing in this section or section 82 or 85 limits section 7.

### Ability to decline consent

87 Section 85 FTAA sets out the limited circumstances when approvals must or may be declined.

88 Section 85(1) and (2) set out the matters that apply to a mandatory decline decision. Section 85(3) sets out the matters that must be considered by the Panel in forming a view that the approval sought should be declined:

*Approval may be declined if adverse impacts out of proportion to regional or national benefits*

- (3) A panel may decline an approval if, in complying with section 81(2), the panel forms the view that—
  - (a) there are 1 or more adverse impacts in relation to the approval sought; and
  - (b) those adverse impacts are sufficiently significant to be out of proportion to the project's regional or national benefits that the panel has considered under section 81(4), even after taking into account—
    - (i) any conditions that the panel may set in relation to those adverse impacts; and
    - (ii) any conditions or modifications that the applicant may agree to or propose to avoid, remedy, mitigate, offset, or compensate for those adverse impacts.
- (4) To avoid doubt, a panel may not form the view that an adverse impact meets the threshold in subsection (3)(b) solely on the basis that the adverse impact is inconsistent with or contrary to a provision of a specified Act or any other document that a panel must take into account or otherwise consider in complying with section 81(2).
- (5) In subsections (3) and (4), **adverse impact** means any matter considered by the panel in complying with section 81(2) that weighs against granting the approval.

89 None of those circumstances apply in this case because:

- (a) The RMA approvals are not sought for an ineligible activity (section 85(1)(a)).
- (b) We do not consider granting the approvals would breach section 7 of the FTAA (section 85(1)(b)).

- (c) The RMA approvals are not for an aquaculture area (section 85(2)).

90 The Panel has set out its assessment of the impacts of the Project within Part I of this decision and has concluded that there will be some adverse impacts. However, after taking into account the conditions that the Applicant has offered (and amended through the application process), conditions proposed by parties invited to comment, and as further amended by the Panel, it is the Panel's considered view that the adverse impacts are not sufficiently significant to be out of proportion to the Project's regional and national benefits. The Panel has therefore determined to grant all approvals sought. This is addressed in Part K of our decision.

### **Approvals relating to the Resource Management Act 1991 (RMA)**

91 The relationship of the FTAA with the RMA is outlined in Schedule 5 which provides the consent application process that applies rather than the standard RMA consent application process. Clause 17 states:

#### **17 Criteria and other matters for assessment of consent application**

- (1) For the purposes of section 81, when considering a consent application, including conditions in accordance with clauses 18 and 19, the panel must take into account, giving the greatest weight to paragraph (a),
  - (a) the purpose of this Act; and
  - (b) the provisions of Parts 2, 3, 6, and 8 to 10 of the Resource Management Act 1991 that direct decision making on an application for a resource consent (but excluding section 104D of that Act); and
  - (c) the relevant provisions of any other legislation that directs decision making under the Resource Management Act 1991.
- (2) For the purpose of applying any provisions in subclause (1),—
  - (a) a reference in the Resource Management Act 1991 to Part 2 of that Act must be read as a reference to sections 5, 6, and 7 of that Act; and
  - (b) if the consent application relates to an activity that is the subject of a determination under section 23 of this Act, the panel must treat the effects of the activity on the relevant land and on the rights or interests of Māori as a relevant matter under section 6(e) of the Resource Management Act 1991; and
  - (c) to avoid doubt, for the purposes of subclause (1)(b), when taking into account section 104(1)(c) of the Resource Management Act 1991, any Mana Whakahoā Rohe or joint management agreement that is relevant to the approval is a relevant matter.
- (3) Subclause (4) applies to any provision of the Resource Management Act 1991 (including, for example, section 87A(6)) or any other Act referred to in subclause (1)(c) that would require a decision maker to decline an application for a resource consent.
- (4) For the purposes of subclause (1), the panel must take into account that the provision referred to in subclause (3) would normally require an application to be declined, but must not treat the provision as requiring the panel to decline the application the panel is considering.
- (5) In the case of an application for a coastal permit for aquaculture activities, if the panel makes a reservation under clause 20 in relation to recreational fishing or customary fishing or commercial fishing in relation to stocks or species not subject to the quota management system, the panel must not grant the coastal permit in respect of the areas covered by the reservation.
- (6) For the purposes of subclause (1), the provisions referred to in that subclause must be read with all necessary modifications, including that a reference to a consent authority must be read as a reference to a panel.
- (7) Sections 123 and 123A of the Resource Management Act 1991 apply to a decision of the panel on the consent.

92 In relation to the alteration to the existing designations, Clause 24 states:

**24 Criteria and other matters for assessment of notice of requirement**

- (1) For the purposes of section 81, when considering a notice of requirement, including conditions in accordance with clause 25, the panel must, giving the greatest weight to paragraph (a)(i),—
  - (a) take into account—
    - (i) the purpose of this Act; and
    - (ii) the provisions of Part 8 of the Resource Management Act 1991 that direct decision making on an application for a designation (except section 170); and
    - (iii) the relevant provisions of any other legislation that directs decision making under the Resource Management Act 1991; and
  - (b) consider any Mana Whakahono ā Rohe or joint management agreement that is relevant to the approval.
- (2) For the purpose of applying any provisions in subclause (1),—
  - (a) a reference in the Resource Management Act 1991 to Part 2 of that Act must be read as a reference to sections 5, 6, and 7 of that Act; and
  - (b) if the notice of requirement relates to an activity that is the subject of a determination under section 23 of this Act, the panel must treat the effects of the activity on the relevant land and on the rights or interests of Māori as a relevant matter under section 6(e) of the Resource Management Act 1991.
- (3) For the purposes of subclause (1), the provisions referred to in that subclause must be read with all necessary modifications, including (where appropriate) that a reference to a consent authority must be read as a reference to a panel.

93 In accordance with clause 17, the relevant matters the Panel must take into account when considering the resource consents comprise the following:

- (a) The purpose of the FTAA, being “to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.” When assessing this criterion, we must consider the extent of the Project’s national or regional benefits. This criterion is to be individually assessed as part of a clause 17(1) assessment, and then, when conducting an overall assessment, is to be given the greatest weight;
- (b) Part 2 of the RMA, comprising sections 5-7;
- (c) Part 3 of the RMA, and in particular: section 15 (discharges of contaminants); section 16 (duty to avoid unreasonable noise); and section 17 (duty to avoid, remedy or mitigate adverse effects);
- (d) Part 6 of the RMA, and in particular: section 104 (consideration of applications); section 104B (relating to applications for discretionary applications); and section 108 (conditions of resource consents); and
- (e) Parts 8, 9 and 10 of the RMA.

94 Our assessment of those matters is set out in more detail in the relevant sections of this decision.

95 In accordance with clause 24, the relevant matters the Panel must take into account when considering the alteration to existing designations comprise:

- (a) The purpose of the FTAA, being “to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.” When assessing this criterion, we must consider the extent of the Project’s national or regional benefits. This criterion is to be individually

assessed as part of a clause 24(1) assessment, and then, when conducting an overall assessment, is to be given the greatest weight; and

- (b) Part 2 of the RMA, comprising sections 5-7.

96 Our assessment of those matters is set out in more detail in the relevant sections of this decision.

### **Approvals relating to a wildlife approval under the Wildlife Act 1953**

97 Schedule 7, clause 5 sets out the criteria for assessment of an application for a wildlife approval.

#### **5 Criteria for assessment of application for wildlife approval**

For the purposes of section 81, when considering an application for wildlife approval, including conditions under clause 6, the panel must take into account, giving the greatest weight to paragraph (a),—

- (a) the purpose of this Act; and
- (b) the purpose of the Wildlife Act 1953 and the effects of the project on the protected wildlife that is to be covered by the approval; and
- (c) information and requirements relating to the protected wildlife that is to be covered by the approval (including, as the case may be, in the New Zealand Threat Classification System or any relevant international conservation agreement).

98 In relation to clause 5 of Schedule 7 the Panel notes:

99 The FTAA's purpose, which is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits, is to be given the greatest weight in the Panel's assessment (clause 5(a)).

100 The Panel acknowledges the position stated in the Section 51(2)(c) Report provided by DOC, which succinctly states that "The relevant purpose of the Wildlife Act is to protect wildlife".<sup>35</sup> The Panel has taken into account the wildlife to be addressed through the wildlife approval (native lizards) and considered the effects on those species (clause 5(b)).

101 The Panel has also taken into account information and requirements including the NZ Threat Classification System in the context of the wildlife approval (clause 5(c)).

102 In applying the criteria in clause 5, the Panel has been informed by the Section 51(2)(c) Report provided by DOC. That Report addresses the matters in clause 5(b) and (c). It also addresses the conditions that should be imposed to manage the effects of the activity on protected wildlife and/or to recognise or protect a relevant Treaty settlement and any obligations arising under the Marine and Coastal Area (Takutai Moana) Act 2011 or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

103 While no native lizard species were found during surveys undertaken by the Applicant when preparing the effects assessment, based on the habitat present and geographic range of lizard species it is acknowledged that a number of native skinks and geckos

---

<sup>35</sup> Department of Conservation Section 51(2)(c) wildlife approval report for – FTAA-2507-1085 Takitimu North Link– Stage 2 dated 25 November 2025 at [6.2]

could be present, particularly copper skinks.<sup>36</sup> The construction phase of the Project is assessed to have a Very High impact on herpetofauna because they are a relatively immobile taxa, so even small-scale habitat clearance could significantly affect habitat connectivity and increase mortality risk. However, the Applicant considers that adverse effects on lizards as a result of the Project can be managed by a robust Lizard Management Plan (**LMP**) and conditions. As such, the operational phase is expected to have a Low impact on copper skinks and their habitat following mitigation. Due to the Project's location within an already modified and fragmented landscape, no new movement barriers beyond those already formed by the existing SH2 are anticipated.

- 104 The draft LMP<sup>37</sup> includes:
- (a) Actions intended to be carried out involving protected wildlife (native lizards);
  - (b) A list of protected wildlife species known and predicted to be within the Designation Boundary;
  - (c) The values and impacts on at-risk wildlife species, and the mechanisms proposed to manage those effects;
  - (d) The methods proposed, aligned with best practice for the capture, catching, holding and translocating native lizards; and
  - (e) The locations within which the authorised activities are proposed to occur.
- 105 For the purposes of the wildlife approval, NZTA has confirmed it will be the holder of the wildlife approval, having extensive experience in design, construction and operation of the state highway network, including managing effects on wildlife. The nominated ecologist would typically be engaged at a later stage by the contractor and will be required to be a sufficiently qualified and experienced herpetologist.
- 106 NZTA confirmed there is no proposal to temporarily hold native lizards in captivity as the proposed release site at Te Puna Quarry Park is ready to receive lizards and no delay in translocation is anticipated.
- 107 Consultation with the hapū regarding the wildlife authority and draft LMP has been part of the iterative process of its development. Pirirākau and Ngāti Taka support the continued use of Te Puna Quarry Park as the lizard release site and have been involved in the capture, release and post-release management (including pest control) at the release site during Stage 1. Discussions between NZTA and the hapū regarding opportunities for close involvement in the management of native lizards under the wildlife approval are ongoing.
- 108 DOC has been consulted over several years and feedback on the wildlife approvals has been incorporated into the proposed draft wildlife approval conditions including increasing the size of the lizard release site and a requirement to maintain planting for a fixed time period.

---

<sup>36</sup> EEA, at 3.1.3.1

<sup>37</sup> Substantive Application, at Appendix 9.4.4

- 109 The remaining area of disagreement between NZTA, and DOC and BOPRC at the time of our draft decision related to whether an LMP should be prepared certified as part of the resource consent conditions as well as the wildlife approval. Earlier concerns regarding effects on lizard habitat and proposed conditions relating to restoration and landscape planting have been resolved.<sup>38</sup>
- 110 In its Closing Submissions, NZTA reiterated its position that only one LMP should be required (under the wildlife approval) and that habitat replacement and monitoring requirements are addressed through the EMP, which is required to be certified under the RMA consents. This approach should avoid duplication and ensure the LMP remains a concise, practical document focused on operational species management for use by contractors and project managers.<sup>39</sup>
- 111 As a result of discussions at the ecology expert conference, NZTA has proposed an amendment to the EMP Condition 17.1 (a)(3) to strengthen the existing obligation in the EMP to provide for lizard habitat. All parties have agreed to the amended wording, apart from an additional condition sought by DOC requiring the lizard habitat areas to be monitored and provision for weed control and maintenance. NZTA does not consider an additional condition to be necessary, as these matters are already covered under the requirements of the EMP.<sup>40</sup> We agree.
- 112 The Panel agrees with NZTA that the LMP for the wildlife approval, in conjunction with the amendment to the EMP to better provide for lizard habitat, are sufficient to appropriately manage effects on lizards and lizard habitat.
- 113 In setting conditions on the wildlife approval, the Panel has considered the matters in clause 6 of Schedule 7 of the FTAA. Having considered the assessment criteria and measures to minimise effects proposed in the LMP and resource consent conditions, we have determined that the wildlife approval can be granted. We have adopted the relevant conditions proposed by the Applicant in its Closing Submissions, with some amendments to reflect the standard provisions proposed by DOC in the section 51(c) report, reiterated in its comments on our draft decision.

#### **Approvals relating to an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014**

- 114 Schedule 8, clause 4 sets out the criteria for assessment of an application for an archaeological authority.

#### **4 Criteria for assessment of application for archaeological authority**

- (1) For the purposes of section 81, when considering an application for an archaeological authority, including conditions in accordance with clause 5, the panel must take into account, giving the greatest weight to paragraph (a),—
- (a) the purpose of this Act; and
  - (b) the matters set out in section 59(1)(a) of the HNZPT Act; and
  - (c) the matters set out in section 47(1)(a)(ii) and (5) of the HNZPT Act; and
  - (d) a relevant statement of general policy confirmed or adopted under the HNZPT Act.

---

<sup>38</sup> Memorandum of DOC to the Panel, dated 9 December 2025, at 3.29; and Memorandum of BOPRC to the Panel, dated 9 December 2025, at 5.5.5

<sup>39</sup> Closing Submissions dated 16 February 2026, at para 182

<sup>40</sup> Closing Submissions, at para 183

- (2) For the purposes of subclause (1), the provisions of the HNZPT Act referred to in that subclause must be read with all necessary modifications, including that a reference to Heritage New Zealand Pouhere Taonga must be read as a reference to the panel.

115 Our discussion above of the approach to the FTAA's directed weighting in the context of the RMA approvals applies equally to the archaeological authority.

### **Approvals relating to approvals for complex fisheries activities**

- 116 Schedule 9, clause 5 sets out the criteria for assessment of applications for complex freshwater fisheries activities.
- 117 Section 7.2 of the Substantive Application responds to information requirements required by Schedule 9, clause 3 of the FTAA, setting out details of proposed stream realignments with associated design flow characteristics and confirms that there is no 'operating regime' because the design flows are not artificially regulated.
- 118 Information is provided in the assessment of effects submitted with the Substantive Application in relation to the freshwater species and values present (utilising the NZ Threat Classification System), along with a description of water quality and quantity at the Site and upstream/downstream of the Site.<sup>41</sup>
- 119 An explanation of how fish passage will be provided and aquatic habitat enhanced is included at section 7.2.3 of the Substantive Application. NZTA considers that fish passage will be improved compared to the existing situation. Inadequate culverts will be replaced, with new culverts designed to meet the 2024 NZ Fish Passage Guidelines, making upstream catchments accessible to more fish species. The Project also offers opportunities to increase stream length, improve aquatic conditions and habitats (including for species that were historically present), and enhance freshwater habitat through better water quality in the realigned streams.
- 120 Section 7.3 of the Substantive Application provides an overview of how the Application meets the requirements of Schedule 9, clause 5 FTAA, namely:
- (a) The purpose of FTAA: The proposed stream realignments and crossings are essential to deliver the Project. Because the proposed road is linear and often on an embankment, widening it inevitably requires realigning adjacent streams;
  - (b) The alignment of the proposed activity with best practice and the New Zealand Fish Passage Guidelines: All stream realignments have been designed in line with the New Zealand Fish Passage Guidelines, with appropriate fish passage provided;
  - (c) How the proposed activity will manage risks to freshwater values or habitat, including prevention of access to or spread of invasive species: A biosecurity management plan will be required that will include disease management protocols, pest plant and invasive freshwater species

---

<sup>41</sup> Substantive Application, at 7.2.2

management protocols, and protocols to prevent spread of invasive marine species;

- (d) The availability and quality of the habitat upstream and downstream of the proposed activity: The effects assessment provided with the Substantive Application identifies existing habitat as mostly low quality, with only two streams rated moderate. Measures in the Stream Management and Monitoring Plan (**SMMP**) are expected to improve habitat quality overall;
- (e) The presence of threatened, data-deficient, or at-risk species under the New Zealand Threat Classification System in the vicinity of the proposed activity: Freshwater species, including any threatened or at-risk species, are identified in section 7.2.1 of the Substantive Application, and section 3.2.2.2 of the environmental effects assessment; and
- (f) The advantages and disadvantages of providing fish passage upstream or downstream of the proposed activity: Full fish passage will be provided along 2.6 km of the 3.4 km of realigned streams. The remaining 0.8 km will have limited passage because the upstream catchments are small and the streams are ephemeral or intermittent, so providing full passage there is considered to offer no meaningful advantage.

121 NZTA considers that its proposed resource consent conditions, and particularly the requirement for a SMMP, will adequately provide for managing the effects of the proposed complex freshwater fisheries activities. The SMMP requires stream monitoring prior, during and post construction to inform preparation of stream designs where stream realignment and/or culverts are proposed and requires preparation of stream realignment installation requirements.<sup>42</sup>

122 DOC's Section 51(2)(e) Report outlines the following key points:

- (a) The Applicant proposes 15 permanent stream realignments and associated culverts, with approximately 3.4 km of stream length affected. Of this, 2.6 km will be fully fish-passable, and 0.8 km will provide passage for climbing species only;
- (b) Surveys indicate the affected waterways support a relatively small native freshwater fish fauna, including shortfin eel, longfin eel (At Risk: Declining), common bully, īnanga, and kōura. Introduced species such as rainbow trout are also present;
- (c) The proposed design principles for stream realignments and culverts appear appropriate in concept, aiming to replicate natural habitat and provide fish passage. However, detailed designs for the diversions have not been provided; and

---

<sup>42</sup> Substantive Application, at 7.4

- (d) The Application lacks certainty on how fish passage will be achieved in steep or ephemeral reaches, and how constraints such as gradient will be addressed.
- 123 DOC's key recommendation in its Report is to impose conditions requiring adherence to the New Zealand Fish Passage Guidelines (Version 2.0, MfE 2024), including:
- (a) Clear fish passage objectives and performance standards;
  - (b) Design standards for culverts and diversion channels;
  - (c) Criteria for nature-like fishways and appropriate flow conditions; and
  - (d) Monitoring of fish passage success, following best practice methods in the New Zealand Fish Passage Guidelines.
- 124 Additional conditions that DOC suggested include:
- (a) No instream works during peak migration periods;
  - (b) No wet concrete in flowing water;
  - (c) Robust biosecurity measures (Check, Clean, Dry protocols); and
  - (d) Contingency actions if fish passage objectives are not met.
- 125 The JWS Conditions records that DOC considers there to be a requirement for separate approval and proposed conditions for complex freshwater fisheries activities. NZTA had understood the FTAA did not require separate conditions to be identified for a complex fisheries approval, as they are included in the resource consent conditions.<sup>43</sup>
- 126 With its Closing Submissions, NZTA has attached a separate, standalone set of complex freshwater fisheries activity approval conditions as requested by DOC.<sup>44</sup> Those conditions address the intent and principles of the conditions proposed by DOC, whilst ensuring consistency with NZTA's regional consent conditions relating to fisheries. An iterative process has occurred with DOC providing further feedback such that the freshwater fisheries activity approval conditions are supported by DOC, except for the "deemed certification" condition which we discuss elsewhere.<sup>45</sup>
- 127 In setting conditions on the complex fisheries activities approval, the Panel has considered the matters in clause 9 of Schedule 5 of the FTAA. In light of the assessment and mitigation measures, including the agreed position between NZTA and DOC recorded above, we have determined that the effects of the proposed complex freshwater fisheries activities can be adequately managed and approval can be granted. We have adopted the relevant conditions proposed by the Applicant in Closing Submissions.

---

<sup>43</sup> JWS in relation to workshop on conditions, dated 21 January 2026, at 3.8

<sup>44</sup> Closing Submissions, at Schedule 4 to Appendix A

<sup>45</sup> Closing Submissions, at 75.7

### **Fast-track Approvals Amendment Act 2025 (Amendment Act)**

- 128 The Amendment Act received Royal Assent on 16 December 2025. The Amendment Act makes changes to the FTAA. Relevant to this Application, the transitional provisions of the Amendment Act provide that, for any substantive application lodged but not finally determined prior to the first commencement date (such as this Application), the new or amended sections 60, 62–66, 81, 84A, and clause 20 of Schedule 11 will apply.
- 129 Of the new or amended sections of the FTAA, the Panel considers that only new section 84A is potentially relevant to the Application. New section 84A provides:
- (1) The panel may set conditions to ensure that the infrastructure in the project area or other infrastructure the project will rely on is or can be made adequate to support—
    - (a) the project; or
    - (b) the stage of the project to which the application relates.
  - (2) This section applies in addition to, and does not limit, any other powers to set conditions under this Act.
  - (3) To avoid doubt, a condition set under this section may impose an obligation on the applicant only.
- 130 Except to the extent discussed in relation to our findings regarding the Waipapa Stream bridge, the Panel has not relied on section 84A in setting conditions.

### **PART D: IWI AUTHORITIES**

#### **Section 18 Report for a listed project**

- 131 The MFE's Section 18 Report includes the following relevant information:
- (a) Identification of relevant iwi authorities, Treaty settlement entities, and other Māori groups with interests in the Project area. The Report notes that there are a significant number of groups relevant to the application area; and
  - (b) The relevant principles and provisions in Treaty settlements and other arrangements.
- 132 Treaty settlements relevant to the Project are recorded as follows:
- (a) Ngāti Pūkenga Claims Settlement Act 2017;
  - (b) Ngāti Hinerangi Claims Settlement Act 2021;
  - (c) Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025;
  - (d) Ngāi Te Rangi Settlement Trust deed of settlement signed 14 December 2013; and
  - (e) Tauranga Moana Iwi Collective deed signed 21 January 2015.
- 133 Across these Settlements the Crown acknowledges the environmental degradation of Tauranga Moana, the loss of coastal lands and taonga, impacts from Port of Tauranga development, wastewater disposal and habitat decline, and that these remain sources of significant distress for affected iwi.

- 134 Specific relationship arrangements identified of relevance to the Project are:
- (a) The Ngāti Hinerangi–DOC Conservation Relationship Agreement which requires early consultation, sufficient information and time for iwi input, and ongoing reporting back from DOC for statutory authorisations (eg. Wildlife Act approvals).
  - (b) The Tauranga Moana Framework. While this legislation is not yet enacted, the deed sets expectations around governance and iwi involvement in resource consent processes.
- 135 In relation to fisheries and customary interests, the Project footprint sits adjacent to customary fisheries management areas of Ngāi Te Rangi, Ngāti Ranginui, and Ngāti Pūkenga. Potential effects relate to sediment and contaminant impacts on downstream waterways and estuarine habitats which may affect customary food gathering.
- 136 The Section 18 Report records there are no relevant Mana Whakahono ā Rohe / Joint Management Agreements of relevance to this Project.
- 137 The Panel has considered section 18(2)(i) FTAA given that the Project involves proposed linear infrastructure on Māori land. In accordance with sections 23 and 39 FTAA, the Minister for Infrastructure has determined that the proposed activity (construction of land transport infrastructure by NZTA) is not an ineligible activity. The affected land is Lot 1 DPS 12236, 10 Albert Lane, Whakamarama, owned by the Nicholas whānau. The land is general land, previously Māori freehold land, historically confiscated by the Crown and repurchased by the Nicholas whānau in 1964. It holds significant cultural importance, connecting the whānau to their ancestors, the nearby Tawhitinui Marae, and associated wāhi tapu. The Panel understands that NZTA continues to engage with the whānau regarding potential permanent acquisition, mitigation, and compensation measures.<sup>46</sup> If unresolved, the matter may be addressed under the Public Works Act 1981 (**PWA**).

#### **Substantive application information**

- 138 The requirements for resource consents in Schedule 5 FTAA (clauses 5(4)(a) & 6(1)(e)) require information to be provided in relation to the identification of and/or engagement with iwi authorities.<sup>47</sup> In summary, NZTA reviewed various government resources (Te Kāhui Māngai, Te Arawhiti, Ministry for the Environment, Ministry for Primary Industries) applicable to the Project area and engaged with local authorities (WBOPDC, BOPRC) regarding relevant iwi and hapū groups.
- 139 The Applicant identified the following groups as relevant and formally invited engagement on 6 June 2025 prior to lodgement of the Application:
- (a) Pirirākau (hapū of Ngāti Ranginui);
  - (b) Ngāti Taka (hapū of Ngāti Ranginui);

---

<sup>46</sup> See also Substantive Application, at 2.7.4

<sup>47</sup> Substantive Application, at 3.3-3.4

- (c) Ngā Hapū o Ngāti Ranginui Settlement Trust (Treaty Settlement Entity, iwi authority);
- (d) Ngāti Pūkenga (Te Tāwharau o Ngāti Pūkenga);
- (e) Ngā Hapū o Ngāi Te Rangi / Ngā Pōtiki a Tamapahore Trust (Treaty Settlement Entities), Te Puāwaitanga o Ngāti Hinerangi Trust (Treaty Settlement Entity, iwi authority); and
- (f) Tauranga Moana Iwi Collective Limited Partnership (Treaty Settlement Entity – includes Ngāti Ranginui, Ngāi Te Rangi, and Ngāti Pūkenga).

Note: NZTA has clarified that, although Tauranga Moana Iwi Collective Limited Partnership was identified as a potentially relevant group, no such group formally exists at present because the relevant Deed has not been enacted in legislation. Accordingly, there was no group to which a formal invitation could be issued or with which any engagement could occur prior to lodgement of the Application.<sup>48</sup>

- 140 A response was received from Ngāti Ranginui Iwi Society Inc. which acknowledged the engagement, supported Pirirākau and Ngāti Taka as mana whenua, and sought to remain informed.
- 141 Ngāti Pūkenga Iwi ki Tauranga Trust advised that the area is outside their rohe, but noted potential concerns about sedimentation and stormwater management.
- 142 No responses were received from Ngāi Te Rangi, Ngā Pōtiki, or Ngāti Hinerangi.
- 143 In identifying relevant hapū, NZTA has acknowledged Ngāti Ranginui Iwi which has identified Pirirākau and Ngāti Taka as the two hapū with particular interest and mana whenua status for the Project area. Relationships between the Applicant and both hapū date back a number of years and the hapū have been integrated into the Project, attending regular meetings, workshops, and site visits. Pirirākau and Ngāti Taka were involved in the Multi-Criteria Assessment process which influenced the current preferred alignment. The Applicant has signalled expectations for ongoing collaboration through development of consent conditions, archaeological and environmental management, and cultural integration into detailed design, construction, and operations.

### **Comments**

- 144 The Panel invited comments from Te Puāwaitanga o Ngāti Hinerangi Trust, Ngā Hapū o Ngāti Ranginui Settlement Trust, Ngāti Tamaterā Settlement Trust, Ngāti Maru Rūnanga Trust, Ngāti Tumutumu Trust, Hako Tūpuna Trust, Ngāti Ranginui Iwi Society Incorporated, Ngāti Pūkenga Iwi ki Tauranga Trust, Te Rūnanga o Ngāi Te Rangi Iwi Trust, Te Tāwharau o Ngāti Pūkenga, Ngāti Ranginui Fisheries Trust, Ngāi Te Rangi Settlement Trust, Tauranga Moana Iwi Collective Limited Partnership, Taonga o Marutūāhu Trustee Limited/ Marutūāhu Rōpū Limited Partnership, Pirirākau Incorporated Society (now Pirirākau Tribal Authority Incorporated), Ngāti Taka / Te Uho o Ngāti Taka, Ngāti Maru, Ngāti Pūkenga, Ngāti Tamaterā, Te Whanau a

---

<sup>48</sup> NZTA Memorandum of Counsel dated 6 March 2026, at Appendix A

Mokomoko, Waaka and Holloway Whanau, and Hauraki Māori Trust Board under section 53(2)(b) – (g) FTAA.

- 145 For completeness we note that correspondence from Ngāti Taka and Pirirākau Hapū recorded dissatisfaction that their entities were categorised as “other Māori groups with relevant interests” in the Section 18 report. The Panel agrees with these hapū that they fall within the ambit of s53(2)(c) FTAA, being entities that have an interest under a Treaty settlement within the area to which the Substantive Application relates, and entities operating in a collective arrangement provided for under a Treaty settlement that relates to that area. Therefore, Pirirakau and Ngāti Taka were included in our invitation to comment in that capacity.
- 146 Following our invitation to provide comments on the Application, the EPA was notified by Te Tari Whakatau that the Section 18 report overlooked including Ngā Pōtiki ā Tamapahore Trust (yet-to-settle iwi/category). To address this issue, the Panel invited Ngā Pōtiki ā Tamapahore Trust to comment on the Application on 1 December 2025, and given the standard 20 working day timeframe to respond. No comments were received from Ngā Pōtiki ā Tamapahore Trust.
- 147 Comments were received from Ngāti Taka and Pirirākau. Their comprehensive memoranda are summarised below.

*Ngāti Taka*

- 148 Ngāti Taka’s comments emphasised that the Project traverses the heart of their rohe and has immeasurable impacts on their cultural environment as outlined in their Cultural Impact Assessment (**CIA**). Therefore, strong design, governance, and condition frameworks that uphold Te Tiriti o Waitangi and the Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025 are required of this process. They consider that the Project must be consistent with the provisions of relevant national, regional and district policy instruments.
- 149 They seek hapū involvement in the governance, operations, social, economic, environmental and cultural components of the Project, with adequate resourcing to undertake the roles prescribed in the conditions, and empowerment to give effect to Ngāti Takatanga through every phase of the Project.
- 150 In relation to cultural and environmental effects, they seek:
- (a) Cultural and Archaeological: Stronger conditions to ensure Ngāti Taka lead on cultural monitoring, management of discoveries, and commemoration of heritage sites;
  - (b) Wai and Earthworks: Water must be managed within its natural catchments. Culturally clean handling of soils and contaminants is essential;
  - (c) Landscape and Ecology: Hapū-led planting, design, and management must reflect mātauranga Māori and cultural landscapes;
  - (d) Social and Economic: Tangible benefits should include quantifiable training, employment, and procurement opportunities for Ngāti Taka; and

- (e) Conditions generally: Proposed mitigation measures should be strengthened with clear and enforceable conditions to enable genuine hapū participation, decision-making, cultural monitoring, and management.

- 151 Suggestions for additional conditions or amendments to the Applicant’s proposed conditions were identified.
- 152 In general terms, Ngāti Taka request co-development (not just review) of all management plans, integration of mātauranga Māori, and comprehensive monitoring and reporting mechanisms. A Tangata Whenua Values Monitoring and Management Plan (TWVMMP) and supporting Cultural Monitoring Framework were recommended as conditions.
- 153 They propose that all cultural, environmental, and social mitigation should be secured through conditions, rather than informal agreements, consistent with the FTAA and the Ngā Hapū o Ngāti Ranginui Treaty Settlement Act 2025.

*Pirirākau*

- 154 Comments received from Pirirākau addressed proposed designation, resource consent, archaeological authority, and wildlife approval conditions, along with the draft Archaeological Management Plan (AMP) and Lizard Management Plan (LMP).
- 155 Cultural, Treaty, and governance implications were highlighted, drawing on the Pirirākau CIA, Pirirākau–Waka Kotahi Relationship Agreement (2025) and mitigation package being developed with the Applicant. Their role as mana whenua in the Project area was emphasised, as confirmed through the Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025. Cultural bottom lines set out in the CIA were reiterated, including:
- (a) Pirirākau mana whenua status is non-negotiable;
  - (b) Cultural mitigation must go beyond technical compliance and deliver outcomes that restore mana, uphold tikanga, and protect the integrity of the cultural landscape; and
  - (c) Archaeological and wildlife authorities must be co-designed and co-governed with Pirirākau where impacts are unavoidable.
- 156 Pirirākau commented that the draft AMP and LMP are currently inadequate as they prioritise technical compliance over cultural governance. They described lessons learned during Takitimu Stage 1 works and now seek clear provision for co-design and implementation of all management plans and clear delineation of roles, e.g. NZTA vs contractor responsibilities.
- 157 The hapū also raised concerns around “deemed certification” and the need for a minimum of 20 working days to review all plans before certification to allow proper cultural due diligence.
- 158 Pirirākau request co-decision authority for archaeological investigation design and koiwi treatment. Works should be halted if remains are discovered.

- 159 Ecological offsets must include measurable uplift, hapū-agreed locations, and cultural indicators.
- 160 Other key matters in their comments relate to the preservation of cultural sites (e.g. site U14/1284, Haumu) and the appropriate compensation of whānau directly affected by the Project (referring to the Nicholas whānau). Further, they note that Tawhitinui Marae may experience operational and construction impacts and consideration should be given in consent conditions to noise and dust mitigation.
- 161 In summary, Pirirākau seek that the Panel’s decision:
- (a) Elevate the CIA and Mitigation Package as primary reference documents;
  - (b) Reinforce archaeological and koiwi protections with co-decision authority;
  - (c) Guard against contractor-led dilution of mitigation;
  - (d) Strengthen management plan certification and review processes;
  - (e) Embed cultural indicators and hapū monitoring roles;
  - (f) Anchor the Relationship Agreement and hapū autonomy in conditions; and
  - (g) Recognise that these matters uphold Treaty settlements and protect future generations.

## **Statutory requirements**

### Treaty settlements and recognised customary rights

- 162 Section 7 requires all persons performing functions and exercising powers under the FTCA to act in a manner that is consistent with the obligations arising under existing Treaty settlements and customary rights recognised under the Marine and Coastal Area (Takutai Moana) Act 2011 (**MACA**) and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

#### **7 Obligation relating to Treaty settlements and recognised customary rights**

- (1) All persons performing and exercising functions, powers, and duties under this Act must act in a manner that is consistent with—
- (a) the obligations arising under existing Treaty settlements; and
  - (b) customary rights recognised under—
    - (i) the Marine and Coastal Area (Takutai Moana) Act 2011;
    - (ii) the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.
- (2) To avoid doubt, subsection (1) does not apply to a court or a person exercising a judicial power or performing a judicial function or duty.
- (3) In this section, **existing Treaty settlements** means Treaty settlements that exist at the time the relevant function, power, or duty is performed or exercised (rather than only those that exist at the commencement of this Act).

- 163 The Project area is not within a CMT area, PCR area, or within or adjacent to ngā rohe moana o ngā hapū o Ngāti Porou. However, a number of MACA applicant groups are seeking recognition of PCR and/or CMT over areas in close proximity to the project

area.<sup>49</sup> The Panel invited comments from the identified MACA applicants. No comments were received from any parties in that capacity.

- 164 The Section 18 Report sets out the relevant Treaty Settlements and obligations. Of relevance are the Ngāti Hinerangi conservation relationship agreement, Ngāti Pūkenga Deed of Settlement, and Tauranga Moana Framework. The Ngāti Hinerangi and Ngāti Pūkenga conservation redress involves engagement with DOC and is potentially relevant to the wildlife approvals, although no comments were received on these issues. The Tauranga Moana Framework is yet to be enacted and therefore the Panel's obligations under clause 5 schedule 3 FTAA to comply with any relevant procedural requirements set out in a Treaty Settlement Act do not apply in this case.

#### Te Ture Whaimana

- 165 Section 8 provides that Te Ture Whaimana is intended by Parliament to be the primary direction-setting document for the Waikato and Waipā Rivers and activities within their catchments affecting the rivers. This Application does not relate to those catchments and therefore Te Ture Whaimana has not been considered further.

#### Effect of Treaty settlements and other obligations

- 166 Section 82 provides:

##### **82 Effect of Treaty settlements and other obligations on decision making**

- (1) This section applies if a Treaty settlement, the Marine and Coastal Area (Takutai Moana) Act 2011, or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 is relevant to an approval.
- (2) If the settlement or Act provides for the consideration of any document, the panel must give the document the same or equivalent effect through the panel's decision making as it would have under any relevant specified Act.
- (3) The panel must also consider whether granting the approval would comply with section 7.
- (4) In this section, **document**—
  - (a) means any document, arrangement, or other matter; and
  - (b) includes any statutory planning document amended as a result of the settlement or Act referred to in subsection (1).

- 167 Section 7 provides:

##### **7 Obligation relating to Treaty settlements and recognised customary rights**

- (1) All persons performing and exercising functions, powers, and duties under this Act must act in a manner that is consistent with—
  - (a) the obligations arising under existing Treaty settlements; and
  - (b) customary rights recognised under—
    - (i) the Marine and Coastal Area (Takutai Moana) Act 2011;
    - (ii) the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.
- (2) To avoid doubt, subsection (1) does not apply to a court or a person exercising a judicial power or performing a judicial function or duty.

- 168 Although the Panel's functions are quasi-judicial and therefore it could be argued that section 7 does not apply (pursuant to the exemption in section 7(2)), for the reasons

---

<sup>49</sup> Section 18 Report, at para 53

outlined above, the Panel considers that its decision-making processes and this decision are consistent with the obligations in section 7.

- 169 The engagement by the Applicant with Ngā Hapū o Ngāti Ranginui Settlement Trust and the correspondence, CIAs and comments received from Ngāti Taka and Pirirākau have been helpful in aiding the Panel’s understanding of the Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025 in the context of this Application and our decision-making.

Conditions relating to Treaty settlements and recognised customary rights

- 170 Section 84 provides:

**84 Conditions relating to Treaty settlements and recognised customary rights**

- (1) For the purposes of section 7, the panel may set conditions to recognise or protect a relevant Treaty settlement and any obligations arising under the Marine and Coastal Area (Takutai Moana) Act 2011 or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.
- (2) This section applies in addition to, and does not limit, any other powers to set conditions under this Act.

- 171 The Panel has considered the information provided by the Applicant, Ngāti Taka and Pirirākau in the setting of conditions. The comments provided by those parties on our draft decision have resulted in some further amendments to the conditions, which are explained in Part K below.

Conduct of hearings and other procedural matters in the context of Treaty settlements and other arrangements relating to Māori interests

- 172 The Panel has not considered it necessary to hold a hearing of this Application, having regard to the considerable information provided by the parties, the high degree of issue refinement following expert conferencing, and the expert input received from its technical advisors. However, it has ensured that the hapū who elected to provide comments on the Application were engaged in the process in other ways. The hapū were invited to participate in the expert conferencing sessions in their capacity as cultural experts. The Panel invited the relevant hapū to make comments on the Application in their capacity as entities having an interest under a Treaty settlement, notwithstanding the description of their interests in the Section 18 report as “other Māori groups with relevant interests”. The Panel also ensured that Ngā Pōtiki ā Tamapahore Trust were provided with the same opportunity to comment as other parties despite them having been inadvertently omitted from the initial invitation to provide comments due to a processing error. Prior to the Panel’s engagement, the Panel Convenor invited mana whenua interests to participate in preliminary conferences and to outline their positions relating to representation in various memoranda.

Applicant’s Closing Submissions

- 173 The Applicant’s Closing Submissions address the above matters. The Applicant submits that, rather than containing statutory acknowledgements or imposing specific

obligations, references in Treaty settlements are general in nature and the Application is consistent with them.<sup>50</sup>

- 174 NZTA submits that it has acted consistently with section 7(1)(a) FTAA by actively engaging with hapū, including Pirirākau and Ngāti Taka, and embedding recognition of hapū views and cultural values in management plans, cultural monitoring, detailed design, and through an offered *Augier* condition for a Tangata Whenua Values Monitoring and Management Plan.<sup>51</sup> This is discussed further in Part E: Evaluation of Effects (Cultural Effects) below.

## **PART E: EVALUATION OF EFFECTS**

- 175 Schedule 5 clause 5(4) FTAA requires a consent application to provide an assessment of an activity's effects on the environment covering the information in clauses 6 and 7. These matters include:

- (a) an assessment of the actual or potential effects on the environment:
  - (b) if the activity includes the use of hazardous installations, an assessment of any risks to the environment that are likely to arise from such use:
  - (c) if the activity includes the discharge of any contaminant, a description of—
    - (i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and
    - (ii) any possible alternative methods of discharge, including discharge into any other receiving environment:
  - (d) a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect of the activity:
  - (e) identification of persons who may be affected by the activity and any response to the views of any persons consulted, including the views of iwi or hapū that have been consulted in relation to the proposal:
  - (f) if iwi or hapū elect not to respond when consulted on the proposal, any reasons that they have specified for that decision:
  - (g) if the scale and significance of the activity's effects are such that monitoring is required, a description of how the effects will be monitored and by whom, if the activity is approved:
  - (h) an assessment of any effects of the activity on the exercise of a protected customary right.
- ...
- (a) any effect on the people in the neighbourhood and, if relevant, the wider community, including any social, economic, or cultural effects:
  - (b) any physical effect on the locality, including landscape and visual effects:
  - (c) any effect on ecosystems, including effects on plants or animals and physical disturbance of habitats in the vicinity:
  - (d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations:

---

<sup>50</sup> Closing Submissions, at 47

<sup>51</sup> Closing Submissions, at 48

- (e) any discharge of contaminants into the environment and options for the treatment and disposal of contaminants;
- (f) the unreasonable emission of noise;
- (g) any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.

176 The Assessment of Environmental Effects (**AEE**) provided with the Substantive Application included an assessment of these matters at section 4.4. Participants who commented (including BOPRC, WBOPDC and DOC) also raised a range of actual and potential effects. The AEE provides further information about the following effects, as considered relevant to the scope of the Application, the range of approvals required, and the requirements of clause 7 of Schedule 5 FTAA:

- (a) Cultural Effects;
- (b) Transportation Effects;
- (c) Landscape and Visual Amenity Effects;
- (d) Ecological Effects;
- (e) Noise and Vibration Effects;
- (f) Archaeology and Historic Heritage Effects;
- (g) Effects on existing utility services and infrastructure;
- (h) Operational Water Effects – Stormwater and Hydrology;
- (i) Construction Water Effects;
- (j) Soil Contamination Effects;
- (k) Groundwater Effects; and
- (l) Air Quality Effects.

177 The Panel notes that the Councils agreed in their comments that a number of the above effects categories were of minor significance and/or able to be addressed or resolved through appropriate conditions of consent. We record our findings on those matters, with reference to amended or new conditions, within the discussion on effects below.

178 Other topics required us to make findings, including whether there are conditions of consent that could be imposed to ensure that an adverse effect is able to be appropriately mitigated, and that such matters would not result in impacts that would be out of proportion to the Project's benefits (the proportionality assessment required under section 85(3)). Effects relating to ecology, being a key area of disagreement between the Applicant and parties invited to comment, were the subject of facilitated conferencing between experts for the Applicant, hapū, the Councils and DOC.

179 We have identified the following categories of actual and potential effects on the environment for the purpose of our analysis:

- (a) Positive Effects
- (b) Cultural Effects
- (c) Landscape and Visual Amenity Effects
- (d) Ecology Effects
- (e) Construction Effects
- (f) Operational Effects.

180 We have addressed these effects thematically throughout our discussion below. We have also had regard to the relevant planning provisions in evaluating the effects of the Project, as noted in Part H: Planning Framework.

181 In terms of the relevant receiving environment, the Panel has applied the test in *Hawthorn*. The environment includes that which presently exists. It also:

...embraces the future state of the environment as it might be modified by the utilisation of rights to carry out a permitted activity under a district or regional plan or by the implementation of resource consents which have been granted at the time a particular application is considered, where it appears likely that those resource consents will be implemented.<sup>52</sup>

### **POSITIVE EFFECTS**

182 Section 104(1) of the RMA requires that the Panel have regard to:

- (a) any actual and potential effects on the environment of allowing the activity; and
- (b) any measure proposed or agreed to by the Applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity.

183 Section 171(1B) of the RMA states that, in addition to considering the broad range of matters stipulated in section 171(1), the local authority (in this case, the Panel) may consider:

"...positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from the activity enabled by the designation, as long as those effects result from measures proposed or agreed to by the requiring authority."

### Applicant's Assessment

184 The positive effects and/or benefits claimed for the Project by NZTA are principally addressed in:

---

<sup>52</sup> *Queenstown Lakes District Council v Hawthorn Estate Ltd* [2006] NZRMA 424 at [84]

- (a) Sections 2.8 and 4.3.14 of the AEE; and
- (b) Paragraph 187 of the Applicant's Closing Submissions.

185 In terms of regional and national benefits, NZTA's position is that the Project would:<sup>53</sup>

- (a) Improve travel time reliability and ease of movement across the local and through networks, improving longstanding congestion.
- (b) Improve travel time efficiencies and enhance regional freight efficiency and connectivity to the Port of Tauranga and between Tauranga, Auckland and Hamilton.
- (c) Result in a predicted reduction of approximately 85% in deaths and serious injuries.
- (d) Support urban growth in the western Bay of Plenty subregion, as envisaged by the SmartGrowth strategy and UFTI.
- (e) Complete the Takitimu North Link project (with Stage 1 under construction), which is the catalyst for unlocking significant urban growth potential in Ōmokoroa and the Minden Lifestyle zones.
- (f) Provide essential roading infrastructure (including the Ōmokoroa Road grade separated interchange) to support future regional economic and population growth.
- (g) Improve resilience of the highway network.
- (h) Improve connectivity of communities through the local road overbridges as SH2 is currently a barrier to movement across the highway.
- (i) Boost economic productivity and generate agglomeration benefits by enhancing the movement of goods and people across the Bay of Plenty region.

186 The AEE highlights the positive ecological and stormwater management effects associated with the Project. These are summarised as follows:

- (a) Wetland restoration and creation to offset the effects on low and moderate value wetlands, and a wetland restoration and compensation package of approximately 33.10ha to offset and compensate for the effects on the Ōmokoroa Wetland.
- (b) An integrated stormwater management approach that eliminates flooding of properties upstream of SH2 in a 100-year ARI flood event and reinstates more natural stream flow by upsizing several existing culverts so that they meet modern hydraulic standards. These in turn lead to improved fish passage.

---

<sup>53</sup> Substantive Application for Approvals, at 2.8

- (c) The new highway and sections of local road that will be realigned will be fitted with stormwater treatment devices comprising wetlands and swales. This will improve stormwater quality in the catchments, as the existing SH2 and local roads do not include any stormwater treatment measures.

#### Comments Received

- 187 Neither the Councils nor any other parties invited to provide comments made any specific comments on the economic, transport efficiency or safety benefits of the Project, although various Ministers indicated their support for the Project and some parties acknowledged the general need for or importance of the Project.

#### Panel Findings

- 188 Having reviewed the evidence provided by NZTA and taken its own advice on traffic, transportation, stormwater, flooding and ecological matters, and having regard to the broad support for the Project as necessary to improve traffic safety and network congestion issues and the absence of evidence or comments to the contrary, the Panel accepts NZTA's evidence in relation to the benefits of the Project and finds that the Project will generate positive effects in terms of:

- (a) Traffic safety;
- (b) Transport benefits;
- (c) Economic growth;
- (d) Improved flood management and stormwater quality; and
- (e) Some degree of ecological enhancements.

- 189 In determining the Application, the Panel has weighed these positive effects alongside the adverse effects addressed in the following sections of this decision report.

#### **CULTURAL EFFECTS**

- 190 The two Cultural Impact Assessments (**CIA**) prepared on behalf of Pirirākau Tribal Authority and Ngāti Taka<sup>54</sup> identify and assess the cultural effects of the Project and form part of the information provided by the Applicant to inform the assessment of the effects of the Project as required by Schedule 5, clause 5(4)(b), clauses 7(a) and (d) FTAA.

#### Pirirākau CIA

- 191 The Pirirākau CIA describes the pre- and post-colonial history of the hapū including specific relationships to the TNL2 corridor. The Project route runs through the centre of their rohe and the whenua and wai features along the proposed corridor have been integral to the identity and continued wellbeing of Pirirākau for generations, as

---

<sup>54</sup> Substantive Application, at Appendix 9.4.7 and 9.4.8

exemplified by the numerous pā sites, wāhi tapu, māra kai and māhinga kai that mark the landscape.<sup>55</sup>

- 192 A kaupapa Māori methodology grounded in mātauranga Māori, collective memory, tikanga, and the lived experience of the hapū is utilised to group effects in thematic and integrated categories including:
- (a) Effects on Cultural Landscapes and Wāhi Tapu, such as loss of ancestral landscape identity and cultural severance, damage to wāhi tapu and archaeological sites (eg. Te Haumu (U14/1284), Tawhitinui Pā and Pukemānuka), and erosion of intergenerational knowledge and identity (general loss of visibility and connection).
  - (b) Effects on Mana and Rangatiratanga, such as undermining of mana whenua, and fragmentation of Wairere Track and cultural routes.
  - (c) Effects on Kaitiakitanga and Environmental Wellbeing, such as degradation of stream health and wetland loss (Oturu Stream, Te Puna Stream, Waipapa Estuary), loss of mahinga kai and traditional food resources, and disruption or relocation of protected taonga species (eg. tuna).
  - (d) Treaty Settlement Alignment, such as failure to implement redress principles (eg. in engagement structures).
  - (e) Statutory Inconsistency, such as inadequate archaeological authority processes or exclusion of mana whenua (eg. Te Haumu, Tawhitinui, other known and unrecorded sites).
- 193 The CIA groups mitigation recommendations around eight core outcome areas aligned with hapū cultural values. These include: Rangatiratanga, which incorporates partnership and decision-making and management planning; Whakapapa, including heritage protection; Kaitiakitanga, encompassing environmental protection; and Manaakitanga, incorporating cultural, social and economic development as well as monitoring and reporting.
- 194 The CIA included on the Fast-track website is a redacted version due to culturally and commercially sensitive information contained in the CIA. The Panel has been provided with an unredacted version which has enabled us to review and sufficiently consider the relevant cultural values and effects necessary to inform our decision-making. The comprehensive comments on the Application provided by Pirirākau have greatly assisted in our understanding of the effects of the Project on Pirirākau.
- 195 The Pirirākau CIA also contains a Report (at Appendix 1) outlining their role in working with the Applicant to develop an appropriate alignment for the TNL2 corridor to ensure that cultural, environmental, and social factors were considered during the initial design phase.

---

<sup>55</sup> Pirirākau CIA, at 4.3

### Ngāti Taka CIA

- 196 The Ngāti Taka CIA describes hapū whakapapa and history, signifying their mana whenua status and relationship to their rohe, lands, waters and Tauranga Moana. The area encompassing and surrounding the Project footprint is regarded as a cultural landscape, imbued with identity and heritage, and governed by interconnected customs, concepts, and tikanga. The CIA explains that, without sufficient mitigation, the Project has the potential to disrupt the balance of mauri in the Ngāti Taka rohe.
- 197 The conclusions in the CIA were reached following a review of the statutory context (including Te Tiriti o Waitangi and the Ngāti Ranginui Trust Deed of Settlement 2012) alongside hapū kōrero. The CIA agrees with the Applicant's archaeological and ecological assessments relating to the high potential for unrecorded archaeological sites within the alignment as well as waterways and habitat for taonga species that require safeguarding. Ngāti Taka highlight the significance of Te Puna inlet and surrounding broader landscape features, and the importance of ensuring that the Project does not give rise to effects on important cultural features.
- 198 The acknowledgement, protection, and inclusion of key cultural values are central to the mitigation of effects on Ngāti Taka throughout all stages of the Project. These flow to recommendations for consideration around cultural design elements, narratives and interpretation, kaitiaki/cultural and ecological monitoring, archaeological protocols, and vocational opportunities for hapū members in Project implementation. The Addendum to the CIA (March 2025) proposes a formal plan for kōiwi discoveries and cultural, freshwater and marine monitoring, incorporation of cultural interpretation in design and use of native and culturally significant species in landscaping.
- 199 While Ngāti Taka recognise that the Project will improve traffic and safety of people travelling in Tauranga Moana, they seek alignment with fundamental values and principles that conserve the mauri of the rohe.

### Comments received

- 200 Comments received from Pirirākau and Ngāti Taka have a strong focus on ensuring that cultural effects mitigation is formally included in conditions, and particularly hapū input into development of the various management plans. The relationship of hapū, NZTA and sub-contractors throughout the life of the Project is a key theme. Hapū comments are summarised in Section D above.
- 201 For completeness we note that comments received from Pirirākau also refer to their support for the Project being conditional on whanau directly affected by the project being compensated through the transfer of surplus designated land, as set out in the CIA.

### Applicant's response to comments

- 202 In response to comments received from Ngāti Taka and Pirirākau, NZTA refers to the proposed archaeological authority, wildlife approval, resource consent and designation conditions that provide a process for hapū feedback on all relevant management plans,

and requirements for NZTA to consider and incorporate feedback or provide an explanation where suggestions are not adopted.<sup>56</sup>

- 203 NZTA also indicated that consideration of suggested amendments to conditions was ongoing and further responses could be expected in updated condition sets.<sup>57</sup>
- 204 Regarding concerns over the role of hapū in the design of management plans, NZTA considers that its statutory obligations require it to maintain overall control and ownership of all management plans for the Project. However, the importance of hapū involvement is recognised and NZTA advises that it will continue to work with hapū to define their roles in the implementation phase of the Project.<sup>58</sup>
- 205 The Applicant has emphasised its commitment to maintaining its established partnerships with hapū and refers to its Māori Strategy, Te Ara Kotahi, existing Relationship Agreement and a specific workplan to guide ongoing engagement. NZTA has indicated an intention to address matters which sit outside the scope of the FTAA through separate agreements with hapū.<sup>59</sup>
- 206 Given ecological matters were a key focus in both of the CIA and the hapū comments on the Application, and acknowledging hapū mātauranga and the Ngā Hapū o Ngāti Ranginui Claims Settlement Act and Deed, the Panel considered it appropriate to invite hapū representatives to participate in the conferencing relating to ecological matters and conditions.<sup>60</sup>
- 207 Following expert conferencing, and our review of the JWS for both conferences, we directed the Applicant to provide an updated set of conditions to the parties for feedback, focussing on outstanding issues relating to ecological management plans and areas of difference between hapū and the Applicant.<sup>61</sup>

#### Applicant's Closing Submissions

- ~~208~~ Part 5 of the Applicant's Closing Submissions sets out a comprehensive response that has assisted in clarifying the position of the parties on cultural effects and relevant conditions. The other parties were given an opportunity to comment on our response to the Applicant's Closing Submissions, as reflected in our draft decision and conditions, through their comments on our draft conditions. We have provided a response to the key issues raised by the parties, through their comments on our draft conditions, in Part K below relating to our final conditions.
- 209 NZTA's Closing Submissions explained that engagement with Ngāti Taka and Pirirākau has been a long-standing and important aspect of Project planning involving early and ongoing input through hui, workshops, site visits, and participation in route selection. Both hapū reviewed draft environmental assessments and prepared CIA, which have influenced the Project's alignment, design, protection of wāhi tapu and culturally significant sites, and the development of mitigation measures. Regular engagement continues through fortnightly hui and ongoing collaboration on management plans and

---

<sup>56</sup> Applicant's response to comments, Attachment 6, page 1

<sup>57</sup> Applicant's response to comments, Attachment 7, page 5

<sup>58</sup> Applicant's response to comments, Attachment 6, page 1

<sup>59</sup> Applicant's response to comments, Attachments 6 and 7, page 1

<sup>60</sup> Minute 3 of the Panel, dated 19 December 2025, at para 10

<sup>61</sup> Minute 7 of the Panel, dated 27 January 2026, at paras 11 and 12

construction-phase involvement. NZTA, Pirirākau and Ngāti Taka are also progressing relationship agreements to address matters outside the scope of consent conditions. Draft terms for a Ngāti Taka relationship agreement have been prepared and are under consideration, and NZTA is committed to finalising this and continuing to engage with hapū in good faith as the Project moves into detailed design and construction.<sup>62</sup>

210 NZTA's revised conditions (submitted with their Closing Submissions) included provision for:

- (a) Active hapū involvement in management plans, archaeological and heritage protection, site visits, cultural inductions, and ceremonies at key milestones;
- (b) Hapū input into wayfinding signage, cultural expression in Project design (including cultural narratives in the LVMP), traditional naming along the corridor, and a Kaiarahi role to manage Kaitiaki and cultural monitoring capacity;
- (c) A final Cultural Conditions Implementation Report, prepared with hapū, recording how cultural conditions were implemented.<sup>63</sup>

211 NZTA also proposed an *Augier* condition<sup>64</sup> (new condition 10 in Resource Consent LC.01) enabling development of a Tangata Whenua Values Monitoring and Management Plan (**TWVMMP**) with hapū, which would:

- (a) Set out a Cultural Monitoring Framework, including activities and sites to be monitored, cultural health indicators, and personnel requirements;
- (b) Align with other monitoring activities to avoid duplication;
- (c) Provide opportunities for hapū participation in planting, pest control, fish surveys, and species monitoring/translocation;
- (d) Include procedures for responding to discovery of significant cultural sites or items during works.<sup>65</sup>

212 While NZTA considers that, as the consent holder/requiring authority it must retain governance and ownership of management plans, it is committed to exploring co-development through the proposed conditions committing NZTA to provide hapū with draft management plans for review, consider all written hapū feedback, incorporate hapū suggestions where appropriate, and provide written reasons to hapū and BOPRC when suggestions are not adopted. NZTA has agreed with hapū feedback that significant or substantive plan changes should involve hapū input and has updated

---

<sup>62</sup> Closing Submissions, at paras 38-42

<sup>63</sup> Closing Submissions, at para 51

<sup>64</sup> An equitable principle first established in the case of *Augier v Secretary of State for the Environment* (1978) 38 P & CR 219 (QBD) which prevents a consent holder from later resiling from a voluntary commitment expressly recorded in a consent condition even where the consent condition is otherwise *ultra vires* (unlawful).

<sup>65</sup> Closing Submissions, at 52-53

the conditions to enable hapū to review and comment on updated plans “where practicable”.<sup>66</sup>

- 213 Hapū raised issues in the JWS Ecology about stream impacts and sought conditions to identify how functional and cultural equivalence of affected streams will be achieved and what remediation and mitigation will apply if outcomes are not delivered. In response, NZTA considers the term “cultural equivalence” would give rise to uncertainty and implementation challenges and that effects on these waterbodies and their values have been thoroughly assessed by experts (including BOPRC and DOC) with extensive conditions proposed to appropriately manage effects and align with the NPS-FM 2020. NZTA highlighted proposed new resource consent condition 10.1 that provides for the TWVMMP and incorporates cultural monitoring, a cultural indicators framework, and hapū involvement in ecological work (e.g. planting, pest control, monitoring, translocation, fish surveys).<sup>67</sup>
- 214 The JWS Ecology refers to Hapū seeking a consent condition requiring NZTA to fund their involvement in management plan development, mitigation delivery, and long-term monitoring. NZTA argues such funding is not an appropriate consent condition under the FTAA because it does not relate to managing environmental effects of the Project and is outside the Panel’s jurisdiction.<sup>68</sup>
- 215 The Applicant’s Closing Submissions responded to requests from Pirirākau in comments received that seek specific recognition of Tawhitinui Marae and its cultural practices in relation to construction noise, with clear processes for engagement, especially during tangihanga and hui. NZTA has amended proposed condition CNV4(g) so the CNVMP must explicitly include engagement with Pirirākau about construction noise during cultural events at Tawhitinui Marae, which will be treated and managed as a sensitive receiver under NZS 6803.<sup>69</sup>
- 216 While we have summarised key condition amendments proposed by NZTA to manage cultural effects here, we note that Appendix B to the Applicant’s Closing Submissions provides a full response to the detailed comments on individual conditions provided by Ngāti Taka.

#### Panel Findings

- 217 We accept that NZTA’s engagement with hapū has been longstanding. Hapū have influenced the choice of Option 1 for the preferred alignment and neither hapū objects to the Project in principle. We wish to acknowledge the considerable and constructive efforts by NZTA, Pirirākau and Ngāti Taka to engage with the process, resulting in a substantial refinement of residual issues relating to conditions.
- 218 It is the Panel’s considered view that the residual matters of concern to Hapū have been appropriately resolved through the Panel’s final set of conditions, which address the further comments provided by the Hapū on the Panel’s draft conditions in the manner described in Part K below relating to our final conditions. Our final conditions relating to ecology, archaeology and landscape matters discussed elsewhere in this decision also address matters raised by Hapū. We acknowledge the more limited

---

<sup>66</sup> Closing Submissions, at 55-59

<sup>67</sup> Closing Submissions, at 60-62

<sup>68</sup> Closing Submissions, at 69

<sup>69</sup> Closing Submissions, at 70-71

statutory framework for decision making under the FTAA, which requires us to ultimately give the greatest weight to the purpose of the FTAA, and restricts us to imposing conditions that are not more onerous than necessary. In that context we consider that the comprehensive suite of conditions makes appropriate provision for hapū values and effects on those values. We also acknowledge NZTA's commitment to making further provision for these matters in relationship agreements and through continued engagement with hapū during implementation of the Project in the spirit of partnership.

Panel Findings - 10 Albert Lane – identified Māori land

- 219 For completeness we return to the matter of Lot 1 DPS 12236, 10 Albert Lane, Whakamarama, owned by the Nicholas whanau (**the Land**). Section 23(2) of the FTAA requires an assessment taking into account the effects of the activity on the land and on the rights and interests of Māori in the land. We have turned our minds to the effects of the activity on the relevant Land (i.e. the Māori land) and on the rights or interests of Māori as a relevant matter under s6(e) RMA.
- 220 In comments Pirirākau requested that "whanau directly affected by the project are compensated by the transfer of surplus designated land, as set out in the CIA."<sup>70</sup>
- 221 The Applicant has advised that the Project will:
- (a) Cause direct temporary and permanent earthworks on the northeastern edge of the Land for a road embankment;
  - (b) Create significant indirect construction effects (noise, vibration, dust, visual impacts) for several years close to all of the Land boundaries;
  - (c) Restrict how the Land can be used due to the NOR/designation.
  - (d) Require the Crown to acquire a permanent interest in part of the Land (subject to Māori Land Court approval).<sup>71</sup>
- 222 NZTA has acknowledged the significant cultural, historical and spiritual connection to the Land held by the whanau because of its status as tūpuna whenua and its relationship to Tawhitinui marae, the family homestead, urupā and wāhi tapu.<sup>72</sup>
- 223 NZTA identified the Land as culturally sensitive during its RMA alternatives assessment and attempted to avoid it in designing the Project. The preferred alignment in the Plummers Point Road/Barrett Road area avoids going directly through the Land, but the overbridge and associated road realignment require substantial earthworks that affect the northeastern edge of the Land. NZTA has sought to minimise impacts by avoiding areas of particular cultural significance on the Land and limiting permanent effects to minor earthworks on a confined part of the Land.<sup>73</sup>
- 224 Under section 43(1)(g) of the FTAA, NZTA must explain steps taken to obtain written agreement from the owners. NZTA advises that, since December 2020, it has engaged

---

<sup>70</sup> Pirirākau Submission to the Expert Panel, dated 9 December 2025, at 3.3

<sup>71</sup> Substantive Application, at 2.7.2

<sup>72</sup> Substantive Application, at 2.7.3

<sup>73</sup> Substantive Application, at 2.7.3

continuously with the whānau through meetings, site visits, and (since late 2024) regular discussions and further hui with whānau representatives. Engagement has focused on understanding the cultural significance of different parts of the Land and using that information to shape the Project design, as well as discussing Project effects and options for acquisition or land exchange. Negotiations over possible permanent acquisition, mitigation measures, and compensation are still ongoing.<sup>74</sup>

- 225 The Panel considers that NZTA's assessment has sufficiently covered the required matters to be assessed under section 23(2). We are satisfied that the measures undertaken to avoid and minimise effects on the Land and recognise the cultural significance of the Land to the whānau appropriately recognise and provide for section 6(e) RMA matters. In reaching this conclusion, we rely on the NZTA's commitment to continued negotiations as set out above.

#### Treaty Settlements

- 226 We agree with the Applicant that sufficient information has been provided in its Application to fulfil clause 5 of Schedule 3 to the FTAA. We also consider that granting the approvals sought is consistent with section 7(1) of the FTAA and are satisfied that the conditions proposed appropriately provide for the recognition of Treaty settlements in the context of this Project.
- 227 Overall, we conclude that NZTA has engaged with hapū in a manner consistent with the principles of the Treaty of Waitangi / Te Tiriti o Waitangi and that granting the approvals sought is consistent with the FTAA and Part 2 RMA as it relates to tangata whenua/cultural matters. Implementation of the Panel's conditions should ensure that any potential adverse effects on hapū arising from the Project are appropriately addressed.

#### Archaeology and Historic Heritage Effects

- 228 The potential archaeological effects of the Project were first assessed in relation to the existing designation, which identified two recorded archaeological sites within the designation area and noted the likelihood of unrecorded subsurface archaeology being affected by construction. The Assessment of Archaeological Values by Dr Warren Gumbley builds on this earlier work using desk-based research, predictive modelling, and information from nearby projects to identify areas of known or high archaeological potential within the designation boundary.<sup>75</sup>
- 229 Archaeology in the area is considered typical of local agricultural landscapes and has the potential to contribute to understanding historical land use over the past 300–400 years. A total of 19 archaeological sites are recorded within the Designation Boundary, although 12 could not be relocated during recent fieldwork and many sites have not been revisited since the 1980s. It is expected that additional, unrecorded sites may be present. Notably, Dr Gumbley advises that sixteen burials of human remains (kōiwi) have been recovered in association with Stage 1 of Takitimu North Link, illustrating the likelihood of kōiwi discovery in Stage 2.<sup>76</sup>

---

<sup>74</sup> Substantive Application, at 2.7.4

<sup>75</sup> Assessment of Archaeological Values, Appendix 9.4.6 to Substantive Application, at Section 6

<sup>76</sup> Assessment of Archaeological Values, at 12.1

- 230 The assessment concludes that the archaeological effects of the proposed designation are similar to those of the existing designation, with the main difference being the larger project footprint. Comprehensive development within the Designation Boundary is likely to result in modification or loss of both recorded and unrecorded archaeological remains. However, the expanded footprint also provides opportunities for more systematic investigation and documentation of archaeological values.
- 231 Overall, while site-specific effects can only be confirmed once subsurface investigations occur, the Project's adverse effects on archaeology at a regional scale are assessed as low and will be appropriately managed and mitigated through archaeological authorities and conditions. Recommended conditions include preparation of an Archaeological Management Plan (**AMP**) in consultation with WBOPDC, BOPRC, HNZPT, Pirirākau and Ngāti Taka prior to the start of construction. The AMP will:
- (a) Include methods for the identifying and assessing potential archaeological sites within the Designation Boundary;
  - (b) Identify known and potential archaeological sites within the Designation Boundary;
  - (c) Identify roles, responsibilities and contact details of Project personnel, Pirirākau and Ngāti Taka representatives, and relevant agencies involved with heritage and archaeological matters;
  - (d) Set out an incidental discovery protocol;
  - (e) Set out methods for protecting or minimising adverse effects on heritage and archaeological sites within the Designation Boundary during Project Works as far as practicable (for example, fencing around heritage and archaeological sites to protect them from damage during Construction Works); and
  - (f) Set out training requirements for contractors and subcontractors on heritage and archaeological sites within the designation, and legal obligations relating to finds and incidental discoveries.
- 232 An Archaeological Research and Mitigation Strategy (**ARMS**) is also recommended. Its aim is to identify research objectives that the archaeological investigations should address and appropriate methodologies. The ARMS will be peer reviewed by appropriate experts to the satisfaction of HNZPT.<sup>77</sup>

#### Comments Received

- 233 HNZPT's comments confirm there are no listed heritage places located within the Project area and refer to HNZPT's Section 51(2)(d) Report.<sup>78</sup> The Section 51(2)(d) Report advises that the Applicant has applied for 62 archaeological authorities and sets out the responsibilities of HNZPT as the administering agency for the Heritage New Zealand Pouhere Taonga Act 2014 (**HNZPT Act**). Specific feedback on the Applicant's

---

<sup>77</sup> Substantive Application, at 6.3.2

<sup>78</sup> HNZPT Submission to the Expert Panel, 9 December 2025, at para 3

proposed Archaeological Authority conditions was appended to the Section 51(2)(d) Report.

- 234 In its review, HNZPT agreed with the findings of Dr Gumbley’s assessment and with the requirement to prepare both an AMP and ARMS. Its recommendation is that the archaeological authorities be granted subject to conditions. The suggested amendments to conditions are aimed at assisting archaeological works to be undertaken in a culturally appropriate way and improve mitigation, reporting and monitoring requirements.<sup>79</sup> Pursuant to s45 of the HNZPTA, HNZPT has confirmed Dr Gumbley as the person to carry out the archaeological works under the authorities.<sup>80</sup>
- 235 Ngāti Taka and Pirirākau both made specific comments in relation to archaeology. Pirirākau sought to reinforce their involvement in the AMP through co-design.<sup>81</sup> Pirirākau drew attention to the cultural harm arising from the disturbance of kōiwi during Stage 1 of the TNL project and the lack of tikanga-driven protocols for kōiwi discovery and reinterment, the role of kaumatua in decision-making, and hapū involvement in archaeological authorities that goes beyond monitoring.<sup>82</sup> The need for appropriate mitigation for the destruction of specified sites, including site U14/1284 (within the traditional Pirirākau area known as Haumu) was also highlighted.<sup>83</sup>
- 236 Ngāti Taka proposed amendments to AMP condition AA5 seeking that it be prepared in partnership with Ngāti Taka along with additional methods to specify mana whenua roles in site identification, meeting requirements, training and induction programme, and inclusion of a formal plan for kōiwi discoveries. Ngāti Taka’s suggested amendments to condition AA6 seek to clarify how feedback received from it is incorporated in the ARMS, and associated reporting.<sup>84</sup>

#### Applicant’s response to comments

- 237 NZTA’s response to HNZPT’s comments confirms that the few outstanding areas of disagreement on the Proposed Archaeological Authority Conditions have largely been resolved through the set of updated conditions attached to the response.<sup>85</sup> The Applicant’s view is that residual differences principally relate to application of HNZPT’s ‘standard’ archaeological authority conditions (wording around certification versus approval, definitions of works commencement, and turnaround times for review of plans) which are usual for authorities that are not obtained under the FTAA and are not necessary or appropriate for this Project.
- 238 In response to Pirirākau, the Applicant refers to ongoing opportunities for hapū input into the draft AMP and the draft archaeological authority conditions and referred to preparation of a project specific agreement that sits outside of the statutory processes. NZTA considers that the draft AMP for the TNL2 Project is superior to that relating to TNL stage 1 because incidental and kōiwi discovery protocols have been amended to provide clear process steps in the event of a discovery. NZTA has updated the proposed archaeological authority conditions to require pre-investigation meetings and

---

<sup>79</sup> Section 51(2)(d) Report, at para 22

<sup>80</sup> Section 51(2)(d) Report, at para 34

<sup>81</sup> Pirirākau Submission to the Expert Panel, 9 December 2025, at para 14

<sup>82</sup> Pirirākau Submission, at para 6

<sup>83</sup> Pirirākau Submission, at para 3.3

<sup>84</sup> Ngāti Taka Submission to the Expert Panel, 9 December 2025, at Appendix 1

<sup>85</sup> NZTA Response to Comments from HNZPT, at Attachment 4 (with tracked conditions at attachment 4B)

cultural induction. It intends to include a formally agreed re-interment location and process in the final AMP and has invited both Pirirākau and Ngāti Taka to identify a suitable location.<sup>86</sup>

- 239 In response to Ngāti Taka, NZTA refers to existing measures in the AMP that already provide for the concerns raised.<sup>87</sup> However, it agrees with Ngāti Taka's suggestions relating to pre-investigation meetings between archaeologists and Ngāti Taka and cultural induction for archaeological works.<sup>88</sup> NZTA also agrees to inclusion of a requirement in the ARMS explaining how Ngāti Taka feedback has been incorporated into the Strategy and, if not, the reasons for that.<sup>89</sup>
- 240 The JWS Conditions addresses the archaeological authority conditions which had not been resolved to HNZPT's satisfaction. NZTA agreed to change references to "certification" in the AMP and ARMS to "written approval" to address HNZPT concerns. HNZPT expressed residual concerns over requirements to engage with Pirirākau and Ngāti Taka in monitoring, reporting and preparation of the AMP and ARMS, which it considers fall outside its remit in administering and enforcing conditions.<sup>90</sup>
- 241 In the JWS Conditions, hapū noted general support for the amendments proposed by HNZPT and acknowledged HNZPT's concerns regarding third party engagement. Hapū suggested including these matters in the AMP rather than conditions and involving hapū in development of the AMP (rather than a review function).<sup>91</sup>
- 242 The Applicant's Closing Submissions explain updates to the archaeological authority conditions to reflect the outcomes reflected in the JWS Conditions. The AMP and ARMS conditions have been revised to provide for hapū review and comment on both documents, incorporate cultural induction into the AMP, and expand the content of the ARMS in line with HNZPT's suggestions. Conditions have been restructured to align with HNZPT's preferred format and add a requirement for the AMP to explain how written feedback from Pirirākau and Ngāti Taka has been addressed, or why it has not. Consistent with HNZPT and hapū requests, the ARMS must now ensure research and mitigation measures are informed by tikanga and that cultural values are explicitly considered. In its Closing Submissions, NZTA submits these changes are supported by hapū and address most of HNZPT's concerns.<sup>92</sup> Hapū have responded through their comments on our draft decision and conditions. We have addressed those points under Part K relating to our final conditions.
- 243 The Closing Submissions noted three key outstanding matters with HNZPT. NZTA proposes to include a set of definitions in a schedule to the archaeological authority to ensure clarity, noting that the HNZPT portal already accommodates schedules (such as for land descriptions). HNZPT opposes this, citing technical limitations with its portal.<sup>93</sup> There is also disagreement about the procedures for managing kōiwi discovery. NZTA's preference is for works to be carried out "in general accordance with the Guidelines for Kōiwi Tangata/Human Remains (AGS8 2014)" (**Kōiwi Guidelines**) which it says are broad, non-binding guidance and not strictly enforceable. HNZPT objects to use of the

---

<sup>86</sup> NZTA Response to Comments from Pirirākau Hapū, at Attachment 6

<sup>87</sup> NZTA Response to Comments from Ngāti Taka Hapū, Attachment 7, at para 4

<sup>88</sup> NZTA Response to Ngāti Taka, at 4

<sup>89</sup> NZTA Response to Ngāti Taka, at 10

<sup>90</sup> JWS Conditions, at para 3.3

<sup>91</sup> JWS Conditions, at para 3.9

<sup>92</sup> Applicant's Closing Submissions, at para 75.8

<sup>93</sup> Applicant's Closing Submissions, at para 184.1

word “general.”<sup>94</sup> HNZPT seeks inclusion of the ability to consider “any other relevant matters” when approving the AMP. NZTA does not support this catch-all provision due to ambiguity and uncertainty arising from an unrestricted discretion for HNZPT to refuse certification.<sup>95</sup> HNZPT also opposes a proposed Advice Note which would allow NZTA to “group” reporting for multiple authorities into single reports. NZTA maintains grouping would not delay reporting, because the conditions require it to report within 20 working days of completing on-site work for each authority.<sup>96</sup>

- 244 For completeness we note the issue of “deemed certification” is also relevant to the archaeological authority conditions and was opposed by HNZPT and hapū. We have addressed this elsewhere in this decision.

#### Panel Findings

- 245 The findings and conclusions of the Applicant’s Assessment of Archaeological Values were not challenged by any party. HNZPT’s Section 51(2)(d) Report recommends that the archaeological authorities be approved and considers this to be consistent with the matters set out in section 59(1)(a) of the HNZPTA.<sup>97</sup> The residual matters of disagreement related to conditions. We consider that NZTA has helpfully engaged with HNZPT and hapū to narrow these matters such that conditions for the archaeological authorities are largely agreed and outstanding matters relate primarily to minor structural or semantic issues.
- 246 The Panel accepts NZTA’s submissions on these minor residual issues for the reasons provided in the Closing Submissions. In our draft decision we adopted the proposed Archaeological Authority Conditions provided with the Closing Submissions. We have made some further minor amendments to address matters arising out of the parties’ comments on our draft decision and conditions which we explain in Part K below relating to our final conditions. We find that imposition of the conditions will mitigate the overall adverse effects of the Project to a low level as assessed by Dr Gumbley. We accept the advice from HNZPT that the granting of the archaeological authorities sought in the Application would be consistent with the matters set out in section 59(1)(a) of the HNZPTA and therefore we grant those authorities on the conditions proposed by the Applicant in closing, with some minor adjustments addressed in Part K below relating to our final conditions.
- 247 We approve Dr Warren Gumbley as the approved person pursuant to section 45 of the NZHPTA and clause 7 of Schedule 8 to the FTAA, having regard to HNZPT’s recommendation.

#### **LANDSCAPE AND VISUAL AMENITY EFFECTS**

- 248 A Landscape Visual Impact Assessment (**LVIA**) for the Project was undertaken by Adrian Morton Landscape Architects Ltd. The LVIA built on earlier assessments for the Existing Designation in conjunction with site inspections, design meetings and workshops including with the Project team, hapū, WBOPDC and other parties.<sup>98</sup>

---

<sup>94</sup> Applicant’s Closing Submissions, at para 184.2

<sup>95</sup> Applicant’s Closing Submissions, at para 184.3

<sup>96</sup> Applicant’s Closing Submissions, at para 184.4

<sup>97</sup> Section 51 Report, at para 27

<sup>98</sup> Substantive Application, at 4.4.5

- 249 The methodology utilises Te Tangi a Te Manu: Aotearoa New Zealand Landscape Assessment Guidelines (Appendix A-1) and includes a landscape and visual effects comparison in the assessment (over and above the Existing Designation and current conditions).
- 250 The main potential landscape and visual effects of the Project are summarised as:
- (a) Landscape character effects, deriving from changes in key landscape elements that influence the character of the Project site and its surroundings;
  - (b) Visual amenity effects relating to the:
    - (i) extent of modification;
    - (ii) ability of the landscape to absorb modification;
    - (iii) distance of potential viewers from the Project; and
    - (iv) Effects on the Outstanding Landscape Feature (**OLF**) that the Project traverses through.<sup>99</sup>

#### Effects on Landscape Character

- 251 The Project is considered to have a low to moderate effect on landform and will be seen in the context of the existing SH2 which it runs close to, and the local topography.
- 252 Due to current design standards and an increase in the designation footprint the Project will result in an increase of the extent and volume of earthworks and vegetation clearance compared to the existing designation. The most significant effects on landscape character will occur at the Ōmokoroa Interchange and the Whakamārama area/Plummers Point Road and are assessed as moderate-high during construction.<sup>100</sup>
- 253 However, a design approach will be employed to minimise landscape and visual amenity effects, including route selection, landform-led earthworks and design of structures and bridges. Stream works, stormwater devices, and extensive landscape planting have also been designed to enhance ecological outcomes and integrate the alignment and associated infrastructure into the surrounding rural landscape. The LVIA concludes that these new landscape elements, alongside the proposed landscape and ecological mitigation measures will result in the landscape effects of the Project diminishing to a low level within three to five years. Once the Project is operational, and following the establishment of mitigation planting, the semi-rural character of the area will be maintained resulting in a low adverse landscape effect overall.<sup>101</sup>

---

<sup>99</sup> LVIA, at 2.1

<sup>100</sup> Substantive Application, at p 142

<sup>101</sup> LVIA, at 6.2.6

### Visual Effects

- 254 The Project is being undertaken in a predominantly semi-rural but highly modified environment that includes the current SH2 corridor.<sup>102</sup> The visual effects relate mainly to the loss of vegetation and change to landforms due to earthworks and placement of structures, lighting, and signage along the corridor.<sup>103</sup>
- 255 A Zone of Theoretical Visibility (ZTV) was carried out to identify and map potential areas where the Project would be visible, using a simple model of contour lines derived from lidar data sets with subsequent site visits to ground truth the model.<sup>104</sup> The visual catchment includes the following potential viewing audiences:
- (a) Residents of the surrounding neighbouring houses;
  - (b) Motorists travelling on the proposed State Highway and connecting local roads; and
  - (c) Local viewpoints including harbour views.
- 256 The LVIA notes that the visual absorption capability (VAC) of the surrounding landscape is well suited to visually absorb the Project given its combination of rolling topography and pastoral/ horticultural vegetation within the landscape.<sup>105</sup>
- 257 The LVIA details individual properties that are close to the Project and proposes specific mitigation techniques.<sup>106</sup> The magnitude of adverse effects range from no effect to a high adverse effect on properties (6A Ainsworth Road) during construction when they are expected to be greatest. Similarly, adverse landscape and visual amenity effects are likely to be moderate to high for transient road users during this period. However, the Applicant's position is that effects generated by earthworks and lighting are temporary and will be remediated progressively as each phase of the Project is completed through extensive landscape planting and other design elements.
- 258 In relation to the Tawhitinui Marae and Urupa, the LVIA concludes that it will not experience long-term visual effects from the Project, as distance, rolling topography, and existing vegetation prevent existing views of SH2, and this will remain the case once the Project is operational. While vegetation removal during construction near Plummers Point Road may result in temporary moderate adverse visual effects, these will diminish over five to seven years and become indiscernible.<sup>107</sup>
- 259 The Concept Landscape Mitigation Plans (CLMP) in Appendix E of the LVIA set out the proposed landscape and ecological mitigation planting for the Project corridor. The level of effect after 3 plus years of established mitigation and management suggests that effects on receptors will range from low adverse effect to moderate positive effect.
- 260 The Project traverses two locations that sit within the District Plan Outstanding Landscape Feature (**OLF**) overlay which extends around Tauranga Moana and is based

---

<sup>102</sup> LVIA, at 2.3

<sup>103</sup> Substantive application, at page 142

<sup>104</sup> LVIA, at Appendix D

<sup>105</sup> LVIA, at 6.3.2

<sup>106</sup> LVIA, at 8

<sup>107</sup> LVIA, at page 71

on a nominal 300m setback from the Harbour's edge. The LVIA concludes that the Project's distance from the Harbour, management of earthworks, and implementation of landscape mitigation planting will avoid adverse effects on the views and amenity of the OLF area.<sup>108</sup>

- 261 The LVIA recommends a range of mitigation measures to ensure landscape and visual effects remain minor, including landform-sensitive earthworks, naturalised stream and wetland design, extensive ecological and screening planting, well-designed bridges, controlled lighting, vegetation and soil protection, weed management, and cultural input from hapū into design features. With these measures in place, the Project is expected to minimise adverse effects while delivering positive outcomes such as new open spaces, enhanced wetlands, and opportunities to incorporate cultural design elements that strengthen hapū connection to the land.<sup>109</sup>
- 262 The LVIA concludes that, overall, the Project is anticipated to give rise to minor adverse landscape and amenity effects that will reduce to less than minor over time. The proposed design response, including high-quality structures and ecological upgrades to streams and wetlands, will provide moderate localised benefits relative to the Existing Designation, with the Project ultimately integrating into a vegetated corridor that maintains the rural character of the area.<sup>110</sup>

#### Comments received

- 263 Pirirākau raised concerns about with the efficacy of management plans, and the hapū role in their development and implementation (discussed earlier). Landscape planting issues focussed on potential noise impacts on Tawhitinui Marae and Urupa which are addressed further in this decision.
- 264 Ngāti Taka support the inclusion of cultural design features referenced in the LVIA but recommended amendments or additions to management plans and designation conditions relating to the LVMP. The recommendations seek to reinforce and clarify hapū involvement in cultural interpretation and design and the protection, enhancement and provision of access to sites.<sup>111</sup>
- 265 Stephen and Fleur Bos own a property situated to the west of the proposed new link between Minden Road and Te Puna Stream. They raise concerns over visual amenity and noise effects, seeking mitigation such as the installation of a physical noise and visual barrier.<sup>112</sup>
- 266 Mike and Sandy Smith raise concerns about amenity values and the development potential of 467E and 467B Ōmokoroa Road. While acknowledging that the conditions require an LVMP, they raise uncertainty around details, given the LMVP is not yet finalised. They ask that visual and amenity impacts are addressed with timely landscaping and screening eg. within one year of earthworks.<sup>113</sup>

---

<sup>108</sup> LVIA, at 2.6

<sup>109</sup> Substantive Application, at p143

<sup>110</sup> LVIA, at 9

<sup>111</sup> Memorandum of Ngāti Taka, 9 December 2025, at pp27-28

<sup>112</sup> Comments on Application, dated 11 November 2025

<sup>113</sup> Comments on Application, dated 9 December 2025

- 267 In their comments, WBOPDC provided a peer review of the LVIA, carried out by Isthmus Group Ltd (**IGL**). The reviewer noted some inconsistencies with application of Te Tangi a Te Manu Landscape Assessment Guidelines and had some reservations around the reliability and accuracy of the Zone of Theoretical Visibility (ZTV) methodology used. However, there was broad agreement with the levels of visual effect identified within the LVIA.
- 268 IGL identified perceived gaps in the LVIA in relation to assessment of potential effects on natural character and Outstanding Natural Features and Landscape values within and immediately adjacent to the proposed designation boundary.<sup>114</sup>
- 269 The peer review also considered there to be limited assessment of the potential associative effects related to cultural landscapes and values within the LVIA and specifically relating to the removal of the hill feature identified by Pirirākau Hapu as Te Haumu.<sup>115</sup>
- 270 There was disagreement with the LVIA's conclusions that "the Project will result in minor adverse effects on the landscape and amenity values which will, in time diminish to less than minor adverse effects in general" due to inconsistency with findings elsewhere in the LVIA of more than minor effects on both landscape character and visual amenity values, with some effects identified being significant (High).<sup>116</sup>
- 271 IGL was generally supportive of the proposed conditions, but sought greater clarity to manage potential effects of any borrow pit to be located within landscape feature ONL S8a. IGL recommended an effects-based assessment on landscape and visual amenity values in that location and a condition confirming the parameters of the borrow pit and any remediation measures to be implemented following decommissioning.<sup>117</sup>
- 272 Given the proposed designation boundary crosses the Coastal Environment, IGL recommended a condition to restrict any works within the Coastal Environment to wetland enhancement planting only.
- 273 IGL support imposing a "Condition 1" (an "in general accordance with" condition) to allow for any future changes in the alignment within the designation boundary, while maintaining the overall extent and general coverage of planting illustrated within the concept mitigation plans.

#### Applicant's response to comments

- 274 In response to comments from Pirirākau, NZTA reiterated that hapū will be invited to hui throughout the detailed design and Project Works phases, with the opportunity to provide input into the detailed design of landscape and planting (in accordance with the designation conditions).<sup>118</sup>
- 275 In response to comments from Ngāti Taka, NZTA explained that, where possible, impacts on significant sites have been avoided through the design process. The

---

<sup>114</sup> Memorandum of WBOPDC to the Panel, dated 9 December 2025, Attachment 3, at 48 (**WBOPDC Memorandum**)

<sup>115</sup> WBOPDC Memorandum, at 39-44

<sup>116</sup> WBOPDC Memorandum, at 50

<sup>117</sup> WBOPDC Memorandum, at 51

<sup>118</sup> Memorandum of NZTA to the Panel, dated 16 December 2025, at Attachment 6 (**NZTA Memorandum**)

proposed designation conditions enable recognition of sites of importance through design, based on hapū input. The Applicant acknowledged some limitations on its ability protect or provide access to sites, particularly if the Crown does not own the land. Therefore, conditions requiring access to and/or ongoing protection of sites are not appropriate. However, separate statutory processes such as under the PWA may apply to provide for compensation and / or access.

- 276 In NZTA's view, the proposed resource consent and designation conditions appropriately provide for Ngāti Taka involvement in ecological and landscape design. The Ecological Management Plan (**EMP**) will incorporate hapū input on native species and planting, while the LVMP must recognise cultural values, promote cultural expression, integrate cultural and landscape elements, and support restoration of waterways, wetlands and indigenous vegetation. Ngāti Taka will also be invited to participate in the detailed design process through hui and contribute to the prioritisation of culturally significant plant species. On that basis NZTA considers that no further conditions are necessary.<sup>119</sup>
- 277 In response to WBOPDC's comments, landscape expert Mr Adrian Morton provided a Statement of Evidence on behalf of the Applicant. In his opinion the LVIA methodology is robust and generally consistent with the relevant landscape guidelines, and cultural landscape relationships have been appropriately acknowledged, whilst recognising that hapū perspectives cannot be fully assessed through conventional Western frameworks. In his opinion concerns regarding potential effects of the borrow pit on the ONL, the ZTV analysis, and the removal of the culturally significant hill at te Haumu are appropriately addressed. Effects on those matters will either be temporary, or mitigated through rehabilitation and design measures informed by hapū input. Overall, Mr Morton maintains that the Project's landscape, ecological, visual, and cultural effects will be appropriately managed through mitigation and hapū involvement, resulting in residual effects that are less than minor and positive long-term outcomes.<sup>120</sup>
- 278 The JWS Conditions records that the parties discussed the designation urban design and landscaping conditions at the conditions workshop. NZTA agreed to address various landscape matters raised by hapū, Penny Hicks, and in connection with ecological matters raised by the Panel's ecological advisor, Graham Ussher. In its Closing Submissions, NZTA proposed the following amendments to the designation conditions:
- (a) Specific provision for hapū to provide for cultural expression through Project design, including recording and incorporating cultural narratives into the LVMP and detailed design;<sup>121</sup>
  - (b) Changes to the landscape and visual conditions to account for future urban development/structure plans in relation to the Francis Road area in response to matters raised by Mathew Kerr-Ridge on behalf of Penny Hicks;

---

<sup>119</sup> NZTA Memorandum, at Attachment 7

<sup>120</sup> NZTA Memorandum, at Attachment 3A

<sup>121</sup> Closing Submissions, at para 51.6

- (c) Amendments to address a potential lack of alignment between the indicative restoration planting areas proposed for wetland mitigation and the locations identified in the Landscape Concept Plan. Planting under the LVMP must take account of the ecological, restoration, and landscape planting, monitoring and maintenance required under the regional consents.<sup>122</sup>

### Panel findings

279 We consider that the Applicant has appropriately responded to the issues raised by the parties and has adequately addressed the outstanding matters of contention in relation to Landscape and Visual Amenity effects. We are satisfied that implementation of the amended designation conditions will ensure any effects can be adequately and appropriately mitigated. While we acknowledge the concerns of some parties in relation to the uncertainty created by a future management plan approach, and the request for further detail, for the reasons explained earlier in this decision we consider that the proposed specimen design approach is appropriate for a significant infrastructure project of this nature and that NZTA, as the relevant statutory roading authority, will ensure that the Project is implemented in a manner that involves further appropriate engagement with affected parties. We also observe that management plans must be certified by the relevant administering agencies, so there will be another level of oversight separate from NZTA. We are also mindful of the FTAA context which requires us to place the greatest weight on the purpose of the FTAA to facilitate significant infrastructure projects, and of the requirement that any conditions we impose are not more onerous than necessary. We consider that imposing conditions requiring NZTA to implement specific private mitigation measures such as fencing or access requirements would either fall outside of our jurisdiction to impose (unless they have been volunteered by NZTA) or would be more onerous than necessary. We have made some further amendments to the final conditions to address comments received from the parties on our draft decision and conditions, which are discussed in Part K below.

### **ECOLOGY EFFECTS**

- 280 The objectives of the Ecological Effects Assessment (**EEA**) were to identify and describe ecological values within the proposed designation, assess potential construction and operational effects, and recommend measures to avoid, minimise, remedy, offset, or compensate for adverse impacts to protect and enhance indigenous biodiversity.
- 281 The assessment methodology involved desktop analysis and detailed field surveys across terrestrial, wetland, freshwater, and marine environments. Results from the surveys indicate that the designation area is predominantly characterised by modified agricultural landscapes with mostly low ecological value, including pastoral land and orchards dominated by non-native vegetation. While 36 wetlands were identified (most of low to moderate value due to pest plant dominance) several larger freshwater wetlands with stronger native vegetation and estuarine connectivity were assessed as high value. Terrestrial avifauna and herpetofauna habitats were assessed as generally low value, as no lizards were found during surveys, although copper skink may be

---

<sup>122</sup> Closing Submissions, at para 75.2

present in low numbers and some wetlands provide higher-value habitat for cryptic wetland bird species. Bats were not detected.

- 282 Most of the twelve affected waterways are degraded, with low habitat quality, limited native fish diversity, and impaired stream function, although two waterways were assessed as having moderate value due to better habitat and riparian condition. The Te Puna Estuary and Mangawhai Bay Inlet were assessed as having moderate-high ecological value, with relatively healthy sediment conditions and moderately diverse marine invertebrate communities.<sup>123</sup>
- 283 Potential impacts of the Project on ecological features include the loss and modification of terrestrial vegetation, wetlands, fauna habitats, and waterways. Boffa Miskell's key recommendation to mitigate potential ecological effects is preparation of a holistic project wide ecological management plan (**EMP**) to address how the effects of the project will be managed. Specific effects and strategies for effects management are summarised below.

#### Terrestrial and Wetland Ecology

- 284 The EEA finds that construction activities are likely to cause the direct loss and modification of vegetation, wetlands and fauna habitat. Fauna could be impacted by direct injury or mortality and could also face disturbance from noise, vibration, and artificial light. Operational impacts identified include decreased habitat connectivity, ongoing disturbance, spread of invasive species, increased herbicide use, and potential discharges to wetland and terrestrial habitats.
- 285 For wetlands, Boffa Miskell assessed the Project at a catchment scale, recognising the importance to ecosystem services. Key potential effects include permanent wetland loss, hydrological modification, fragmentation, reduced ecosystem services, altered inundation and flow regimes, and operational disturbances.
- 286 The Project will permanently remove approximately:
- (a) 27,000 m<sup>2</sup> of low-value wetland, resulting in a high magnitude of effect due to cumulative loss, with moderate operational effects on retained areas;
  - (b) 15,000 m<sup>2</sup> of moderate-value wetland, resulting in a high magnitude of effect, with moderate operational impacts on remaining areas;
  - (c) 20,000 m<sup>2</sup> of high-value wetland, resulting in a very high magnitude of effect due to substantial habitat loss and alteration, with high operational impacts on retained high-value wetlands, including potential downstream effects;<sup>124</sup>
- 287 Some wetlands, including all identified saltmarsh areas, have been avoided through design changes. For those wetlands, operational effects range from negligible to

---

<sup>123</sup> EEA, at pp 6-7

<sup>124</sup> EEA, at 4.5

positive, with ongoing management required to prevent indirect impacts such as sedimentation, invasive species spread, lighting, and noise.

- 288 The EEA proposes an offset strategy for low and moderate value wetlands, following a 1:2 (wetland loss : creation), or a 1:1:1 ratio (wetland loss : creation : enhancement) for moderate value wetlands. This will require approximately 3 ha of wetland creation, or 1.5 ha of wetland creation and restoration. A replacement ratio of 1:1 (wetland loss : creation) is proposed for low-value wetlands requiring approximately 2.7ha of wetland creation.
- 289 Boffa Miskell's recommendations involve wetland creation along the Project alignment, emphasising larger, contiguous features. Wetland enhancement will focus on retained areas within the alignment. The I'Anson Reserve is identified as a potential location for wetland creation. Where wetlands are impacted but remain, restoration and buffering is proposed to retain or enhance ecological values.
- 290 The EEA states that effects on herpetofauna can be managed by creating suitable habitat in enhanced wetland and riparian areas (especially Ōmokoroa and Merrin Wetlands) and by undertaking survey and salvage before clearance under a Lizard Management Plan (**LMP**) which should reduce impacts on copper skinks to low.
- 291 Although some wetland habitat will be removed, Boffa Miskell anticipate substantial wetland recreation and enhancement will result in positive impacts on avifauna habitat overall. An avifauna management plan (**AMP**) is recommended, to include habitat mapping, assessment of species and nesting needs, timing around sensitive periods, and protocols for pre-construction surveys and dealing with any at-risk species found. The EEA concludes this will lead to negligible effects on birds, including cryptic wetland species.
- 292 To compensate for loss of high-value wetlands and bird habitat, 33.10 ha of wetland, riparian, and saltmarsh restoration is proposed at Ōmokoroa and Merrin Wetlands. The EEA's modelling indicates this package will have a net positive effect on wetland and avifauna habitat.
- 293 Because bats are known to inhabit the wider area, follow-up bat surveys are recommended before clearing potential bat habitat. If bats are detected, implementation of a Bat Management Plan (including safe vegetation removal protocols) is recommended to avoid harming roosting bats.

#### Freshwater Ecology

- 294 The EEA states that potential effects of construction activities on freshwater ecosystems will result in the modification of watercourses as well as overall improvements to fish passage. Instream works during construction could cause fish injury or mortality and changes in water flows leading to erosion and sedimentation downstream. Potential operational impacts include long-term road runoff with elevated levels of pollutants, risks to fish passage if structures are not maintained, and maintenance works causing fish injury or mortality.
- 295 Changes in water flows may affect erosion and sedimentation processes downstream. The Project involves modification and realignment of around 2,878 linear meters of low-value watercourses and 207 linear meters of moderate-value watercourses. The creation of approximately 3,560 linear meters of watercourse in low-value areas and

381 linear meters in moderate-value areas is proposed, through remediation and stream daylighting and incorporation of seven bridges to avoid disrupting watercourses.

- 296 The EEA concludes that the Project's impact on watercourses results in an overall positive effect on stream length particularly when coupled with implementation of a proposed Stream Management and Monitoring Plan (**SMMP**). The SMMP would detail each individual stream creation design to enable improved stream habitat values and is likely to result in a positive impact on freshwater habitat values.<sup>125</sup>

#### Marine Ecology

- 297 Boffa Miskell conclude that potential marine effects are primarily associated with sediment suspension and deposition during construction, including possible cumulative sedimentation effects. Comprehensive sediment and erosion control practices, along with stormwater treatment, are proposed to manage effects. A marine monitoring plan, proposed to be integrated into the EMP, would outline benthic habitat monitoring and sampling procedures, locations, trigger events, reporting requirements, and mitigation measures. This approach is expected to manage impacts on the marine environment to low levels.<sup>126</sup>

#### Comments received

##### *Minister for the Environment*

- 298 The Minister's memorandum noted:

*"I also note that several of the proposed mitigation and implementation measures are to be given effect through management plans that are to be provided in the future, including ecological, wetland, stream, and fauna-related plans, some of which are proposed to be developed or certified following any decision to grant consent. In this context, I wish to draw the Panel's attention to whether the timing and sequencing of these plans provides an appropriate level of certainty at the point of decision-making. In particular, it may be beneficial to consider whether requiring key biodiversity management plans prior to any approval may better support clarity around implementation, monitoring requirements and improve alignment with relevant national direction."*

##### *Pirirākau and Ngāti Taka*

- 299 Hapū comments relating to ecological effects and effects management primarily related to the adequacy and implementation of management plans, along with concerns regarding stream and watercourse impacts. These comments are addressed earlier in this decision.

##### *Bay of Plenty Regional Council*

- 300 BOPRC's comments set out key outstanding issues and provide revised wording for conditions. Matters raised included:<sup>127</sup>

---

<sup>125</sup> EEA, at 5.8

<sup>126</sup> EEA, at 5.9

<sup>127</sup> Submission of BOPRC to the Panel, dated 9 December 2026, at 3; based on technical advice from Ms Shay Dean (Environmental Scientist, BOPRC), Ms Nancy Willems; and SLR Consulting NZ

- (a) Opposition to NZTA's proposed "deemed certification" conditions due to the potential to result in sub-standard plans being adopted by default with sub-optimal sustainable management outcomes;
- (b) Request for all key management plans (ecological, wetland, avifauna, bats, lizards, stream etc) to be certified in writing by BOPRC before works proceed;
- (c) Differences of opinion as to application of the NPS-FM effects hierarchy and what constitutes remediation or offsetting given new stream channels to be created are not at the impact sites.
- (d) Disagreement about the proposed 1:1:1 offset ratio for wetlands. BOPRC does not consider that wetland restoration is equivalent to wetland creation as it still results in a loss of wetland extent overall. It proposed a higher ratio of 1:1:3 for wetland loss: creation: restoration. BOPRC also considers that wetland restoration areas should be maintained for the duration of the relevant consent.
- (e) Comments about the structure of consent conditions given that BOPRC's system for generating consent conditions, undertaking compliance and report generation has limitations which would not allow tables to be used in conditions.

*DOC*

301 DOC's comments set out key outstanding issues and provide revised condition wording. Matters raised include:<sup>128</sup>

- (a) Concerns about the assessment of freshwater stream values and the effects management approach proposed for stream reclamation.
- (b) Deficiencies in the survey methods for waterways resulting in undervaluation of assessed values.
- (c) Concerns about the proposed effects management approach and the achievement of a no-net-loss outcome for both stream extent and values, due to reliance on stream alignments to manage loss of streams, stream alignment being classified as 'remediation' rather than 'offset', and failure to account for potential values in the assessment of stream values and effects management. A Stream Offset Management Plan condition is proposed.
- (d) A request for conditions to specify a maximum or cap for watercourse reclamation and culverting.
- (e) A requirement for the LMP to be certified under both the Wildlife Approval and consent conditions.

---

<sup>128</sup> Submission of DOC to the Panel, dated 9 December 2026, at 3-4; based on advice of; Senior Technical Freshwater Advisor, Jacob Williams; Environmental Scientist, Dr Martin Neale; and Senior Technical Fauna Advisor, Rhys Burns.

- (f) Better provision in conditions for management of effects on long tailed bats.
- (g) Provision of sufficient information about the purpose, structure, content and drafting process for management plans to ensure the plans will be sufficient to address identified adverse effects.
- (h) A statement of general support for BOPRC's proposed amendments to conditions to manage the environmental effects of the Project.

#### Applicant's response to comments

- 302 The Applicant's response to comments from Ngāti Taka and Pirirākau has been summarised previously in Section E: Cultural Effects.
- 303 NZTA provided expert ecological evidence from Andrew Blayney and Jeremy Garrett-Walker in response to BOPRC's and DOC's comments.<sup>129</sup>
- 304 Mr Blayney prepared evidence in relation to offset ratios for wetlands, maintenance of wetland restoration areas, and bat and lizard management.
- 305 Mr Blayney considers that BOPRC's method of assessing wetland effects at the scale of each individual wetland misapplies the 2018 EIANZ Guidelines. In his view, focusing on the loss of a single wetland and calling that a "very high" magnitude of effect conflates loss of an individual feature with overall effects on wetland ecology. He considers the distinction between approaches to be largely academic.<sup>130</sup> Mr Blayney contends that the EIANZ framework is a communication tool to contextualise effects, not a substitute for clear description of effects and management measures. He does not agree that loss of one wetland feature is necessarily a "very high" magnitude effect and does not support BOPRC's variable, feature-by-feature scale nor resile from the magnitude assessments set out in the EEA.<sup>131</sup>
- 306 Mr Blayney considers that a 1:1:1 offset ratio for moderate-value wetlands (loss: creation: restoration) is appropriate which would guarantee at least 1:1 replacement of wetland area. In comparison with a 1:2 (loss: creation) ratio, it does not reduce total wetland area and provides more flexibility to choose the most effective mix of creation and restoration along the alignment. He noted that DOC has not opposed a 1:1:1 ratio.<sup>132</sup>
- 307 Mr Blayney disagrees with BOPRC's suggestion that wetland restoration extent is uncertain or insufficiently secured, highlighting the proposed Wetland Management Plan (**WMP**) and Wetland restoration and creation conditions. He considers that the conditions set out clear performance criteria and implementation requirements, explicitly include wetland offset ratios for moderate and low value wetlands, and specify detailed WMP requirements.<sup>133</sup>

---

<sup>129</sup> NZTA Response to Comments from BOPRC, at Attachment 2A and 5B

<sup>130</sup> Statement of Evidence of Andrew Blayney, dated 16 December 2025 (**Blayney Evidence**), at 6-7

<sup>131</sup> Blayney Evidence, paras 8-9

<sup>132</sup> Blayney Evidence, para 10

<sup>133</sup> Blayney Evidence, paras 11-12

- 308 Mr Blayney explains that the proposed conditions cap maximum wetland loss at 2.56 ha and establish a process to define specific offset/compensation during detailed design, requiring both creation of new wetlands and restoration of existing natural wetland. He notes that the assumed loss of 2.56 ha will be matched by creation of 2.56 ha of new wetland plus the proposed restoration. If design refinements reduce loss, the required wetland creation will reduce proportionally.
- 309 Mr Blayney does not consider it necessary to map specific wetland restoration/creation areas at this stage as proposed conditions already provide a robust framework to manage wetland effects, based on an "effects envelope" that sets limits on impacts to higher-value wetlands. As design is refined, the exact locations, extent of effects, and the required amount of offsetting will likely change, and fixing locations and scales now could discourage further design improvements that could reduce impacts and associated mitigation.<sup>134</sup> In his view a requirement to maintain restored wetlands for the full consent duration would be arbitrary. Rather, he supports maintenance which is tied to achieving planting performance criteria. Once met, no-net-loss (and likely net gain) of wetland values will be achieved.<sup>135</sup>
- 310 Regarding DOC's request for a Bat Management Plan (**BMP**) to be prepared before surveys, Mr Blayney considers there to be no clear evidence the Project area is important for bats or that effects on bats are likely. He contends that effects management should match the level of risk and NZTA's approach to survey first, then prepare a BMP only if bats are detected, precautionary and proportionate and would avoid imposing bat protocols where they would bring no benefit. He prefers a condition which refers to "current best practice" rather than a specific document (eg. DOC's Bat Roost Protocols suggested by BOPRC) so the condition remains up to date.<sup>136</sup>
- 311 Regarding DOC's request for additional conditions in the LMP to provide for lizard habitat, Mr Blayney considers the LMP should stay short and operational, focused on on-the-ground procedures for vegetation clearance and lizard salvage, for use by non-specialists (e.g. contractors). His preference is for detailed planting, habitat creation and monitoring requirements to sit in the EMP or its sub-plans, to avoid duplication and keep the LMP's purpose clear.<sup>137</sup>
- 312 Mr Garrett-Walker prepared evidence on the effects management approach for freshwater, stream alignment as a remedy rather than offset, and relevance of potential values in the assessment of stream values and effects management.
- 313 He considers that his assessment of magnitude of effects at the catchment/sub-catchment scale is consistent with EIANZ guidelines (Chapter 6), which emphasise ecological scale and context, whereas a site-only view can overstate effects by ignoring how fish and macroinvertebrate communities' function and recover across a wider network. He carried out a further assessment using more conservative assumptions in response to DOC's concern as to whether longfin eel presence had been appropriately weighted which did not change the level of effect estimated. He therefore

---

<sup>134</sup> Blayney Evidence, at paras 14-15

<sup>135</sup> Blayney Evidence, at paras 16

<sup>136</sup> Blayney Evidence, at paras 17-21

<sup>137</sup> Blayney Evidence, at paras 24-25

disagrees with DOC that he has underestimated effects and maintains his original waterway values and conclusions.<sup>138</sup>

- 314 DOC and BOPRC argue that stream diversions should be treated as offsets, not remedies, under the effects management hierarchy. Mr Garratt-Walker disagrees, contending that under the National Policy Statement – Freshwater Management (**NPS-FM**), remediation occurs when ecological extent and values are reinstated at the point of impact, even if the physical stream bed changes.<sup>139</sup>
- 315 In Mr Garrett-Walker’s opinion, implementation of the proposed design will involve reinstatement of stream extent and function within the affected footprint immediately after construction (through new, functioning channels). This constitutes a remedy, not an offset, because it directly replaces lost values in situ through verified ecological performance, monitoring, and maintenance conditions. He rejects DOC’s view that remedy is impossible once the original bed is reclaimed. The focus should be on replacing ecological values, not preserving the original substrate.<sup>140</sup>
- 316 He considers that NZTA’s approach, provided through conditions such as the proposed Culverts and Stream Hydraulic Design Report and Stream Management and Monitoring Plan, will achieve direct ecological gains through hydraulic performance, habitat complexity, fauna recovery, sediment control, and increased stream length. Monitoring and conditions should ensure outcomes are achieved and maintained (without relying solely on SEV). Even if classified as an offset, the Project meets the NPS-FM Appendix 6 offsetting principles, including adherence to the effects management hierarchy, no net loss / net gain, localised actions, long-term, monitored outcomes, transparency, science, and mātauranga Māori integration. He concludes that the proposed measures will remedy effects within the Project footprint and deliver no net loss with overall ecological improvement, satisfying both effects management hierarchy and NPS-FM principles. This renders the remedy-versus-offset distinction academic.<sup>141</sup>
- 317 In Mr Garrett-Walker’s view, although the NPS-FM requires consideration of potential values, they must be realistic, not hypothetical or idealised. Given the current land use, regulatory setting, and lack of evident restoration activity, he concludes that realistic potential values are essentially the same as current values (low to moderate) for the affected streams. He argues that increasing present site values to “moderate/high” based on theoretical improvements (e.g. fencing/planting) would improperly inflate effects assessments, contrary to EIANZ guidance. “Potential” should instead be reflected in the design of remediation and offset measures and project conditions, not by re-scoring present value. Mr Garrett-Walker maintains his position that potential values have been appropriately addressed via recommended outcomes and conditions that secure and (where practicable) improve stream values over time at the impact locations.<sup>142</sup>

---

<sup>138</sup> Statement of Evidence of Jeremy Garrett-Walker, dated 16 December 2025 (**Garrett-Walker Evidence**), at paras 10-14

<sup>139</sup> Garrett-Walker Evidence, at paras 26-27

<sup>140</sup> Garrett-Walker Evidence, at para 29

<sup>141</sup> Garrett-Walker Evidence, at paras 31-35

<sup>142</sup> Garrett-Walker Evidence, at paras 36-41

### Expert conferencing

- 318 Having reviewed the comments on ecological matters received from invited parties and the Applicant's response, as well as receiving technical advice from Mr Ussher, we directed the parties to undertake formal expert conferencing in relation to ecology and conditions.<sup>143</sup>
- 319 While issues have been substantially narrowed, the JWS Ecology identifies some remaining areas of contention. These are summarised below.
- 320 NZTA's experts disagree with the experts for BOPRC and DOC over the inclusion of a standard "condition 1", and the timing of preparation of management plans. A potential alternative solution discussed at the workshop would be to provide more detailed conditions of consent to address uncertainty.<sup>144</sup>
- 321 In discussing the impact on streams, the experts for the other parties sought more clarity on how stream impacts will be quantified and managed in conditions and sought inclusion of an overall cap on permanent reclamation and culverting or piping. The other experts also expressed a different view to NZTA on the "potential value" of streams. In their view if, after stream realignment, significant residual effects remain, then an assessment should be undertaken (using an aquatic offsetting tool such as the SEV Guidelines), based on potential rather than current values. Using potential values would likely result in a larger amount of stream restoration being required to achieve no net loss. NZTA's experts stressed the need for potential values to be realistic. The parties agreed to explore additional conditions requiring the SMMP to include information relating to the calculation, management, monitoring and reporting of residual effects if draft management plans are not to be prepared at this stage.<sup>145</sup>
- 322 There was consensus amongst the ecologists that additional conditions of consent are required for the management plans to address the following matters:<sup>146</sup>
- (a) Ensure that planting includes species that provide food and roosting habitat for kākā, kārearea, shining cuckoo and kererū. This is reflected in proposed condition 29.2 submitted with the Applicant's Closing Submissions;
  - (b) Ensure that wetland creation and enhancement provide habitat for at-risk and threatened wetland birds recorded or likely to be present in the footprint. This has been added to the WMP conditions submitted with the Applicant's Closing Submissions;
  - (c) The EMP should be amended to include "the creation of log stacks and adding mulch into plantings" to assist in lizard habitat enhancement. Condition 17.1(a) has been updated accordingly in the conditions provided with the Applicant's Closing Submissions.

---

<sup>143</sup> Minutes 3, 4, 6 and 7 of the Panel

<sup>144</sup> JWS in relation to Ecology dated 20 January 2026 (**JWS Ecology**), at 3.1

<sup>145</sup> JWS Ecology, at 3.2

<sup>146</sup> JWS Ecology, at 3.3

- 323 We record here that the Panel has accepted the above recommendations, which are followed through into our proposed conditions of consent, given we do not explicitly discuss these matters in our findings on ecological effects below.
- 324 There is agreement between NZTA and BOPRC that the conditions relating to wetland assessment and indirect effects on wetlands should set clear performance parameters so that restoration provides benefits equivalent to the alternative 1:2 offset ratio. BOPRC was concerned that natural wetlands outside the designation could be modified, fragmented, or lost, with no restoration required under current conditions. While Mr Blayney considers that indirect effects are already covered in the effects management framework, he agreed to recommend that the Applicant updates the WMP conditions to specifically require management of potential effects on wetlands outside the designation, to protect their values and extent. This is reflected in proposed new condition 24.1(a)1 provided with the Applicant's Closing Submissions.

#### Applicant's Closing Submissions

- 325 Part 6 of the Applicant's Closing Submissions describes how NZTA has continued to work with BOPRC and DOC following conferencing to further narrow the remaining areas of disagreement on the proposed conditions. There is now a high level of agreement between NZTA, and BOPRC / DOC, in relation to conditions.<sup>147</sup>
- 326 The Closing Submissions summarise key changes NZTA has made to conditions, including reorganising the regional consent conditions to align with BOPRC's preferred structure and revision of the key ecology-related conditions (in LC.01 and BC.01) to address concerns raised by BOPRC, DOC and hapū, which cover the SMMP and some wetland, planting and lizard habitat provisions.<sup>148</sup>
- 327 The ecology-related conditions in LC.01 that are not agreed with BOPRC are listed in Appendix C to the Applicant's Closing Submissions.<sup>149</sup>
- 328 Part 7 of the Closing Submissions identify the outstanding matters of disagreement between the parties, most of which relate to ecological matters (although some have more general application). These are summarised as follows:
- (a) The 'no Condition 1' approach;
  - (b) Preparation of management plans prior to construction instead of as part of the Application;
  - (c) Deemed certification;
  - (d) Freshwater/Streams;
  - (e) Wetlands; and
  - (f) Bat and wildlife approval conditions.

---

<sup>147</sup> Closing Submissions, at para 74

<sup>148</sup> Closing Submissions, at paras 75.1 and 75.4

<sup>149</sup> Joint letter of BOPRC and NZTA regarding conditions dated 16 February 2026

- 329 We have summarised the Applicant's arguments together with our findings on each issue (as contained in our draft decision) in the following section. Where we have amended our findings following receipt of parties' comments on our draft decision and conditions, we have explained those further changes in Part K below relating to our final conditions.

Findings on Ecological Effects

Issues having more general application

- 330 **The "no Condition 1" approach:** The Applicant does not propose a traditional "condition 1" for this Project. Such conditions usually require a proposal to be implemented "in general accordance with" specified drawing and documents. Use of the word "general" avoids the need for strict compliance and therefore ensures that only substantive changes to the consented proposal require a change pursuant to s127 of the RMA. For this Proposal, the Applicant seeks flexibility in design and construction methodologies, particularly given the Project is only at the indicative design stage. The Applicant has cited other examples of this approach having been adopted by decision makers and seeks to pursue this as its preferred approach for major projects. The Panel acknowledges the concern raised by the Applicant and the desire to preserve flexibility of design. However, the Panel has reservations about removing entirely the "scope" condition. As a matter of law, the scope of an application is defined by the documents relied on as part of the application. The purpose of condition 1 is operational. It houses in one place the key documents which form the scope of the application. Removing the condition does not remove the legal obligation to ensure the activities undertaken under the consent are within the scope of the activities applied for. It is trite law that the Panel cannot grant more than applied for. To respond to the desire for flexibility sought by the Applicant, we have therefore proposed a condition which would clarify the scope of the application in a "condition 1" (on all relevant consents), but allow for amendments to design which are provided for through processes contained in the consent conditions such as management plan development and certification, or through the outline plan of works process. We have not altered our position on this issue in our final conditions apart from removal of condition 1 from the designation conditions for the reasons given in Part K below.
- 331 **Provision of draft management plans:** While it is common for draft management plans to be provided together with an application as part of an adaptive management approach to consenting, the Panel has previously acknowledged that the timeframes provided under the FTAA, and the Applicant's flexible "Specimen Design" approach in this case, would not allow for preparation of management plans including the level of detail which would be useful at this stage of the consenting process.<sup>150</sup> As foreshadowed in our Minute 7, the Panel finds that the alternative approach proposed by the Applicant, of providing clear and robust conditions setting out the objectives sought to be achieved by the management plans and the specific parameters and information to be included in the management plans, for certification by the relevant authority, is acceptable approach in the circumstances. The Panel finds that, with the amendments it has proposed, the set of conditions circulated with this decision would achieve the required outcomes. The Panel's amendments to some management plan conditions are addressed further in our findings on freshwater and wetland ecology

---

<sup>150</sup> Minute 7 of the Expert Panel dated 27 January 2026 refers to the Panel's preliminary thinking on the absence of draft ecological management plans at paragraph [11]

below. We also note the conditions provided with the Applicant's Closing Submissions strengthen the role of hapū in the design and review of management plans. Finally, we consider that our conclusions reached on "deemed certification" issue (discussed next) should ensure appropriate oversight by the relevant administering agencies of management plans at the certification stage. We have made some adjustments to the management plan and certification provisions to address parties' comments on our draft conditions, which are explained in Part K below. We acknowledge the comments by Hon Tama Potaka in relation to the desirability of management plans being submitted early in the process and ideally approved by the Panel rather than developed and certified later by the relevant local authority. However, given the Specimen Design approach taken by the Applicant, and the short timeframes available for considering and determining applications for approvals under the FTAA, such an approach was not practicable in this case. However, we are satisfied that the final conditions we have imposed will ensure a robust approach to the development, certification and implementation of management plans, and in a manner that involves appropriate input by the Hapū and other affected parties.

- 332 **Deemed certification:** The Panel agrees with the relevant administering agencies and the hapū, who generally do not support the proposed "deemed certification" provisions on the basis they could result in sub-optimal planning outcomes and potentially adverse environmental impacts if a management plan submitted by the Applicant is deemed to be certified merely because the relevant administering agency has been unable to certify the plan within the specified timeframe. The Environment Court considers such conditions to be a risk to the environment and not appropriate.<sup>151</sup> We agree. Such provisions are not contained in the Panel's final conditions.

*Ecology-specific conditions*

- 333 **Freshwater conditions:** The issues relating to freshwater ecology have given rise to the greatest level of disagreement between the Applicant (and its experts), and the experts for the relevant administering agencies and the Hapū. While the issues were narrowed down through the ecological conferencing process, and through subsequent discussions between the parties, the following issues remain outstanding and require determination by the Panel. As a general comment, the Panel acknowledges and accepts the introductory themes contained in the Closing Submissions on behalf of the Applicant relating to the different regulatory regime under the FTAA which has an overriding purpose of facilitating the delivery of significant infrastructure such as the Project. The Panel is also alert to the restriction in section 83 FTAA against imposing a condition that is more onerous than necessary to address the reason for which it is set. However, it will not always follow that a condition which adheres to long-standing ecological best practice is more onerous than necessary merely because it creates additional obligations on an Applicant. A relevant question for the Panel is whether there is some other less onerous means of achieving the purpose of the condition.
- 334 The more specific freshwater/stream effects issues and our findings (as reflected in our draft decision) are summarised below. We have carefully considered the comments by the parties (including the Applicant) and the Applicant's response to our draft decision and conditions. We have also taken further advice from Mr Ussher on those comments. Mr Ussher's advice confirmed the appropriateness of our draft decision and

---

<sup>151</sup> *New Zealand Transport Agency-Waka Kotahi [2024] NZEnvC 133* at [124]-[126] citing *Meridian Energy Ltd v Wellington City Council* [2011] NZEnvC 232 at [402]

conditions (which were based on his earlier advice). Ultimately, we have not been persuaded to adjust the approach taken in our draft decision and conditions (except for a minor amendment), for the reasons given in Part K below relating to our final conditions.

#### *Stream realignment outcomes*

- 335 The Applicant's Closing Submissions respond to Mr Ussher's position and the position of the other parties' experts on stream realignment outcomes. The issue is whether the ecological outcomes of stream realignment are sufficiently certain and reliable. DOC remains sceptical about relying on stream realignments and cited examples where these have resulted in poor ecological outcomes. NZTA pointed to other examples of successful realignments and contended that this will be achieved for the Project through best-practice design standards, outcomes-based performance criteria, review by a Suitably Qualified Experienced Person (**SQEP**), BOPRC certification, and adaptive monitoring/remediation triggers. NZTA's position is that, regardless of this expert disagreement, the outcomes-based consent conditions (requiring no net loss and a net gain in river extent and values, with monitoring and mandatory remediation until success is achieved) should ensure an appropriate ecological result. Therefore, any difference in expert opinion is academic.<sup>152</sup> We agree. We conclude that our findings on the issues below and the conditions we have imposed should, taken together, ensure successful outcomes in this case.

#### *Offset v Remedy*

- 336 An issue has been raised as to whether stream realignment should be classified as 'remediation' or 'offset' when assessed under the effects management hierarchy. DOC and BOPRC consider that stream realignments should be treated as offsets, because the original channel is lost. NZTA disagrees, arguing that realignments/diversions are not reclamation and (if at least the same length and properly integrated) do not reduce stream extent or value. NZTA's package includes like-for-like (or better) stream length, improved habitat and water quality, and outcomes-based conditions that meet NPS-FM offset principles and secure no net loss and a net gain in values. As above, NZTA concludes that this debate is academic given the desired ecological outcomes will be secured by the conditions.<sup>153</sup> We tend to agree. We consider that our proposed amendments to conditions should ensure that effects on streams will be managed in a manner consistent with the effects management hierarchy and the requirements of the FTAA.

#### *Magnitude of effects*

- 337 The experts disagree on the magnitude of freshwater effects, mainly because they use different assessment scales. Mr Garrett-Walker for NZTA assesses effects at a sub-catchment/catchment scale whereas BOPRC and DOC prefer a site/reach scale and claim NZTA's approach conflicts with the EIANZ Guidelines. NZTA submits this difference is not material because the conditions adequately manage effects in any case. It notes that the EIANZ Guidelines caution against assessing magnitude only at the very small spatial scale of the effect, which can exaggerate impacts and ignore wider ecological context. On that basis, NZTA says Mr Garrett-Walker's catchment-scale

---

<sup>152</sup> Closing Submissions, at para 117

<sup>153</sup> Closing Submissions, at 129-139

approach is consistent with the Guidelines and should be preferred.<sup>154</sup> To assist us in understanding and resolving this issue, we sought further advice from Mr Ussher.<sup>155</sup> We accept his advice that it is standard good practice when using an accounting approach to assess watercourse mitigation (through realignments) to treat loss of watercourse extent on a watercourse-by-watercourse basis, with any watercourse length that is not fully replaced through realignment or mitigation works within the sub-catchment subject to offsetting provisions elsewhere. We observe that our finding on this issue is consistent with the approach supported by the hapū and therefore we consider it should also assist in providing for cultural values.

*"Potential" stream value*

- 338 The issue is whether the management approach should be based on the potential or current value of the stream environment. NZTA does not agree that consideration of 'potential values' of streams is appropriate in this case, because the Project area is a typical rural/peri-urban landscape and most streams are already highly modified or degraded. It submits that, under the FTAA/RMA, effects must be assessed against the existing environment, not an artificial "ideal" future state. NZTA accepts that the NPS-FM mentions "potential values" and that SEV guidance allows such values to inform offsets, but considers that the SEV tool is a guidance document only, not a mandatory requirement. NZTA concludes that offsetting for 'potential values' should only be required where there is a reasonable expectation they would be realised without the Project. Further, Mr Garrett-Walker's evidence is that the proposed conditions will achieve the necessary ecological outcomes so the debate over potential values is academic.<sup>156</sup>
- 339 All parties agree that the NPS FM mentions 'potential values' and that SEV guidance allows potential values to inform offsets. To assist us in resolving this issue, we have sought further advice from Mr Ussher.<sup>157</sup> We agree with his conclusion that the debate is not academic. While consideration of potential values may not be a strict legal requirement, we consider it appropriate to follow standard industry practice which involves application of the SEV methodology, which Mr Ussher advises is the only accepted stream accounting tool available. That well accepted methodology requires that 'potential state' is used to calculate the value of residual losses (i.e. after mitigation/realignment), rather than 'existing state'. We also accept his opinion (which differs to that expressed by DOC and BOPRC) that realignments are considered a form of mitigation (rather than reclamation) and therefore only residual losses (after realignment) are subject to offsetting. This means that the 'potential values' assessment only applies to residual effects, where watercourse length and values are not fully replaced through realignment. Mr Ussher has recommended condition wording to clarify this issue, which we adopt.

*Application of a multiplier*

- 340 The issue is whether the management approach should include a 1.5x multiplier to account for lag time and/or chance of default. BOPRC have recommended a 1.5x multiplier to account for lag time in stream reinstatement and enhancement. NZTA disagree, based on Mr Garrett Walker's evidence that the SEV methodology 1.5

---

<sup>154</sup> Closing Submissions, at paras 102-106

<sup>155</sup> Memorandum from Graham Ussher to the Panel dated 24 February 2026 (**Ussher Advice**), Section 1.

<sup>156</sup> Closing Submissions, at paras 118-128

<sup>157</sup> Ussher Advice, Section 2

multiplier is a default starting point, not a fixed rule. NZTA says there is no evidence of a risk of significant lag times or restoration failure or default in this case, and therefore a 1.5x multiplier would be more onerous than necessary, contrary to s83 of the FTAA. We also sought Mr Ussher's advice on this issue.<sup>158</sup> His advice that the application of a 1.5x multiplier should only apply to residual loss of watercourse values arising where watercourse length is not completely replaced appears sound. Therefore, the application of the 1.5x multiplier (as part of the SEV offsetting method) would only apply to a relatively small percentage of watercourse length rather than to all watercourses (he estimates 20%). If that assessment is accurate (we note that the Applicant will have an opportunity to comment on this matter) then in our view the application of a 1.5x multiplier would not be unduly onerous. We accept Mr Ussher's advice that this approach is a standard one when managing the risk of time lags in establishment of replacement values. We also accept his view (which logically follows) that application of the multiplier would be proportional to any delays by the Applicant in undertaking offset works. Given offsetting in advance of impacts is not proposed by the Applicant, we conclude that it is appropriate to apply a 1.5 x multiplier in this case. Mr Ussher has recommended condition wording to refer to the SEV methodology, which we adopt

*Monitoring period for stream realignments*

- 341 DOC and BOPRC propose a fixed 10-year success-monitoring period for stream realignments with annual reviews for the life of the consent. NZTA opposes a fixed duration preferring performance-based conditions requiring monitoring and adaptive management until ecological success is clearly achieved. Mr Ussher agrees that including performance standards in conditions is preferable.<sup>159</sup> His advice is that this would usually involve listing specific watercourse SEV current scores in the conditions as a point of pre-development reference, which would then form a post-realignment target. Without these, it becomes more difficult. Nevertheless, he has suggested some modified wording to address the issue which is set out in the proposed conditions included in his advice. We have adopted that suggested wording in our proposed conditions. However (as discussed below) we have adopted his minimum 10-year maintenance period for stream planting.

*Maximum length on watercourses*

- 342 The JWS recommends a condition specifying a maximum watercourse length of no greater than 3500m, of which no more than 500m is culverting or piping. The Applicant does not accept this is necessary despite its expert agreeing such a condition could be imposed. To assist us in determining whether the condition is more onerous than necessary, we have sought Mr Ussher's advice.<sup>160</sup> He strongly recommends including a limit to stream disturbance in the conditions. In his view such a condition would not be unduly onerous because the "limit" proposed includes a generous margin on top of the lengths indicated in the Application. Like Mr Ussher, we anticipate that the Applicant has undertaken a sufficiently accurate assessment of the Project's proposed impacts as part of its specimen design for the Project, and we have relied on

---

<sup>158</sup> Ussher Advice, at Section 3

<sup>159</sup> Ussher Advice, at Section 4

<sup>160</sup> Ussher Advice, at Section 5

that assessment. We observe that the Applicant's own expert was comfortable with a condition of this nature as recorded in the JWS and we impose one accordingly.

*Further changes proposed by Applicant relating to freshwater streams*

343 The Applicant has proposed further changes in the conditions included with its Closing Submissions to address matters relating to freshwater streams arising from the JWS Ecology outcomes. In summary they are:<sup>161</sup>

- (a) Amendments to LC.01 Condition 28 relating to the SMMP to:
  - (i) State its purpose more clearly (to achieve ecologically successful watercourse realignments).
  - (ii) Include receiving-environment trigger thresholds that require avoid/remedy/offset actions if exceeded.
  - (iii) Clarify how post-construction ecological success will be confirmed.
  - (iv) Require success measures and criteria that demonstrate no net loss of watercourse functions and values.
  - (v) Add new requirements to minimise lag between construction effects and mitigation and monitor stream realignment success, and review/update the SMMP with alternative methods where requirements are not met in time.
- (b) Amendments to BC.01 Condition 13 (relating to culverts and streams) to:
  - (i) Require the Culverts and Stream Hydraulic Design Report to address installation and in-culvert substrate targets.
  - (ii) Require post-construction culvert inspections to confirm fish passage.
  - (iii) Update the definition of "watercourse" to expressly include modified watercourses.

*Managing works in waterbodies*

344 Regarding the minor areas of disagreement between NZTA and BOPRC in relation to conditions managing works in waterbodies:<sup>162</sup>

- (a) We accept the position of NZTA relating to BOPRC's proposed amendments to conditions 9.3 and 10.1–10.3 that specification of the exact SQEP discipline is unnecessary because "SQEP" is already defined as someone demonstrably competent in the relevant field.

---

<sup>161</sup> Ecology JWS, at 149

<sup>162</sup> Joint letter from NZTA and BOPRC dated 16 February 2026, at attachment 1

- (b) We agree with NZTA in relation to condition 13.3(a) on stream realignment design, that the existing level of detail is sufficient. This condition refers to design specifications set out in condition 28.4(a), which has been substantively amended to provide more detail in response to feedback from BOPRC, DOC, hapū and Mr Ussher.
- (c) We agree with NZTA that a new condition requiring full fish passage for any temporary diversion in place  $\geq 10$  working days would be more onerous than necessary and that existing conditions already secure appropriate fish passage.
- (d) We have set out our findings above in relation to specifying a maximum stream length that may be realigned. However, we agree with the Applicant that the additional conditions sought by BOPRC requiring that embankments be supervised by a Geotechnical Engineer are not necessary.

345 We consider that the Applicant's further amendments, together with our recommended changes (based on Mr Ussher's advice), will adequately address the Project's impacts on freshwater and that, for the reasons given, the proposed conditions are not more onerous than necessary to manage those impacts, and align with the requirements of the RMA and the NPS-FM, and FTAA requirements.

346 Various issues relating to wetlands also remain outstanding between the parties, which we summarise and resolve below.

*Wetland maintenance period*

347 NZTA seeks to rely on performance-based criteria for wetland maintenance but has not specified any criteria in its Closing Submissions or conditions. It nevertheless submits that ongoing maintenance in perpetuity, or for the entire duration of the consent (as sought by BOPRC) would be more onerous than necessary.<sup>163</sup> We agree with Mr Ussher's view that, at a minimum, maintenance should be required for the period during which offset modelling is assumed by the Applicant to deliver the benefits promised at the offset sites.<sup>164</sup> As explained by Mr Ussher, the Applicant's offset modelling assumes delivery of the wetland restoration outcomes within 10 years for Ōmokoroa Wetland – Western arm, Ōmokoroa Wetland – estuary margin, and the Merrin Wetland creation sites; and within 15 years for Ōmokoroa Wetland – Eastern Arm. We therefore agree that the maintenance period should generally reflect these periods to the extent reasonable. We acknowledge Mr Ussher's observation that most of the ecological mitigation proposed for the Project relies on planting and plant establishment and therefore it is reasonable to place less reliance on maintaining offset and compensation sites for a long period (35 years or in perpetuity) relative to other projects, given ecological gains should persist when maintenance ceases or reduces.

348 Mr Ussher suggests that, if the Applicant wishes to reduce the duration of maintenance for wetlands, then the offset models that address wetland calculations should be adjusted to deliver an outcome over a shorter period of time. That would require an adjustment upwards of the total area that needs to be restored or created to achieve

---

<sup>163</sup> Closing Submissions, at paras 164-167

<sup>164</sup> Ussher Advice, at Section 6

no-net-loss. He also observes that stream condition generally follows initial restoration actions (e.g. realignment, planting, weed control), dropping for several years before improving. Therefore, limiting maintenance to 5 years (as proposed by the Applicant) is unlikely to result in fully established, self-sustaining planted areas, which is likely to jeopardise the achievement of watercourse performance measures. Accordingly, he recommends a 10-year minimum maintenance period for all watercourse and wetland plantings. We agree and have imposed a condition to reflect this.

#### *Restore or Offset?*

- 349 NZTA has amended condition 31.4 (wetland restoration/creation) to clarify that for moderate-value wetlands, "restoration" means establishing a dominant native wetland cover in existing exotic-dominated wetlands through weed control and planting. Although exact wording is not fully agreed on all wetland related conditions, the Applicant considers these changes address the core concerns raised.<sup>165</sup> We agree and adopt that condition.
- 350 There is a difference of opinion over the wording of condition 24.1(a)2.ii in the Wetland Management Plan. BOPRC seeks reference to 'offsetting/compensating' instead of 'restoring' in Wetland Management Plan Condition 24.1(a)2.ii, which NZTA opposes.<sup>166</sup> The Panel prefers the approach recommended by BOPRC, DOC and Mr Ussher. We agree with the premise that it is appropriate to reference offsetting/compensation because this provision will address loss of wetland values and extent and therefore requires an effects management approach. Restoration as an action is silent on the methods or approach to addressing loss, whereas offsetting and compensation explicitly recognise that the loss will be addressed through a structured method of effects management including approach, calculations, management actions on the ground, monitoring and compliance reporting.<sup>167</sup> We have therefore replaced the word "restoring" with "offsetting/compensating" in the LC.01 condition set.

#### *Lizards*

- 351 As explained in the section of this decision relating to the Wildlife Approval, the Panel agrees with NZTA that the LMP required for the Wildlife Approval, together with the amendment to the EMP to better provide for lizard habitat, are sufficient to appropriately manage effects on lizards and lizard habitat.

#### *Bats*

- 352 We accept the Applicant's position in the EEA that effects on long-tailed bats as a result of the Project are likely to be negligible. We agree that a Bat Management Plan (**BMP**) is not required at this stage, given the absence of definitive presence of bats in the Project area. Condition 27 (LC.01) provides a clear pathway for bat management to be initiated if necessary. We accept NZTA's submissions that guidance should be consistent with current best practice and that specific guidance sought by DOC does not require referencing in the BMP conditions. We are comfortable that BMP provisions requiring a SQEP as well as a certification process by BOPRC will ensure appropriate safeguards are in place for the management and protection of bats. We have made

---

<sup>165</sup> Closing Submissions, at paras 168-169

<sup>166</sup> Joint letter from NZTA and BOPRC dated 16 February 2026, at attachment 1

<sup>167</sup> Ussher Advice, at p 5.

some minor adjustments to our final conditions to reflect DOC's comments, which are explained in Part K below.

### *Marine Ecology*

- 353 In relation to effects on marine ecology, we accept the evidence of the Applicant that proposed sediment and erosion control practices, stormwater treatment and the Marine Monitoring Plan will appropriately manage effects. With imposition of the conditions now agreed between BOPRC and NZTA, we find that potential impacts on the marine environment will be low. We adopt those conditions.

### Overall conclusion on ecology effects

- 354 The actual and potential ecological effects of the Project include loss and modification of terrestrial and freshwater habitats, impacts on native fauna, and discharges to aquatic environments. With the management proposed by the Applicant, including agreed measures with BOPRC, DOC and hapū, and further amendments to conditions made by the Panel based on our findings above and in relation to the further matters raised in parties' comments on our draft decision and conditions discussed in Part K below, we consider that residual ecological effects will be acceptable and that the conditions are no more onerous than necessary in order to manage effects to acceptable levels.

## **CONSTRUCTION EFFECTS**

### *Groundwater*

#### Applicant's assessment

- 355 The Applicant has provided a Groundwater Impact Assessment Report (GIR) prepared by CMW Geosciences (**CMW**).<sup>168</sup> The investigations undertaken by CMW conclude that, based on geotechnical investigations, groundwater monitoring and groundwater modelling undertaken along the indicative Project alignment, groundwater interaction is only anticipated for a small length of the road alignment. Elsewhere groundwater is not encountered in the proposed cuts.
- 356 Where dewatering is not anticipated to occur, CMW state the risk to neighbouring structures, groundwater bores and surface water resources is low.<sup>169</sup> Where groundwater drawdown is anticipated, the effects assessment has determined:
- (a) Minimal ground settlement at nearby structures, with only minor aesthetic damage considered possible;
  - (b) No groundwater drawdown interaction with existing groundwater bores within a 1km radius of the indicative Project alignment; and
  - (c) A 5% to 8% increase in groundwater discharge to the wetland near the Mangawhai Bay Estuary which has a low risk of affecting the ecology of the receiving environment.

---

<sup>168</sup> Substantive Application, at Appendix 9.4.10

<sup>169</sup> Substantive Application, at section 8

### BOPRC assessment

- 357 BOPRC agrees with the Applicant's use of assessing drawdown in neighbouring bores within 1 km of the alignment given the level of drawdown modelled to occur during construction is not expected to exceed 1 km as well as the depth of neighbouring bores.<sup>170</sup> BOPRC has referred to a number of proactive design measures as the primary mitigation strategy to address groundwater drawdown risks, and has noted that NZTA propose to submit a Groundwater Drawdown Management Plan (GDMP) for written certification prior to construction commencing.

### Panel findings

- 358 The Panel has not sought further information from the Applicant on groundwater effects, and notes that NZTA and BOPRC agree on the proposed conditions accompanying the Applicant's Closing Submissions.<sup>171</sup> At our request, the Panel's technical expert, Mr Pennington, has considered comments by BOPRC relating to monitoring of groundwater levels. He agrees that it would be advantageous to establish baseline monitoring of groundwater levels prior to possible changes to groundwater levels being incurred by construction activities and has recommended a condition to that effect which we have imposed.<sup>172</sup>
- 359 The Applicant has proposed appropriate mitigation and management measures to address potential groundwater drawdown risks, which are agreed by BOPRC. Subject to the implementation of the recommended consent conditions, including the requirement for professional supervision and certification, the Panel finds that the groundwater risks associated with the development can be appropriately managed.

### *Construction noise and vibration effects*

#### Applicant's assessment

- 360 The Applicant has provided an Assessment of Acoustic and Vibration Effects (**AAVE**), prepared by Marshall Day Acoustics, incorporating an assessment of construction noise and vibration effects. Activities anticipated to generate noise include earthworks, paving and compaction, piling for structures and construction-related traffic movements. The AAVE concludes<sup>173</sup> that during construction, for most receivers, compliance with the relevant noise and vibration criteria can be achieved. With the implementation of good practice management and mitigation through the use of a CNVMP, construction noise and vibration levels will be reasonable at all receivers.
- 361 To manage effects, the Applicant proposes a detailed Construction Noise and Vibration Management Plan (**CNVMP**), to be prepared with reference to NZTA's State Highway Construction and Maintenance Noise and Vibration Guide, v1.1, August 2019 and the construction noise Standard NZS 6803:1999, and submitted to the satisfaction of WBOPDC before any works start on Site. As detailed in the AAVE, construction vibration from the Project is proposed to be measured in accordance with ISO 4866:2010 Mechanical vibration and shock – Vibration of fixed structures – Guidelines for the measurement of vibrations and evaluation of their effects on structures, and

---

<sup>170</sup> BOPRC Comments dated 9 December 2025, at 9.3

<sup>171</sup> Joint NZTA/BOPRC letter dated 16 February 2026

<sup>172</sup> Takitimu Northern Link Stage 2 Stormwater / flooding review, Tonkin + Taylor, dated 24 February 2026

<sup>173</sup> Substantive Application Appendix 9.4.3 - Marshall Day Acoustics AAVE, at section 8

assessed against a range of Category A and B criteria taking account of amenity and building protection values. The criteria should be based on German Standard DIN 4150-3:1999 Structural Vibration - Effects of Vibration on Structures and British Standard BS 2888-2:2009 Code of practice for noise and vibration control on construction and open sites – Part 2: Vibration.

#### WBOPDC assessment

- 362 Construction noise and vibration effects have been reviewed by WBOPDC’s Noise and Vibration consultant, Peter Runcie of SLR, who generally agrees with the Applicant’s assessment and proposed management approach. Mr Runcie concludes that, subject to appropriate conditions, the actual and potential adverse noise and vibration effects of the proposal can be managed to be reasonable. Mr Runcie also agrees the proposed methodology and mitigation to manage construction noise and vibration effects as set out in the Acoustic Assessment and proposed conditions is reasonable.

#### Applicant’s response to comments

- 363 The Applicant responded to two minor items of clarification raised in Mr Runcie’s assessment.<sup>174</sup> We are satisfied with that response, and note that NZTA and WBOPDC now agree on the proposed conditions accompanying the Applicant’s Closing Submissions.<sup>175</sup>

#### Panel findings

- 364 The Panel has not sought further information from the Applicant on construction noise and vibration effects.
- 365 An increase in noise levels arising from construction activities is anticipated to occur, particularly for existing low noise environments, where construction would introduce new noise sources and potentially be the dominant noise source for the duration of construction. The Panel accepts the advice of the Applicant’s and WBOPDC’s experts that the expected level of construction and vibration effects can be managed to a reasonable level through the implementation of a detailed CNVMP. Accordingly, the Panel finds that the construction noise and vibration effects of the Proposal are acceptable and can be appropriately managed with the implementation of the conditions imposed by the Panel. We have addressed the Hapū comments on this issue, arising from our draft decision and conditions, in Part K below relating to our final conditions.

#### *Construction traffic*

#### Applicant’s Assessment

- 366 The AEE includes a comprehensive Integrated Transportation Assessment (**ITA**) report prepared by BBO. The report addresses the existing transport network, including traffic flows and accident history, construction traffic effects and mitigation of effects.

---

<sup>174</sup> NZTA Response to Comments dated 16 December 2025, Attachment 3, at 4.1

<sup>175</sup> WBOPDC letter dated 3 February 2026 referenced in Closing Legal Submission, at Paragraph 75.9

367 It is estimated that:<sup>176</sup>

- (a) The Project will generate 195,000 – 200,000 High Productivity Motor Vehicles (HPMV) truck and trailer movements between the Site and the public road network over the anticipated 6-year construction timeframe.
- (b) Approximately 1,100,000m<sup>3</sup> of cut to waste earthworks material is presently expected to be hauled off-site via public roads to one or more clean-fill sites for which the location is not yet determined. This will involve approximately 66,000 truck and trailer loads which translates to 132,000 two-way movements using the public road network.
- (c) Construction of the highway pavement to finished subgrade level will require approximately 510,000m<sup>3</sup> of imported aggregate, which equates to approximately 30,600 truck and trailer loads (61,200 two-way movements) over three pavement construction seasons (assume 6 months each).

368 The ITA notes<sup>177</sup> that construction traffic interacting with general traffic on the public road network has the potential to cause significant adverse safety effects without targeted mitigation measures being identified and actioned. However, it goes on to conclude any adverse construction effects will be temporary and can be acceptably mitigated through appropriate conditions on the approved NOR being actioned for the duration of works. These include a Construction Traffic Management Plan and associated Temporary Traffic Management Plans to be designed and submitted by the contractor for the approval of NZTA and WBOPDC.

#### Comments received

369 Several parties commenting on the Project, including Mr Lemon and Mr Lin, raised concerns regarding construction traffic on the local road network. Construction traffic effects have been reviewed by WBOPDC's Transport Planning consultant, Mark Apeldoorn of Boffa Miskell, who generally agrees with the Applicant's assessment and proposed management approach. Mr Apeldoorn concludes that the potential effects will be appropriately managed by way of both a Construction Management Plan and Construction Traffic Management Plan. Mr Apeldoorn notes that the potential impact on local roading due to the significant volume of material imported is assessed as being provided for within the Construction Management Plan proposed condition CC2 (m) maintenance, monitoring and reporting procedures.

#### Applicant's response to comments

370 The Panel notes that NZTA and WBOPDC agree on the proposed conditions accompanying the Applicant's Closing Submissions.<sup>178</sup>

---

<sup>176</sup> Substantive Application Appendix 9.4.1 – BBO ITA, at section 6.2 and 7.3

<sup>177</sup> Substantive Application Appendix 9.4.1 – BBO ITA, at 7.3

<sup>178</sup> WBOPDC letter dated 3 February 2026 referenced in Closing Legal Submission, at Paragraph 75.9

### Panel findings

- 371 The Panel requested further information from the Applicant on the projected 1,100,000m<sup>3</sup> to 2,000,000m<sup>3</sup> of cut to waste earthworks material expected to be disposed of off-site via public roads.<sup>179</sup> In its Minute accompanying the Panel's draft decision, the Panel requested further clarification of the amount of cut to waste material expected to be disposed of off-site.<sup>180</sup> It was subsequently confirmed by NZTA<sup>181</sup> that the reference in the Substantive Application (dated 1 August 2025), to 2 million cubic metres to be disposed of offsite, was an error. The 2 million cubic metres referred to is proposed to be disposed of at offsite locations and sites within the designation. Accordingly, the total volume of excess cut to waste for the Project to be disposed of off-site, and based on the specimen design, is 1.1 million cubic metres. The total volume of excess cut to waste for the Project (to be disposed of onsite and offsite), based on the specimen design, is up to 2 million cubic metres. The Application states that the disposal of material onsite could ultimately reduce the number of total truck and trailer movements to between 65,000 and 75,000 over the life of the Project, but does not propose a condition requiring excess material to be disposed of on or near the Site, nor provide a proposed strategy to reduce the considerable number of truck movements on the local road network if excess material is unable to be disposed of on or near the Site.
- 372 Following the Conditions Workshop, the Applicant and WBOPDC have agreed to modify the CTMP condition to require the CMTP to include excess material. While the Panel considers it would have been desirable for the Applicant to develop a more comprehensive plan to address this issue as part of the Application, on balance the Panel concludes that the proposed condition is satisfactory having regard to the statutory requirement that conditions should not be more onerous than necessary to address the reason for the condition, and in light of the agreed CTMP designation condition that includes reference to details of the routes and estimated numbers of heavy vehicles per hour and day that will use local roads in the haulage of construction materials to and from the site (including disposal of earthworks cut to waste).
- 373 In light of the information received and considered, the Panel accepts the conclusion reached in NZTA's ITA Report that the potential adverse construction traffic effects from the Project will be no more than minor. Although there will be some disruption to local road conditions, these effects will now be carefully managed through implementation of the CTMP.

### *Management of construction stormwater*

### Applicant's assessment

- 374 The AEE notes that land disturbance activities, including earthworks, works in and around streams, and the construction of the road embankment and landscape features, have the potential to generate sediment.

---

<sup>179</sup> Minute 6 of the Panel and accompany RFI dated 14 January 2026

<sup>180</sup> The ITA states there will be 1.1 M cubic metres of cut to waste earthworks material to be disposed of off-site at 7.3, whereas the Substantive Application suggest this will involve 2 million m<sup>3</sup> of cut to waste (at 4.4.4)

<sup>181</sup> Memorandum of Counsel from NZTA dated 6 March 2026, at para 34

- 375 Section 4.4.11 of the Substantive Application and the Construction Stormwater Report (Appendix 9.4.11) assess:
- (a) Construction and stream works stormwater effects from the TNL2 Project.
  - (b) Actual and potential effects of land disturbance and stream works activities during construction.
  - (c) Mitigation measures detailed in the erosion and sediment control plan that will be used to minimise sediment.
- 376 The AEE notes that, in the absence of erosion and sediment controls, the potential adverse construction water effects risk of sediment-laden stormwater being discharged into the receiving environment could include:
- (a) Loss of ecological values;
  - (b) Loss of water quality;
  - (c) Aesthetic and recreational value loss to the character of the area;
  - (d) Impacts on private property and public utilities; and
  - (e) Impacts on cultural matters of significance.
- 377 To ensure effects continue to remain temporary and minor, NZTA propose the following:
- (a) All works should be undertaken in general accordance with the Bay of Plenty Regional Council Guideline 2010/01 "Erosion and Sediment Control Guideline for Land Disturbing Activities (TG 2010/01);
  - (b) Preparation and certification of Sediment and Erosion Sediment Control Plans (**SESCP**) for specific activities;
  - (c) Preparation of a Chemical Treatment Management Plan (**CTMP**);
  - (d) Preparation of an Erosion and Sediment Control Plan (**ESCP**) to confirm the ongoing monitoring and maintenance of ESC measures that will be implemented to minimise sediment discharge from Project works and minimise the impacts of sediment discharges.
  - (e) Any Sediment Retention Ponds (SRPs) and Decanting Earth Bunds (DEBs) constructed should be chemically treated in accordance with the FMP.
  - (f) Prior to any stream works commencing, a final construction methodology should be included within the relevant Site Specific Sediment and Erosion Control Plan (**SSESCP**).
  - (g) Measures will remain in place until the site is stabilised against erosion.

- 378 Taking these factors into account and the conceptual ESCP for the Project, NZTA consider that the effects of the discharge of treated stormwater to the environment will be temporary and minor.

#### Panel findings

- 379 The Panel notes that the conditions proposed by NZTA were reviewed by BOPRC prior to lodgement by NZTA, and BOPRC has not identified any outstanding matters in the most recent set of proposed conditions. The Panel has not sought further information from the Applicant on construction stormwater effects.
- 380 The Panel accepts the advice of the Applicant's and BOPRC's experts that the proposed measures to manage construction water effects listed above are adequate. Accordingly, the Panel finds that the construction water effects of the Proposal are acceptable and can be appropriately managed with the implementation of the conditions imposed by the Panel.

#### *Management of contaminated land*

#### Applicant's assessment

- 381 The Application acknowledges there are a number of properties within and surrounding the Project area that are, have previously been, or may have been subject to land uses listed on the MfE current edition of the HAIL.<sup>182</sup> A Preliminary Site Investigation (**PSI**) Report has been prepared in relation to the works site (Appendix 9.4.12 to the Substantive Application) to determine and identify areas of known and potentially contaminated land within the Project area in accordance with the NES-Soil (such as orchards).
- 382 In order to manage effects, the PSI recommends that Detailed Site Investigations (**DSIs**) be undertaken on all identified 55 'pieces of land' to identify any linkage between contamination sources, pathways and receptors<sup>183</sup>. In the event the DSI confirms concentrations of contaminants of concern, it will recommend conditions to manage the subsequent remediation and monitoring. If concentrations of contaminants of concern exist, the recommended conditions will manage the subsequent remediation and monitoring.
- 383 NZTA consider that the effects related to contaminated land are able to be managed and has assessed them as minor. This will be confirmed as a result of DSIs being completed prior to construction.

#### Comments received

- 384 Soil contamination was assessed by both Councils, and both agree to the approach taken by the Applicant given the scale of the Project.

---

<sup>182</sup> Hazardous Activities and Industries List

<sup>183</sup> Substantive Application, at 2.5.8

### Panel findings

- 385 The Panel note that the conditions proposed by NZTA were reviewed by BOPRC and WBOPDC, and neither Council has identified any outstanding matters based on the most recent set of proposed conditions. The Panel has not sought further information from the Applicant on contamination.
- 386 The Panel accepts the advice of the Applicant's and the Councils' experts that the proposed measures to manage soil contamination effects are adequate. Accordingly, the Panel finds that the soil contamination water effects of the Proposal are acceptable and can be appropriately managed with the implementation of the conditions imposed by the Panel.

### Overall findings – construction effects

- 387 Having regard to the matters above, the Panel is satisfied that potential adverse effects associated with construction of the Project have been the subject of robust analysis, as have the measures proposed to avoid, remedy or mitigate such effects. With the implementation of the suite of conditions that the Panel has imposed, any potential adverse effects arising from construction can be adequately addressed and are acceptable.

## **OPERATION AND IMPLEMENTATION EFFECTS**

### *Operational Traffic Effects*

- 388 We have addressed a traffic safety issue raised by the Panel's traffic advisor (Phil Harrison) in the context of operational traffic effects. The issue relates to the safe transition between the Project and the existing State Highway network south of the Waipapa Stream Bridge. This issue was the subject of an initial request for information from the Panel<sup>184</sup> which was responded to by the Applicant on 16 January 2025. The Applicant's response acknowledged the safety concerns raised by Mr Harrison and sought to assure the Panel that the safety of the State Highway network is of the utmost importance to NZTA. The response referred to various safety-focused regulations, policies and procedures which NZTA is required to follow for its projects including the Safe System Audit Guidelines.<sup>185</sup> The Panel was also referred to a road safety audit of the Project's specimen design undertaken for NZTA in 2021 (**Safety Audit**).<sup>186</sup> Mr Harrison provided further advice to the Panel in light of the Applicant's response<sup>187</sup>, noting that the Safety Audit was particularly concerned about the Waipapa Stream Bridge at the northern interface which could exacerbate transitional safety issues. One of the options discussed in the Safety Audit was widening the Waipapa Stream Bridge. Mr Harrison's recommendation to the Panel was that widening of the Waipapa Stream Bridge is required to ensure a Safe System Approach to the Project.
- 389 The Panel sought further information from the Applicant in response to Mr Harrison's advice, a copy of which was provided to the Applicant.<sup>188</sup> The Applicant responded, in part through its Closing Submissions, and also declined to provide certain information

---

<sup>184</sup> RFI2 dated 16 December 2025

<sup>185</sup> *Safe system audit guidelines: Safe System auditing procedures for transport projects – Road to Zero edition* (August 2022)

<sup>186</sup> *The SH2: Takitimu North Link Stage 2 Specimen Design Stage Road Safety Audit Report*

<sup>187</sup> Technical Note from Phil Harrison to the Panel dated 28 January 2026 (**Harrison Advice**)

<sup>188</sup> RFI5 dated 26 January 2026 attaching Harrison Advice

requested by the Panel.<sup>189</sup> The reasons for declining to provide the requested information related to the Applicant's view that any works required to be undertaken on the Waipapa Stream Bridge would fall outside the scope of the Application or relate to matters not properly before the Panel under the FTAA. The essence of the Applicant's substantive response is that NZTA takes safety issues seriously and is statutorily obligated to do so pursuant to regulations that sit outside of the FTAA. That NZTA is aware of the need to address the specific safety risks identified by the Panel and is actively investigating options to manage those as part of ongoing further design work. However, the condition proposed by Mr Harrison is not necessary or appropriate given it "purports to regulate NZTA's management of the state highway network through the FTAA process."<sup>190</sup>

- 390 The Panel acknowledges that a condition requiring the Applicant to undertake works on the Waipapa Stream Bridge poses some legal issues, although it does not accept that a condition requiring works to be undertaken outside of the project area will necessarily be ultra vires. New section 84A of the FTAA<sup>191</sup> allows the Panel to set conditions to ensure that infrastructure both within the project area "or other infrastructure the project will rely on "can be made adequate to support the Project. Ultimately it is unnecessary to resolve this issue. The Panel has concluded that a more general condition is appropriate to ensure that the identified safety issue is appropriately addressed. The condition (included as a new operational condition on the designation) requires the Project to be designed and constructed to ensure a safe transition between the Project and the existing State Highway network south of the Waipapa Stream Bridge. It also requires the outline plan of works<sup>192</sup> to show any design measures proposed to ensure this condition is met. The condition does not require the outline plan to include design measures, acknowledging that a combination of management tools (and / or design measures) might suffice. However, the standalone obligation to ensure a safe transition would continue to operate regardless of whether specific design works are proposed.
- 391 In imposing this condition, the Panel records the legal position that effects on public safety are relevant environmental effects governed by the RMA and therefore are relevant considerations under the FTAA. The Panel has been mindful of the Environment Court's observation, in a designation context, that "the Environment Court cannot delegate its function in relation to safety issues in so far as they are relevant to an RMA matter" and nor can it "abrogate its decision-making under the RMA" to another agency in relation to safety issues.<sup>193</sup>
- 392 In its comments on the draft conditions, the Applicant has ultimately accepted this condition with a minor amendment, which the Panel has adopted.

---

<sup>189</sup> The information requests which were declined by the Applicant were: confirmation that the ownership and responsibility for operating the Waipapa Stream bridge lies with NZTA on behalf of the Crown; an explanation as to why widening of the Waipapa Stream Bridge has not been included as part of the Project in light of the recommendations in the Safety Audit Report; and an estimate of the cost of undertaking (design and construction) the widening of the Waipapa Stream Bridge in accordance with the recommendation by Mr Harrison

<sup>190</sup> Applicant's response to RFI5 dated 16 February 2026

<sup>191</sup> Introduced through the Fast-track Approvals Amendment Act 2005 (**Amendment Act**). Section 84A applies to this Application pursuant to s6(2)(b)(iv) of the Amendment Act which came into force on 17 December 2025

<sup>192</sup> The Panel has not waived the requirement for an outline plan contained in section 176A of the RMA pursuant to clause 29 of Schedule 5 of the FTAA

<sup>193</sup> *Re Queenstown Airport Corporation Ltd [2017] NZEnvC 46* at [48]

*Operational Management of Stormwater and Stormwater Effects*

- 393 The Panel’s technical advisor has highlighted that the flood mapping provided by the Applicant does not appear to cover all areas within the works site.<sup>194</sup> However, modelling has been used to assess and quantify effects on properties outside of the designation. Upstream flooding effects are anticipated to be reduced as a result of the Project due to increased conveyance under the motorway corridor. However, this can cause increases in flooding downstream beyond the designation boundary. Nevertheless, after detailed examination of the methodology applied to map flood extents and the magnitude of the differences in flood performance due to the proposed works, based on further information requested by the Panel on the recommendation of Mr Pennington and provided by the Applicant,<sup>195</sup> the Pennington Review agrees with the applicant’s assertion that the downstream effects are small.
- 394 The Pennington Review observes that all stormwater quality/treatment thresholds are proposed to be detailed in management plans that are yet to be developed. This approach was initially questioned by BOPRC due to potential uncertainty of outcomes. The Pennington Review concludes that adequate space exists within the designation corridor to achieve the necessary design outcomes, even if the final treatment design has not been completed and relies on performance-based metrics.
- 395 The Pennington Review recommends various amendments to the consent conditions<sup>196</sup> to address the potential for changes in guidance and available data between consents being granted and implemented, that could impact on the ultimate design, and to ensure models relied on are fully calibrated using up to date data if available. We consider these recommendations to be consistent with an adaptive management approach and to be reasonable. We largely adopt them, subject to some minor adjustments to Mr Pennington’s recommended wording for clarity. In its comments on the Panel’s draft conditions, the Applicant expressed some reservations about the model calibration approach recommended by Mr Pennington, but has ultimately accepted the Panel’s proposed conditions with some relatively minor amendments which the Panel has adopted.
- 396 Mr Pennington has also provided advice on the relatively minor outstanding issues as between NZTA and BOPRC as follows, and we adopt his advice:
- (a) In relation to DC.01 (Temporary Discharges), BOPRC seeks conditions requiring a winter earthworks plan for the discharge of sediment contaminated stormwater during winter, which is opposed by NZTA. Mr Pennington agrees that the proposed condition would be an unnecessary duplication of Condition 21 in LC.01, which requires a bespoke management plan to be prepared during winter.
  - (b) BOPRC also seeks fixed limits on the concentration of Total Suspended Solids (**TSS**) in stormwater discharges. This is also opposed by NZTA on the basis that any numerical standards on temporary discharges, including limits on TSS, would be difficult to comply with and that the existing approach proposed in the conditions, including requirements to

---

<sup>194</sup> Takitimu Northern Link Stage 2 Stormwater / flooding review, Tonkin + Taylor, dated 24 February 2026 (**Pennington Review**)

<sup>195</sup> RFI4 dated 12 January 2026, responded to by the Applicant on 16 January 2026

<sup>196</sup> BC.01 Works in Waterbodies, DC.01 Temporary Discharges, and DC.03 Permanent Stormwater

comply with the relevant BOPRC guidelines, is sufficient. Mr Pennington agrees. He anticipates that the bespoke management plan required by Condition 21 in LC.01 would include measures for reducing TSS in stormwater discharges from the Site. Outside of the winter earthworks period, Condition 11 of LC.01 should provide sufficient certainty around minimising TSS concentrations in temporary discharges.

### *Operational Noise Effects*

#### Applicant's assessment

- 397 Section 4.4.7 of the Application describes the assessment of traffic noise and vibration effects from the road traffic once the TNL2 project is operational and references the Assessment of Acoustic and Vibration Effects (AAVE), prepared by Marshall Day Acoustics.
- 398 NZTA considers the use of NZS 6806:2010 'Acoustics – road traffic noise – New and altered roads' (NZS 6806) as the most appropriate method to assess the potential road-traffic noise effects from the project. The Application states that traffic noise will be mitigated using a low noise surface of stone mastic asphalt (SMA) (or equivalent) on the entire alignment, except in some areas where epoxy modified porous asphalt (EPA7 50mm) surface (or equivalent) is recommended as the best practicable option.

#### Panel findings

- 399 The Panel has reviewed the proposed conditions relating to operational noise, agrees with the assessment by NZTA, and concludes that any effects will be acceptable. The Panel has imposed Conditions TN1-TN5 in relation to operational noise. In their comments on the draft conditions the Hapū sought additional conditions to address operational noise. This issue is addressed in Part K of our decision report below.

#### Overall findings – operational effects

- 400 This section has addressed relevant adverse effects associated with the ongoing operation of the Project and records the Panel's findings in relation to each effects category. Having regard to those findings, the Panel is satisfied, and finds, that there are no potential adverse effects that cannot be adequately and appropriately addressed by the conditions imposed by the Panel.

### **PART F: REGIONAL OR NATIONAL BENEFITS OF THE PROJECT**

- 401 Section 3 of the FTAA states that the purpose of the Act is to facilitate the delivery of infrastructure and development projects with *significant regional or national benefits*.
- 402 As noted above in Part C, section 81(4) FTAA specifically requires the Panel to consider the extent of the Project's regional or national benefits.<sup>197</sup>
- 403 The assessment of adverse impacts in relation to an approval sought is particularly

---

<sup>197</sup> If the application was a referral application, the panel must treat the stage of the project to which the application relates as constituting the project; but may consider the regional or national benefits of the whole project, having regard to the likelihood that any later stages of the project will be completed (section 81(5) FTAA)

relevant in the context of a decision to decline an approval. An approval can only be declined if the adverse impacts are out of proportion to regional or national benefits.<sup>198</sup>

- 404 There is no specific definition of significant regional or national benefits in the context of listed projects such as this one. Section 22 FTAA, which relates to the criteria for assessing a referral application, provides the following:
- (2) For the purposes of subsection (1)(a), the Minister may consider—
    - (a) whether the project—
      - (i) has been identified as a priority project in a central government local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy), or a central government infrastructure priority list:
      - (ii) will deliver new regionally or nationally significant infrastructure or enable the continued functioning of existing regionally or nationally significant infrastructure:
      - (iii) will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment (within the meaning of policy 1 of the National Policy Statement on Urban Development 2020):
      - (iv) will deliver significant economic benefits:
      - (v) will support primary industries, including aquaculture:
      - (vi) will support development of natural resources, including minerals and petroleum:
      - (vii) will support climate change mitigation, including the reduction or removal of greenhouse gas emissions:
      - (viii) will support climate change adaptation, reduce risks arising from natural hazards, or support recovery from events caused by natural hazards:
      - (ix) will address significant environmental issues:
      - (x) is consistent with local or regional planning documents, including spatial strategies:

- 405 The AEE has provided an assessment of the benefits of the Proposal, including by reference to its Economic Assessment, referred to earlier in this decision. The AEE states that the Project is:

- (a) a listed Project under the FTAA;
- (b) listed as an 'other major route' in the GPS 2024;
- (c) a RoNS under the GPS 2024 RoNS programme; and
- (d) listed in the RLTP as a priority regionally significant activity.

- 406 The range of benefits are referred to in section 2.8 of the Substantive Application and have been referred to elsewhere in this decision. The Panel agrees with that assessment.

#### Panel's findings

- 407 As a listed project, and with reference to section 22 of the FTAA, the Panel considers that the proposal has significant regional and national benefits. This is recognised by its identification as a priority project in central and local government documents. The Project will deliver new regional infrastructure which contributes to a well-functioning

---

<sup>198</sup> Section 85(3) FTAA

urban environment, delivers significant economic benefits, and is consistent with local and regional planning documents.

- 408 The Panel has considered the geographic extent of the Project's benefits and has no difficulty in concluding that the Project will generate significant benefits to the Bay of Plenty region, including through enabling much needed urban development, and further afield, particularly given its key role as a freight transport route to the Port of Tauranga. Accordingly, granting the approvals sought would in the Panel's view meet the purpose of the FTAA by facilitating the delivery of infrastructure and development projects with significant regional and national benefits.
- 409 The Panel observes that no party has suggested that the Project is not nationally or regionally significant and that a number of parties, whilst raising specific concerns about aspects of the Project, have supported this overall conclusion in their comments.

### **PART G: STATUTORY DOCUMENTS**

- 410 The AEE addresses the relevant statutory documents and identifies relevant provisions. We do not repeat that here. Instead, this section focuses on the documents and relevant provisions of particular relevance to our decision and addresses the comments received. We also rely on our conclusions on effects and the conditions we have imposed in support of the conclusions reached on relevant planning provisions (including Part H: Regional and District Planning Framework as relevant to the topic area).

#### **National Policy Statements**

- 411 The relevant National Policy Statements are addressed in section 10 of the AEE and in response to requests for further information on this matter<sup>199</sup>. They include:
- (a) National Policy Statement for Freshwater Management 2020 (**NPSFM**);
  - (b) National Policy Statement for Highly Productive Land 2022 (**NPSHPL**);
  - (c) National Policy Statement for Urban Development 2020 (**NPSUD**);
  - (d) National Policy Statement for Indigenous Biodiversity 2023 (**NPSIB**); and
  - (e) National Policy Statement for Infrastructure 2025 (**NPSI**).

#### National Policy Statement for Freshwater Management 2020

- 412 The NPSFM sets out a framework under which local authorities are to manage freshwater (including groundwater).<sup>200</sup> The RNRP was prepared prior to the NPSFM. Although various provisions have been inserted to the RNRP in response to the direction in the NPSFM to give effect to its mandatory provisions, the RNRP does not fully incorporate the NPSFM. It is therefore appropriate to carefully consider the NPSFM's provisions.
- 413 The objective of the NPSFM is to ensure that natural and physical resources are

---

<sup>199</sup> Applicant's response to RFI4 (12 January 2025) dated 19 January 2026

<sup>200</sup> NPSFM clause 1.5

managed in a way that prioritises the:<sup>201</sup>

- a. health and well-being of water bodies and freshwater ecosystems;
- b. health needs of people (such as drinking water); and
- c. ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

414 This objective reflects the hierarchy of obligations in Te Mana o te Wai.<sup>202</sup> Policy 1 of the NPSFM requires that freshwater is managed in a way that gives effect to Te Mana o Te Wai. We acknowledge that section 104(2F) of the RMA precludes our ability to have regard to clause 1.3(5) or 2.1 of the NPSFM 2020 (relating to the hierarchy of obligations under the NPSFM including Te Mana o te Wai) when considering the regional consents.

415 Nevertheless, the NPSFM remains highly relevant to the Application given the Project will result in a combined loss of 3500m of stream extent of high to low ecological value, and 62,000m<sup>2</sup> of wetlands.

416 The Applicant in the AEE has assessed the Project against the objective and policies of the NPSFM in terms of the direction that local government manages water in an integrated and sustainable way while providing for economic growth within set water quantity and quality limits. On this issue the AEE concludes that:<sup>203</sup>

- (a) The Project meets the definition of specified infrastructure in the NPSFM and has the status of a discretionary activity in relation to impacts on wetlands and rivers.
- (b) The effects management hierarchy has been applied to the Project to ensure the specified infrastructure meets the necessary tests, and does not impact on wetlands or watercourses unless there is a functional or operational need to do so.
- (c) While the Project has a significant effect on one high value wetland, the impacts can be adequately offset and compensated for by applying the effects management hierarchy.
- (d) The Project is consistent with clauses 3.22(1)(b), 3.24(1) and 3.26 of the NPSFM. The Project is not inconsistent with any of the relevant policies and granting consent to authorise the Project within the affected wetlands and streams is appropriate.

417 The Panel's assessment of ecological issues is contained in Section E of this decision. Having regard to that assessment, the Panel finds that the Project is generally consistent with the objectives of the NPS-FM.

---

<sup>201</sup> NPSFM clause 2.1

<sup>202</sup> NPSFM clause 1.3

<sup>203</sup> Substantive Application for Approvals, 4.3.1

National Policy Statement for Highly Productive Land

- 418 The objective of the NPSHPL is to protect highly productive land (**HPL**) for use in land-based production, now and for future generations. There are several supporting policies that are directive in nature which contribute to achieving this objective, including Policy 8 which states that highly productive land is protected from inappropriate use and development.
- 419 The Applicant in the AEE has assessed the Project against the policies of the NPSHPL. The Panel generally agrees with the Applicant's assessment of the NPSHPL and notes that:
- (a) 39ha of HPL has been identified within the proposed designation boundary, equating to approximately 20% of the area;
  - (b) The Project is for an activity by a requiring authority in relation to an NOR (alteration to an existing designation);
  - (c) The Project is considered to be 'specified infrastructure' as defined under the NPSHPL and can be considered under Clause 3.9 of the NPSHPL; and
  - (d) There is a 'functional need' for the Project to be located on or within the proposed designation boundary, by extension on HPL.
- 420 Clause 3.9(2) of the NPSHPL describes uses and development of HPL as inappropriate except where at least one of the listed matters applies and the measures under subclause 3 are applied. The following matters are included at clause 3.9(2):
- (h) it is for an activity by a requiring authority in relation to a designation or notice of requirement under the Act:  
...
  - (j) it is associated with one of the following, and there is a functional or operational need for the use or development to be on the highly productive land:
    - (i) the development, operation, or decommissioning of specified infrastructure, including (but not limited to) its construction, maintenance, upgrade, expansion, replacement, or removal: ...
- 421 The NPSHPL defines specified infrastructure as including infrastructure that is recognised as regionally or nationally significant in a National Policy Statement, Regional Policy Statement, or Regional Plan.
- 422 The Panel accepts the Applicant's assessment that:
- (a) The Project is for a state highway activity by NZTA, a requiring authority, that relates to a notice of requirement;
  - (b) The Project is for specified infrastructure, as it is regionally significant infrastructure under the Bay of Plenty Regional Policy Statement (RPS) and as a nationally significant connection in the Bay of Plenty Regional Land Transport Plan (RLTP); and
  - (c) For the reasons outlined in the Substantive Application, there is a

functional need for Project to be located within the designation boundary.

- 423 The Panel finds that the Project represents an activity by a requiring authority in relation to a designation or NOR and the Project is 'specified infrastructure' in circumstances where there is a functional need for it to be located within the proposed designation boundary.
- 424 Overall, the Panel finds that the Project is consistent with the relevant objectives and policies of the NPSHPL.

#### National Policy Statement on Urban Development

- 425 The Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 requires the incorporation of the Medium Density Residential Standards (**MDRS**) to be incorporated into all relevant residential zones, and to implement the NPS-UD in Tier 1 Urban Environments. This includes the Western Bay of Plenty (**WBOP**). As a result, Tier 1 councils (including WBOPDC) are required (among other things) to implement the MDRS into all relevant residential zones, and to enable:<sup>204</sup>
- (a) in city centre zones, building heights and density of urban form to realise as much development capacity as possible, to maximise benefits of intensification; and
  - (b) in metropolitan centre zones, building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases building heights of at least 6 storeys; and
  - (c) building heights of at least 6 storeys within at least a walkable catchment of the following:
    - (i) existing and planned rapid transit stops
    - (ii) the edge of city centre zones
    - (iii) the edge of metropolitan centre zones; and
  - (d) within and adjacent to neighbourhood centre zones, local centre zones, and town centre zones (or equivalent), building heights and densities of urban form commensurate with the level of commercial activity and community services.
- 426 Policy 6 of the NPS-UD applies to 'planning decisions that affect urban environments', requiring that councils have regard to, among other things:
- a. that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:
    - (i) may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and
    - (ii) are not, of themselves, an adverse effect;
  - b. ... the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1);
  - c. any relevant contribution that will be made to meeting the requirements of this National Policy Statement to provide or realise development capacity; ...

- 427 The Applicant has stated that the Project is part of the transport infrastructure required to support urban growth in the WBOP area and, in particular, supports the planned further urbanisation of Ōmokoroa which has recently been rezoned for development by Plan Change 92.<sup>205</sup>
- 428 The Panel agrees with the Applicant's overall assessment of the NPS-UD, noting the policy direction proposed by the recently approved Council plan change. The Panel considers that the Project would provide urban development benefits and assist to

---

<sup>204</sup> NPSUD, Policy 3

<sup>205</sup> Substantive Application, at 4.3.5

realise additional development capacity (Policy 6).

- 429 Overall, the Panel finds that the Project is consistent with the relevant objectives and policies of the NPSUD.

National Policy Statement for Indigenous Biodiversity 2023 (NPSIB)

- 430 The objective of the NPSIB is:
- (a) to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date; and
  - (b) to achieve this:
    - (i) through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and
    - (ii) by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and
    - (iii) by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and
    - (iv) while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.
- 431 The Application notes that there are no Significant Natural Areas (SNAs) within the designation boundary. However the Project is in close proximity to the Mangawhai Bay Inlet, which is listed as an Identified Significant Ecological Feature within the WBOP District Plan (U14/135).<sup>206</sup> However, there are no earthworks or other Project works within U14/135, and the only work associated with the Project in that SNA is wetland restoration that forms part of the ecological offset/compensation as set out in the EEA. The AEE confirms that the restoration works do not require any resource consents. This has been confirmed by BOPRC.
- 432 The Application explains that, because the NPS-IB provisions apply only to the terrestrial environment, the assessment contained in the EEA found that the environment affected by the Project is a highly developed rural and horticultural area, and that terrestrial vegetation is mainly exotic with only a few small areas of common native species.
- 433 The Panel considers that the conditions is has imposed are necessary and appropriate to avoid outcomes for indigenous biodiversity on the Site that would otherwise be contrary to the objective of the NPSIB. On that basis, the Panel is satisfied that the proposal is consistent with the NPSIB.

National Policy Statement for Infrastructure 2025 (NPSI)

- 434 The NSPI was notified on 18 December 2025 and came into force on 15 January 2026. The Panel sought further information from the Applicant about the relevance of the NPSI to the Project given it came into force following lodgement of the Application.<sup>207</sup> The objective of the NPSI is to:
- (a) ensure the national, regional and local benefits of infrastructure are provided for;
  - (b) enable infrastructure to support the social, economic and cultural wellbeing of people and communities and their health and safety;
  - (c) enable infrastructure to support the development and change of urban and rural environments to meet the diverse and changing needs of present and future generations;
  - (d) ensure infrastructure is well-functioning, resilient and compatible, as far as practicable, with

---

<sup>206</sup> Substantive Application, at 4.3.6

<sup>207</sup> RFI4 dated 12 January 2026, responded to by the Applicant on 16 January 2026

- other activities; and
- (e) ensure infrastructure is delivered in a timely and efficient manner while managing adverse effects from or on infrastructure.
- 435 NPSI recognises infrastructure as a matter of national significance under the RMA and provides national direction to support the development, maintenance and upgrade of infrastructure across New Zealand. The Applicant's response to our request for further information concludes that the Application is consistent with NPSI and that the NPSI provides additional policy support for approval of the Application. The Panel agrees with the assessment that the NPSI provides strong policy direction to enable new / major upgrades to infrastructure like the TNL2 Project, on the basis that effects of the Project can be managed.
- 436 The Panel is satisfied that the proposal is consistent with the NPSI.

### **National Environmental Standards**

#### National Environmental Standards for Freshwater 2020 (NESF)

- 437 The NESF came into force on 3 September 2020. They provide a national set of requirements for carrying out certain activities that pose risks to freshwater and freshwater ecosystems. The standards seek to:
- (a) Protect existing inland and coastal wetlands;
  - (b) Protect urban and rural stream from in-filling; and
  - (c) Ensure connectivity of fish habitat (fish passage).
- 438 The AEE records that the Project requires discretionary consent under Regulation 45 and 47 of the NESF for the purpose of constructing specified infrastructure where it involves vegetation clearance, earthworks or land disturbance, damming or diversion of water or discharge of water within or within specified setbacks from a wetland. Vegetation clearance, earthworks and land disturbance will also take place within natural inland wetlands. Consent is also required under Regulation 71 as a discretionary activity for the placement and use of new culverts in, on, over or under the beds of rivers.
- 439 The intent of the NESF is to set out requirements for carrying out certain activities that pose risks to freshwater and freshwater ecosystems.
- 440 The Applicant considers that the Project satisfies Regulation 46(6) in that:
- (a) The specified infrastructure will provide significant national or regional benefits;
  - (b) There is a functional need for the specified infrastructure in that location; and
  - (c) The effects management hierarchy has been applied.
- 441 Nevertheless, the proposed reclamation of 3,085m of stream and 62,000m<sup>2</sup> of wetland is considered to have a 'very high' level of effect, due to the complete loss of freshwater habitat which is permanent. Given the nature of the Project and the Site

context, stream and wetland reclamation cannot be mitigated. Instead, residual adverse effects on streams and wetlands are to be offset or compensated. To address this residual effect, the Applicant has proposed an offsetting and compensation package to ensure 'no-net-loss' of freshwater values and that the offset and compensation actions are sufficient to outweigh the impact from the Project.

- 442 The detail of the offsetting and compensation proposal is described in Part H below. In summary, 3,941 linear metres of stream will be enhanced with riparian planting including the removal of fish barriers providing for improved connectivity of freshwater fauna habitat. In addition, 33.1ha of wetland restoration will be undertaken. The Applicant proposes "A suite of direct species management strategies, habitat creation, and habitat enhancement strategies are recommended to avoid, minimise, remedy, offset, and compensate for the potential impacts of this Project."<sup>208</sup>
- 443 As explained above in relation to the NPSFM, the Panel found that the restoration and enhancement of degraded aquatic habitats will provide a positive aquatic ecological benefit, biodiversity gains and restore connectivity to existing habitats. While some residual adverse effects on waterbodies would result from the Proposal that would not be offset or directly compensated for, we have concluded that those residual effects do not reach the threshold which would enable us to decline the Application.
- 444 We agree that there are several positive freshwater ecology outcomes that will be delivered by the Project, which provide a degree of consistency with the NESFM. Although aspects of the Project are inconsistent with the NESF, we have found that these do not provide us with a basis for declining the Application. Overall, we consider that the Project has been designed to meet the intent of the NESF within the FTAA framework.

National Environmental Standard – for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NESCS)

- 445 The AEE states that the Project requires discretionary consent under Regulation 11 of the NESCS.<sup>209</sup> It is a discretionary activity because DSIs have not been carried out for all of the land within the Site extent. The Application is supported by a Preliminary Site Investigation (**PSI**) report,<sup>210</sup> which describes the known and expected contamination sources and history, given the mainly agricultural use of the land. Other land uses include rural-residential uses, transportation depot, a service station, an electrical substation, a historic dumping site, rural contractor's depot, and fuel storage tanks.<sup>211</sup> The PSI recommends appropriate management methods to manage effects in accordance with the NESCS, including that:
- (a) A Detailed Site Investigation (**DSI**) is undertaken of identified pieces of land to identify any linkage between contamination sources, pathways and receptors;
  - (b) If the recommended DSI confirms concentrations of contaminants of concern, the recommended conditions will manage the subsequent

---

<sup>208</sup> Substantive Application, 4.4.6

<sup>209</sup> Substantive Application, 4.3.7

<sup>210</sup> Appendix 9.4.14 to the Substantive Application

<sup>211</sup> Substantive Application, 4.3.7

remediation and monitoring; and

- (c) An appropriate inspection of buildings for asbestos is undertaken prior to any demolition of structures constructed prior to 2000.

446 These recommendations are carried through into the Applicant's proposed conditions.

447 The Panel has considered the AEE where the Applicant has stated that the actual and potential adverse effects on the environment and human health can be appropriately managed through the Applicant's proposed conditions such that they will be minor.<sup>212</sup> The Panel has also considered the comments on the draft conditions provided by WBOPDC and BOPRC who support the Applicant's proposed conditions.<sup>213</sup> The current by WBOPDC approach enables certification of DSIs and associated management plans / validation reports to be undertaken by BOPRC which is considered a more efficient and effective process for the applicant and avoids unnecessary duplication. Those conditions of consent (addressing contamination, the NESCS, Rule 35 of RNRP, and section 15 RMA) are included at Part C – Contaminated Land Discharge Permit.

448 The Panel concludes that, subject to implementation of the recommended conditions, the excavation, handling, and disposal of contaminated materials will be able to be managed in a way that protects human health and the environment. Therefore, the localised effects of contamination can be appropriately managed to ensure the overall Site is safe and suitable for the proposed development.

449 The Panel concludes that the Project will not generate adverse contaminated land effects or be at odds with the intent and purpose of the NESCS.

#### **New Zealand Coast Policy Statement (NZCPS)**

450 The majority of the proposed physical works, including earthworks, vegetation removal, stream realignments, and construction of structures, do not extend into the coastal environment. The only works to be undertaken within the coastal environment (including the Coastal Marine Area) relate to the proposed wetland restoration in the Mangawhai Estuary area which is a permitted activity under the RCEP.<sup>214</sup> The implementation of best practice stormwater management and earthworks and sediment control measures should ensure adverse effects of works are avoided, remedied or mitigated in the adjacent and receiving estuaries. Wetland restoration works are designed to enhance natural character and give effect to Objective 2 and Policies 11 and 13 of the NZCPS.

451 The Panel concludes that the proposed activities are consistent with the NZCPS.

#### **PART H: REGIONAL AND DISTRICT PLANNING FRAMEWORK**

452 An assessment of the relevant statutory plans has been included within the AEE as required by Schedule 5, clause 5(1)(h) FTAA.

453 The Panel has reviewed and considered the assessment provided by the Applicant and

---

<sup>212</sup> Substantive Application, 4.4.11

<sup>213</sup> WBOPDC and BOPRC Comments on Substantive Application, 9 December 2025, and NZTA BOPRC Joint Letter 16 February 2026

<sup>214</sup> Substantive Application, 4.3.3

the comments provided by the Councils. We outline the key matters in the following sections (as well as adding further considerations and assessment).

### **Bay of Plenty Regional Policy Statement (RPS)**

- 454 As referred to in the Application,<sup>215</sup> the RPS provides a high-level framework for sustainably managing the region's natural and physical resources. The RPS highlights regionally significant issues with land, air, fresh water and coastal water, infrastructure, biodiversity, and issues of significance to iwi, and includes objectives and policies to manage them. The AEE outlines the relevant objectives and policies of the RPS and the Project's response.
- 455 The Regional Council's stated position in its initial comments on the Application acknowledges the Applicant's assessment against all relevant legislation, policies and plans. The Panel does not consider there to be any outstanding factual issues which would support a conclusion that the Project is inconsistent with the regional planning framework. The Panel finds that the Project is generally consistent with the regional planning framework.

### **Bay of Plenty Regional Natural Resources Plan (RNRP)**

- 456 The Application provides an analysis of the relevant objectives and policies of the RNRP and the Project's response in relation to the resource consents sought for the Project under the RNRP.<sup>216</sup>
- 457 The Panel notes the Regional Council's stated position in its initial comments on the Application, which acknowledges the Applicant's assessment against all relevant legislation, policies and plans.
- 458 The Panel finds that the Application is generally consistent with the relevant provisions of the RNRP. The Panel considers that the Project will assist in supporting the sustainable use of land and water resources, is anticipated to avoid adverse effects on freshwater quality (through recommended consent conditions to manage and mitigate any potential effects) and generally aligns with the principles of integrated management and efficient urban growth.

### **Western Bay of Plenty District Plan (District Plan)**

- 459 NZTA submits that the Project is consistent with the relevant provisions in the District Plan which address urban growth and the importance of supporting transport infrastructure. NZTA considers these issues to be highly relevant and reflected in the objectives of the Project.<sup>217</sup> WBOPDC did not raise any concerns about the assessment against the District Plan provisions in its comments on the Application.
- 460 The Panel agrees with the Applicant's assessment and finds that the Project is consistent with the relevant objectives and policies of the District Plan.

### **Conclusion regarding consistency with the regional and district planning framework**

- 461 For the reasons outlined above, the Panel finds that the Application is consistent with

---

<sup>215</sup> Substantive Application, at 4.3.8

<sup>216</sup> Substantive Application, at 4.3.9

<sup>217</sup> Substantive Application, at 4.3.11

the regional and district planning framework.

**Planning documents recognised by a relevant iwi authority and lodged with the Council**

462 An application for a resource consent must include an assessment of the activity against any relevant provisions of a planning document recognised by a relevant iwi authority and lodged with a local authority.<sup>218</sup>

463 It is the Panel’s understanding that the following planning documents recognised by relevant iwi authorities have been lodged with the Council:

- (a) Tauranga Moana Iwi Management Plan 2016 – 2026;
- (b) Pirirākau Hapū Management Plan;
- (c) Ngāi Te Rangī Iwi Resource Management Plan (1995);
- (d) Te Whatu: Ngāi Te Rangī Natural Resources Environment Management Manual 2003 - 2008 (2004);
- (e) Ngāti Pūkenga Iwi Management Plan (2013); and
- (f) Ngāti Pūkenga Te Mana o Te Wai Statement 2024 (Addendum to Iwi Management Plan).

464 Section 4.3.12 of the Substantive Application for Approvals provides a comprehensive assessment of the Project against the relevant provisions in the above planning documents, which we adopt.

**Treaty settlements**

465 As noted in Part D, sections 7 and 8 FTAA state:

**7 Obligation relating to Treaty settlements and recognised customary rights**

- (1) All persons performing and exercising functions, powers, and duties under this Act must act in a manner that is consistent with—
  - (a) the obligations arising under existing Treaty settlements; and
  - (b) customary rights recognised under—
    - (i) the Marine and Coastal Area (Takutai Moana) Act 2011;
    - (ii) the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.
- (2) To avoid doubt, subsection (1) does not apply to a court or a person exercising a judicial power or performing a judicial function or duty.
- (3) In this section, **existing Treaty settlements** means Treaty settlements that exist at the time the relevant function, power, or duty is performed or exercised (rather than only those that exist at the commencement of this Act).

**8 Te Ture Whaimana**

- (1) Te Ture Whaimana is intended by Parliament to be the primary direction-setting document for the Waikato and Waipā Rivers and activities within their catchments affecting the rivers (see the legislation referred to in subsection (3)).
- (2) Te Ture Whaimana—

---

<sup>218</sup> Schedule 5 FTAA, clauses 5(1)(h) and 5(2)(g)

- (a) prevails over any inconsistent provision in a national policy statement, New Zealand coastal policy statement, or national planning standard; and
  - (b) in its entirety is deemed to be part of the Waikato regional policy statement; and any regional plan or district plan that affects the Waikato River or the Waipā River or activities within their catchments must give effect to Te Ture Whaimana.
- (3) In this section, **Te Ture Whaimana** means the vision and strategy set out in—
- (a) Schedule 2 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010; and
  - (b) Schedule 1 of the Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010; and
  - (c) Schedule 1 of the Nga Wai o Maniapoto (Waipa River) Act 2012.

466 The Panel’s assessment of the relevant Settlement Acts (and associated Treaty settlement deeds) considered to be of relevance to the Application area<sup>219</sup> has been discussed above in Part D of this decision.

467 The Panel is satisfied that the Applicant has considered the relevant Treaty settlements and iwi planning documents relating to the Project. We have considered the relevant Treaty settlements in our decision making and are satisfied that we have appropriately addressed the matters required by section 82 of the FTAA.

468 A number of conditions proposed by the Applicant recognise matters raised in the relevant Treaty settlements and statutory acknowledgement, including the TWVMMP which is to be developed with hapū input, accidental discovery protocols, monitoring of water quality, and ongoing engagement and education of contractors. The Panel is not aware of any additional conditions that may be required in order to recognise or protect any relevant Treaty settlement under section 84 of the FTAA.

469 As noted in Part B, the Panel directed the EPA to seek comment from the Minister for Māori Crown Relations: Te Arawhiti and the Minister for Māori Development under section 72 FTAA. [insert any comments received here]

### **PART I: PRINCIPAL ISSUES IN CONTENTION**

470 As will be evident from earlier sections of this decision report, the principal issues in contention are largely effects related. Our findings on the key issues are summarised below for completeness, but reflect our earlier assessment.

#### Ecology

471 Part E Evaluation of Effects outlines the key outstanding ecological issues which we summarise together with our findings as follows:

- (a) Freshwater ecology. The key sub-issues are:
  - Stream realignment outcomes and offset v remedy - we agree that any difference in expert opinion is academic. We conclude that our overall findings should, taken together, ensure successful environmental outcomes.

---

<sup>219</sup> Based on the AEE and the lack of any contrary views or evidence provided to the Panel

- Magnitude of effects and potential values - we consider it standard good practice when using an accounting approach to assess watercourse mitigation to treat loss of watercourse extent on a watercourse-by-watercourse basis and to assess the loss of potential values, but only in relation to residual losses (after realignment).
  - Application of a 1.5 multiplier: We have imposed the standard 1.5x multiplier to manage the risk of time lags in establishment of replacement values in this case.
  - Monitoring and maintenance periods: We have imposed conditions containing performance standards for monitoring success of stream realignments rather than a specific monitoring period, but have imposed a 10-year minimum maintenance period for all watercourse and wetland plantings.
  - Restore or off-set wording: We agree the appropriate approach is to refer to "offsetting/compensating" rather than restoring.
- (b) Lizards: We consider the requirement for an LMP in the Wildlife Approval to be sufficient, together with the EMP provisions in the consent conditions which provide for lizard habitat.
- (c) Bats: We only consider that a BMP is required following identification of any bats through pre-construction surveys.

#### Waipapa Stream Bridge

- 472 We have addressed our concern relating to safety issues at the northern termination of the Project prior to the Waipapa Stream Bridge through a new operational condition on the designation which requires the Project to be designed and constructed to ensure a safe transition between the Project and the existing State Highway network south of the Waipapa Stream Bridge. It also requires the outline plan of works to show any design measures proposed to ensure this condition is met.

#### Flexible "specimen design" approach

- 473 Overall, we acknowledge and accept the Applicant's general specimen design approach to the Project which we consider is consistent with the purpose of the FTAA to facilitate the delivery of significant infrastructure projects such as this one. To facilitate this, we have proposed conditions which addressing the following issues:
- (a) No Condition 1' approach: we have imposed a condition which would clarify the scope of the application in a "condition 1", but still allow for appropriate amendments to design;
  - (b) Management plans: we are comfortable that the suite of conditions we have imposed will provide clear and robust parameters for management plans such that draft plans are not required to be reviewed and confirmed by us. Rather, they will follow a certification approach as part of the detailed design process.
  - (c) Deemed certification: We do not support the "deemed certification"

approach and agree it could result in sub-optimal planning outcomes and potentially adverse environmental impacts. We have removed these provisions.

## **PART K: CONDITIONS**

### **FTAA general requirements for conditions**

474 Section 81 provides that the Panel must set any conditions to be imposed on the approval. The statutory requirements relating to any conditions imposed are determined by the approval types sought.

475 Section 83 must be complied with and provides:

#### **83 Conditions must be no more onerous than necessary**

When exercising a discretion to set a condition under this Act, the panel must not set a condition that is more onerous than necessary to address the reason for which it is set in accordance with the provision of this Act that confers the discretion.

476 How the Panel has complied with this section is discussed below in relation to the conditions that have been set.

477 New section 84A relating to Conditions relating to infrastructure is also relevant, as discussed earlier in our decision. That section provides:

#### **84A Conditions relating to infrastructure**

- (1) The panel may set conditions to ensure that the infrastructure in the project area or other infrastructure the project will rely on is or can be made adequate to support—
  - (a) the project; or
  - (b) the stage of the project to which the application relates.
- (2) This section applies in addition to, and does not limit, any other powers to set conditions under this Act.
- (3) To avoid doubt, a condition set under this section may impose an obligation on the applicant only.

478 Except to the extent discussed in relation to our findings regarding Waipapa Stream bridge, the Panel has not relied on section 84A in setting conditions.

479 If a Treaty settlement, the Marine and Coastal Area (Takutai Moana) Act 2011, or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 is relevant to an approval then section 82 applies. That section provides:

#### **82 Effect of Treaty settlements and other obligations on decision making**

- (1) This section applies if a Treaty settlement, the Marine and Coastal Area (Takutai Moana) Act 2011, or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 is relevant to an approval.
- (2) If the settlement or Act provides for the consideration of any document, the panel must give the document the same or equivalent effect through the panel's decision making as it would have under any relevant specified Act.

- (3) The panel must also consider whether granting the approval would comply with section 7.
- (4) In this section, **document**—
  - (a) means any document, arrangement, or other matter; and
  - (b) includes any statutory planning document amended as a result of the settlement or Act referred to in subsection (1).

## **FTAA requirements for conditions**

### Resource consent

480 For a resource consent the following clauses of Schedule 5 apply:

#### **18 Conditions on resource consent**

When setting conditions on a consent, the provisions of Parts 6, 9, and 10 of the Resource Management Act 1991 that are relevant to setting conditions on a resource consent apply to the panel, subject to all necessary modifications, including the following:

- (a) a reference to a consent authority must be read as a reference to a panel; and
- (b) a reference to services or works must be read as a reference to any activities that are the subject of the consent application.

481 Generally speaking, a resource consent condition must:<sup>220</sup>

- (a) be for a resource management purpose, not an ulterior one;
- (b) fairly and reasonably relate to the development authorised by the resource consent or designation; and
- (c) not be so unreasonable that a reasonable planning authority, duly appreciating its statutory duties could not have approved it.

482 The underlying purpose of the conditions of a resource consent is to manage environmental effects by setting outcomes, requirements or limits to that activity, and how they are to be achieved.<sup>221</sup>

483 Conditions must also be certain and enforceable.<sup>222</sup>

484 A condition must also not delegate the making of any consenting or other arbitrary decision to any person, but may authorise a person to certify that a condition of consent has been met or complied with or otherwise settle a detail of that condition.<sup>223</sup> Such authorisation is subject to the following:

- (a) The basis for any exercise of a power of certification must be clearly set out with the parameters for certification expressly stated in the relevant conditions.
- (b) This power of certification does not authorise the making of any waiver or sufferance or departure from a policy statement or plan except as

<sup>220</sup> *Newbury District Council v Secretary of State for the Environment* [1980] 1 All ER 731 (HL), at 739

<sup>221</sup> *Summerset Village (Lower Hutt) Ltd v Hutt City Council* [2020] MZEnvC 31 at [156]

<sup>222</sup> *Bitumix Ltd v Mt Wellington Borough Council* [1979] 2 NZLR 57

<sup>223</sup> *Turner v Allison* (1970) 4 NZTPA 104

expressly authorised under the Act (s 84 of the RMA).

- (c) This power of certification does not authorise any change or cancellation of a condition except as expressly authorised under the Act (s 127 of the RMA).

### Designation Conditions

485 For a designation the following clauses of Schedule 5 apply:

#### **25 Conditions on designation**

When setting conditions on a designation, the provisions of Part 8 of the Resource Management Act 1991 relevant to setting conditions on a designation apply to the panel, subject to all necessary modifications, as if references to a consent authority were references to a panel.

### Wildlife approval

486 For the grant of a wildlife approval the following clause of Schedule 7 apply:

#### **6 Conditions**

- (1) A panel may set any conditions on a wildlife approval that the panel considers necessary to manage the effects of the activity on protected wildlife.
- (2) In setting any condition under subclause (1), the panel must—
  - (a) consider whether the condition would avoid, minimise, or remedy any impacts on protected wildlife that is to be covered by the approval; and
  - (b) where more than minor residual impacts on protected wildlife cannot be avoided, minimised, or remedied, ensure that they are offset or compensated for where possible and appropriate; and
  - (c) take into account, as the case may be, the New Zealand Threat Classification System or any relevant international conservation agreement that may apply in respect of the protected wildlife that is to be covered by the approval.

### Archaeological approval

487 For the grant of an archaeological authority the following clause in Schedule 8 applies:

#### **5 Imposition of conditions on archaeological authorities**

- (1) In relation to an archaeological authority, a panel may impose any conditions, including conditions that—
  - (a) the consent of the land owner and the holder of any specified registered interest must be obtained before the holder of an archaeological authority may enter the relevant site or undertake any activity under that authority; and
  - (b) the site must be returned as nearly as possible to its former state (unless otherwise agreed between the owner of the land on which the site is located and the panel); and
  - (c) any activity undertaken at the site under the archaeological authority must conform to accepted archaeological practice; and
  - (d) Heritage New Zealand Pouhere Taonga, or the person approved under this schedule to carry out an activity, must provide a report to—
    - (i) the holder of the authority; and
    - (ii) the owner of the archaeological site concerned, if different from the holder of the authority; and
    - (iii) Heritage New Zealand Pouhere Taonga, unless Heritage New

Zealand Pouhere Taonga prepared the report.

- (2) The panel may impose a condition requiring an investigation under the HNZPT Act, but only if the panel is satisfied on reasonable grounds that the investigation is likely to provide significant information in relation to the historical and cultural heritage of New Zealand.

### Complex freshwater fisheries

- 488 For the grant of a complex freshwater fisheries activity approval the following clause of Schedule 9 applies:

**6 Conditions on complex freshwater fisheries activity approval**

A panel may impose conditions on an approval that the panel considers necessary to manage the effects of the activity on freshwater fish species, taking into account—

- (a) best practice standards; and  
(b) the New Zealand Fish Passage Guidelines.

### **Project conditions**

- 489 The Applicant provided an updated set of conditions to the Panel on 16 February 2026 together with its Closing Submissions. That condition set reflects agreement with BOPRC, along with conditions discussed with the hapū and DOC since comments on the Application were received by the Panel. The Panel used this updated condition set as a base to develop the draft conditions circulated for comment together with its draft decision on 25 February 2026.
- 490 As explained above, the Panel has been alert to the FTAA regime when imposing conditions, which has an overriding purpose of facilitating the delivery of significant infrastructure projects, and to the restriction against imposing a condition that is more onerous than necessary.
- 491 On 6 March 2026 the Applicant provided comments on the Panel's draft conditions, including acceptance of several of the Panel's proposed amendments. On 13 March 2026, the Applicant provided a final response on the draft conditions, having had the opportunity to review and consider comments on conditions made by other invited parties. The Applicant also provided a table attachment to its response, setting out its final proposed conditions together with explanatory comments.
- 492 The Panel also received comments on the draft conditions (no later than 6 March 2026) from:
- (a) DOC;
- (b) HNZPT;
- (c) Pirirākau and Ngāti Taka;
- (d) BOPRC;
- (e) WBOPDC; and
- (f) Penny Hicks (through her agent Maven).

493 The Panel has carefully considered all comments provided on the draft conditions. A number of minor amendments requested by the Applicant have been accepted, for the reasons provided in the Applicant's comments and supporting information, and are not addressed in detail below. The Panel has also accepted, or partially accepted, amendments proposed by other parties, and we have explained our key findings and reasons below. Where a party has maintained a position put forward in earlier comments, which had already been addressed in the Panel's findings and reasons in its draft decision, those reasons have not been addressed again in this section.

494 In relation to the outstanding issues, we record the amendments requested by the parties and the Panel's findings, together with a summary of the amendments made by the Panel in its final conditions:

- (a) **Designation lapse:** NZTA opposed our proposed inclusion of a lapse date of 20 years on the designation, for legal reasons.<sup>224</sup> In summary, NZTA relies on case law under the RMA, which provides that an alteration to a designation does not have a lapse date which is independent of the lapse date of the designation being altered. Where the original designation has been given effect to (as in this case), then a lapse date should not be imposed on the altered designation. In our draft decision we recognised this approach under the RMA. However, we sought to address a provision in the FTAA (Schedule 5, clause 26(1))<sup>225</sup> which requires us to specify a lapse date on all "approvals" granted by us to avoid the application of a default lapse date of 2 years applying. An "approval" includes an alteration to a designation. Given the interpretation issues raised in our draft decision, we anticipated that NZTA may not wish to take the risk of a 2-year default date applying by operation of law. We sought clarification on this issue through a further information request under section 67 FTAA.<sup>226</sup> NZTA maintained its legal arguments that the default date would not apply here, but accepted the appropriateness of a 20-year lapse date<sup>227</sup> if the Panel considers it necessary to specify a lapse date in the conditions to avoid the operation of clause 26(1). We are not fully persuaded by NZTA's interpretation arguments in response to our section 67 request<sup>228</sup> and consider that there remains uncertainty in relation to the application of the default lapse provision in the context of an approval granted under the FTAA which involves an alteration to a designation. However, given that NZTA has invited us to accept its legal interpretation, we are prepared to remove the lapse date from the designation conditions in accordance with NZTA's request. If NZTA is wrong in its legal interpretation and is challenged, that risk rests with NZTA.
- (b) **Designation condition 1:** We have removed 'condition 1' from the designation conditions. The OPW process enables confirmation of the second stage of the design and provides Council the ability to review and request any changes of the Requiring Authority during that process. Therefore it is accepted Condition 1 is not required for the designation

---

<sup>224</sup> NZTA Memorandum dated 6 March 2026, paras 7-12

<sup>225</sup> Note footnote 5 above which explains that this clause has been recently amended to specify a default 2-year lapse date

<sup>226</sup> Minute 11 of the Expert Panel dated 16 March 2026

<sup>227</sup> Which aligns with the resource consent lapse dates sought by NTZA which we have imposed

<sup>228</sup> Memorandum of counsel on behalf of NZTA dated 17 March 2026

conditions. The Panel is confident the suite of designation conditions will provide a robust management framework to address effects. Regarding the imposition of a condition 1 on the remaining consents, the Panel remains of the review this is necessary for the reasons previously outlined, but has amended the wording as suggested by the Applicant.

- (c) **Designation offer lapse:** We have reinstated the “offer lapse” provisions in Designation conditions CU4, CNV9 and LC.01 Condition 19.3 which were deleted in error. While we acknowledge support for the (inadvertent) deletion of C4 from Hapū<sup>229</sup>, we note that specific relief in relation to this condition was not previously sought by Hapū<sup>230</sup>, and we agree with the reasoning provided by both WBOPDC<sup>231</sup> and NZTA<sup>232</sup> for the retention of these provisions.
- (d) **Designation OPW and Management Plan conditions:** We have accepted the Applicant’s suggested amendments to our proposed Designation OPW condition (GC3) and the Management Plan condition (GC5) for the reasons given by NZTA,<sup>233</sup> except for the proposed addition of a time frame (at least 20 working days) for submission of an OPW. We prefer to rely on the timeframes proposed in section 176A RMA to avoid confusion. We have also removed the option (in Table 1 of GC5) to provide the Enabling Works Management Plan to the Manager for information only, so that it is required to be provided for certification.
- (e) **Designation LVMP process:** In response to Penny Hicks’ comments (through Maven) seeking to ensure integration of the works with the surrounding land use at the time of construction, the Panel agrees that this is an important matter to capture in the development of the LVMP given the potential time lag between the grant of approvals and commencement of construction. We have amended the LVMP purpose condition and provided a process for participation in LVMP preparation. We have also included a reference to cultural values to be informed by Pirirākau and Ngāti Taka as requested by hapū.
- (f) **“Written” requirement:** Hapū have recommended deletion of “written” from all conditions requiring hapū feedback or input. We adopt this amendment for the reasons provided by hapū,<sup>234</sup> noting that HNZPT supports this change<sup>235</sup> and NZTA has accepted it.<sup>236</sup>
- (g) **ARMS:** The Panel acknowledges that management of archaeological heritage is an important issue for Pirirākau and Ngāti Taka and agrees that hapū should have active input into any amendments to the Archaeological Research and Mitigation Strategy (ARMS).<sup>237</sup> We adopt the amendments proposed by Hapū to Condition AA4(b)(ii) and

---

<sup>229</sup> Comments by Ngāti Taka and Pirirākau dated 13 March 2026, section 4

<sup>230</sup> Hapū comments dated 9 December 2025

<sup>231</sup> WBOPDC comments dated 5 March 2026, at page 2

<sup>232</sup> NZTA Memorandum dated 13 March 2026, at para 12

<sup>233</sup> NZTA Memorandum dated 6 March, paras 13-17.

<sup>234</sup> Comments by Ngāti Taka and Pirirākau dated 13 March 2026, at section 2

<sup>235</sup> NZHPT comments at para 12

<sup>236</sup> NZTA Memorandum dated 13 March at para 17

<sup>237</sup> Comments by Ngāti Taka and Pirirākau dated 13 March 2026, at section 5

consequentially AA4(b)(ii) relating to the summary of feedback associated with the ARMS, noting that HNZPT supports this change<sup>238</sup> and NZTA has accepted it.<sup>239</sup>

- (h) **Construction noise:** We have previously made a finding to accept the Applicant's expert construction noise assessment which was peer reviewed by WBOPDC's expert and not challenged by any other expert evidence. We agree with NZTA that the noise limits proposed by Pirirākau are neither appropriate nor practical.<sup>240</sup> However, we are sympathetic to the issue raised by Hapū concerning the potential or perception for disruption to important practices being undertaken outdoors at Tawhitinui Marae and Urupā. This issue has been consistently raised through CIA and comments recognising the cultural importance of kawa, tikanga and outdoor speaking on the Marae and Urupā. We have amended designation condition CNV4(h), relating to information required to be included in the CNVMP, to provide a clear link to (g) relating to processes for engaging with potentially affected receivers (including Pirirākau in relation to potential construction noise during cultural events at Tawhitinui Marae). CNV4(h) now provides that the CNVMP must include "Measures for controlling noise and vibration including specific measures to address any matters raised by Pirirākau under (g) above" (which relates to processes for engaging with Pirirākau). We consider this provides a more robust condition requiring specific mitigation measures to be addressed, rather than providing for engagement only.
- (i) **Operational noise:** In relation to operational noise, Pirirākau propose that the Landscape and Visual Management Plan conditions could take into account the effects of future operational noise on Tawhitinui Marae and urupā. NZTA has explained that noise level surveys undertaken for the Project were predicted to add very slightly (1 – 2 decibels) to future traffic noise levels at the marae and Urupā, an unnoticeable effect. Further, planting does not provide noise mitigation on its own.<sup>241</sup> NZTA oppose amendments to condition LV3 on the basis that condition LV2(e),<sup>242</sup> which requires the LVMP to "take into account" cultural values and promote cultural expression, adequately addresses Hapū concerns.<sup>243</sup>
- (j) **Cultural values in LVMP:** To further recognise Hapū concerns, we have accepted the amendment proposed by hapū to LV3(a) which would require the LVMP to include "cultural values as informed by Pirirākau and Ngāti Taka". In our view the "take into account" obligation in LV2 is not as strong as the obligation in LV3 which requires the LVMP to include certain matters ("shall include"). We consider there should be a mandatory requirement for the LVMP to address cultural values.
- (k) **"Where practicable":** We have also accepted the request by Ngāti Taka and Pirirākau to remove "where practicable" from designation condition

---

<sup>238</sup> HNZPT comments on draft conditions (undated) at para 14

<sup>239</sup> NZTA Memorandum dated 13 March 2026, at para 18

<sup>240</sup> NZTA Memorandum dated 13 March 2026, at para 20

<sup>241</sup> NZTA response to comments from Pirirākau dated 9 December 2025, at 11

<sup>242</sup> NZTA referred to LV3(e) which we presume was an error. The correct reference is LV2(e).

<sup>243</sup> NZTA Memorandum dated 13 March 2026, at para 21

CU1 and other conditions where provision has been made for hapū review of amended plans. NZTA wish to retain this qualifier to address situations where amendments need to be progressed urgently. We consider it would be relatively uncommon for urgent plan updates to be required. Where urgency is a factor, we anticipate hapū would give prompt attention to the matter in the spirit of partnership intended by the parties. We refer here to comments on the draft decision and conditions from the Minister for the Environment and Minister for Māori Crown Relations and Māori Development raising concerns around proposed mitigation and implementation measures that are to be delivered through management plans prepared at a later stage, including to address issues raised by representative Māori groups.<sup>244</sup> Given we have not taken the approach of requiring management plans to be prepared in advance of our decision, for approval by the Panel, we consider that removal of the qualifier “as far as practicable” provides additional comfort that management plans prepared in the future will appropriately take account of issues affecting the Hapū. For similar reasons, we have accepted Hapū amendments seeking the removal of “where practicable” from the Archaeological Management Plan condition.

- (l) **Cultural input into planting design:** Ngāti Taka and Pirirākau have recommend the addition of three new clauses to CU3 as follows:<sup>245</sup>

*(e) During detailed design, provide cultural advice and input into landscape and planting design, including the species to be planted in various parts of the Project area.*

*(f) Prioritise culturally significant plant species (including but not limited to: rongoā, kai species, species which support mahinga kai, habitat for taonga species).*

*(g) During detailed design, provide cultural advice and input into the Project design, cultural mitigation, management and monitoring plans for Te Haumu.*

While we appreciate the intent of these suggested additions, we agree with NZTA that they are not necessary, and would duplicate the intent of Resource Consent conditions such as 6.8, 10.1, and 29.1; Designation Conditions LV2(e) and (f); and Archaeological Authority Condition AA3(b).<sup>246</sup> Accordingly we have not adopted these additions.

- (m) **Active involvement by Hapū:** Given that “co-development” of management plans with Ngāti Taka and Pirirākau has not been accepted by NZTA, nor by the Panel in our draft decision for the reasons given, the Hapū have sought amendments to condition 6 of LC.01, WT.01, BC.01, DC.01, DC.02 and DC.03.<sup>247</sup> The proposed change seeks provide for active

---

<sup>244</sup> Comments from the Minister for Māori Crown Relations: Te Arawhiti and Māori Development dated 11 March 2026 referring to Comments from the Minister for the Environment dated 9 December 2025

<sup>245</sup> Comments by Ngāti Taka and Pirirākau dated 13 March 2026, at Appendix 2

<sup>246</sup> NZTA Memorandum dated 13 March, Attachment 1 at 1.5

<sup>247</sup> Comments by Ngāti Taka and Pirirākau dated 13 March 2026 at Appendix 1

involvement of Pirirākau and Ngāti Taka including in the assessment of the success or failure of mitigations against cultural values. NZTA considers the proposed additions to amount to unnecessary duplication of existing conditions which provide for Pirirākau and Ngāti Taka engagement in management plan development and review and for active cultural involvement (including designation conditions CU1–CU5 and LC.01 condition 10.1).<sup>248</sup> We agree with the Applicant that the additions to condition 6 proposed by the Hapū would effectively duplicate the requirements of the existing suite of cultural conditions mentioned above. We observe that the TWVMMP (*Augier*) condition offered by the Applicant in the earthworks consent contains processes for Hapū participation in the proposed cultural monitoring programme.

- (n) **Augier condition:** We observe here that, because the TWVMMP condition (Condition 10) has been volunteered by the Applicant on an *Augier* basis<sup>249</sup> we do not have jurisdiction to make the substantial changes sought by the Hapū<sup>250</sup> given these have not been accepted by NZTA.<sup>251</sup> However, we have accepted the amendments proposed by NZTA in response to Hapū comments which helpfully provide for a cultural indicator framework, and set out how the framework will inform the cultural monitoring programme.<sup>252</sup>
- (o) **HNZPT comments:** HNZPT maintains its earlier position seeking a “catchall” addition to AA3(b), or otherwise seeks decoupling of that condition from the HNZPT approval conditions (AA3(b)).<sup>253</sup> We have previously addressed this issue in our draft decision (for the reasons provided in NZTA’s Closing Submissions) and do not repeat our reasons here except to say that it is not appropriate to decouple the list of matters that the AMP shall include from the requirement to obtain HNZPT approval of those matters. Doing so would make the approval conditions redundant and remove the important oversight by HNZPT over the Archaeological Management Plan.
- (p) **DOC’s comments:** DOC’s proposed the addition of “and their habitat” to condition 27.2 of the Earthworks conditions. NZTA accepts the amendment and so have we. NZTA opposes DOC’s addition of a reference to DOC’s protocols in condition 27.2(a)3. We accept DOC’s argument that reference to this protocol is a standard and appropriate provision and we remain unpersuaded as to why it should not be included here and have therefore imposed it. However, we agree with NZTA that the proposed advice note restating the need to comply with the Wildlife Act is unnecessary<sup>254</sup> and have removed it. We have sought advice from the Panel’s technical adviser (Graham Ussher) on the other amendments requested by DOC which are opposed by NZTA.<sup>255</sup> Some of these

---

<sup>248</sup> Memorandum, 13 March, Attachment 1 at 1.3

<sup>249</sup> This concept is explained in footnote 64

<sup>250</sup> Comments by Ngāti Taka and Pirirākau at Appendix 3

<sup>251</sup> NZTA Memorandum dated 13 March at p6 and Attachment 1

<sup>252</sup> NZTA Memorandum dated 13 March 2026, Attachment 1 at 1.4

<sup>253</sup> NZTA Memorandum dated 13 March 2026, at para 7

<sup>254</sup> NZTA Memorandum dated 13th March 2026, at Attachment 1

<sup>255</sup> Advice to the Panel from Graham Ussher dated 15 March 2026, relating to the parties’ comments on the Panel’s draft conditions.

refinements are new and have not been raised previously (although others repeat amendments proposed in DOC's section 51(2)(c) report). Mr Ussher's advice is that, while DOC's suggested refinements are helpful, most provide an extended definition or clarification of terms and concepts, rather than suggesting fundamental changes or improvements to the conditions. We accept that advice. We also agree with NZTA that many of the refinements are already addressed elsewhere in the conditions. With the exception of DOC's suggested amendment to Condition 28.4(a) to refer to "culverted", which we consider correctly reflects the type of activities proposed in watercourses, and DOC's suggested changes to Condition 27.2 (Bat Management Plan) to refer to habitat (accepted by NZTA) and DOC's Bat Recovery Protocols (discussed above), which we have accepted, we have not otherwise accepted DOC's suggested refinements.

- (q) **Wildlife Approval:** DOC has proposed additions (WA4-WA15) to the Wildlife Approval which it considers to be standard conditions and consistent with the approach taken in all other Fast-track Wildlife Approvals to date. We note those conditions were recommended in DOC's s51(2)(c) report so are not new to us. NZTA opposes those additions, largely on the basis of duplication or unnecessary detail.<sup>256</sup> We are cognisant that DOC will be required to monitor implementation of the Wildlife Approval we have granted in its behalf. We therefore consider it appropriate to impose DOC's standard conditions on approvals of this nature.
- (r) **SEV method:** NZTA disagreed with our draft ecology conditions in LC.01 and BC.01 referring to the Stream Ecological Valuation (SEV) methodology and proposes that any references to SEV should be clearly limited to addressing residual loss only. In reliance on further evidence submitted by Mr Garrett-Walker,<sup>257</sup> NZTA also request clarification of the term "potential value". Although the Panel did not request further evidence on this issue, it has considered the evidence and the explanation provided and referred it to Mr Ussher for his views. For the reasons set out in our draft decision in relation to freshwater ecology (retained in our final report above), we remain of the view that the SEV conditions are appropriate. Mr Ussher has reiterated that SEV is a nationally recognised, standardised method that other councils already use in this context. In his view, excluding SEV from the conditions creates uncertainty about how to objectively assess existing and potential future watercourse states, quantify impacts, and measure success against ecological targets.<sup>258</sup> In relation to defining "potential value" or "future state", Mr Ussher considers that a formal definition in the conditions is unnecessary on the basis that this issue would be resolved with the Regional Council at the time of certification of the relevant management plans. We are content to leave this issue for that stage of the process and rely on the Regional Council's expertise. We have retained our proposed wording relating to these

---

<sup>256</sup> NZTA Memorandum, 13th March 2026, at para 27-28)

<sup>257</sup> Statement of Evidence of Mr Garatt-Walker dated 6 March 2026, at para 21 relied on in NZTA Memorandum dated 6th March 2026, at paras 19-22

<sup>258</sup> Memorandum from Graham Ussher to the Panel dated 15th March 2026

matters.

- (s) **Scale of assessment:** Our review of the amended conditions proposed by NZTA has identified the removal of references to “extent” or “individual stream” in relation to streams / stream replacement (for example in Condition 28.1). The reason for these omissions was not clearly addressed in NZTA’s substantive comments on our draft decision, but we anticipate it is intended to be consistent with NZTA’s earlier argument that assessment should occur at a catchment level rather than a reach-by-reach basis. We had already made a finding in our draft decision to support a watercourse-based approach as recommended by Mr Ussher and supported by BOPRC, DOC and Hapū. We do not intend to revisit our findings on that matter and have retained references to these terms in our final conditions.
- (t) **Cap on stream length:** In relation to our draft condition (agreed at expert conferencing) imposing a cap on the length of streams to be realigned or altered, NZTA seeks an additional 30% buffer to provide design flexibility. This would result in a 4,000m cap on streams to be realigned and/or impacted by permanent reclamation/culverting and a 550m cap on additional culverting or piping.<sup>259</sup> We observe that the original condition (agreed at expert conferencing) is already based on an appropriate buffer which in Mr Ussher’s view should provide sufficient design flexibility. We agree. Further, we do not have sufficient evidence on which to assess the effects of imposing an additional buffer at this late stage of proceedings. We are not persuaded to amend the relevant condition (BC.01 Condition 13.12) which was agreed to at expert conferencing.
- (u) **Stormwater:** In relation to the Applicant’s comments on our draft stormwater conditions, we remain of the view that references to the most recent version of the BOPRC Hydrological and Hydraulic Guidelines at the time detailed design is being carried out are appropriate, particularly given the potentially significant time lag between the grant of the approvals sought and the detailed design phase. We have accepted the Applicant’s amended wording for conditions 10.3 and 10.4.
- (v) **Maintenance period:** We are not persuaded by the Applicant’s position that the maintenance of planting required under the EMP should be reduced from 10 years to 5 years. We continue to rely on the advice from Mr Ussher reflected in our draft decision, supported by BOPRC, that a minimum 10-year monitoring and maintenance period is appropriate for the required restoration works.

#### Reasoning and Conclusions regarding conditions

495 As summarised above, the Panel has resolved three outstanding issues relating to the Applicant’s proposed specimen design approach by: imposing a “condition 1” which would clarify the scope of the application, but still allow for appropriate amendments to

---

<sup>259</sup> NZTA Memorandum dated 6th March 2026, at paras 23-24

design; imposing a suite of conditions to provide clear and robust parameters for management plans so that draft plans can be developed later and certified as part of the detailed design process; and removing the “deemed certification” conditions proposed by the Applicant.

- 496 For the reasons explained earlier, the Panel has resolved the contentious freshwater ecology issues (relating to magnitude of effects, potential value of impacted streams, stream realignment outcomes, remedy v off-set, 1.5x multiplier, success monitoring duration for stream realignments and maximum length on impacted watercourses) and imposed new or amended conditions to address these issues.
- 497 We have also resolved issues relating to the stormwater conditions and the traffic safety issue concerning the northern termination point of the Project.
- 498 To the extent the final conditions contain minor errors, the Panel notes it has powers under section 89 of the FTAA to make minor corrections.

#### **PART L: RMA 1991**

- 499 As noted in Part C, Schedule 5, clause 17 FTAA sets out how the application is to be accessed under various provisions of the RMA. The substantive provisions of relevance to the Application are Part 2, and the various matters that must be considered under section 104.
- 500 The Panel has also considered the Application in light of the purpose and principles of the RMA (in Part 2). As a result of the conclusions reached on the effects of the Application and in the context of the relevant planning provisions and the conditions, the Panel finds that the Application, in the whole, is consistent with Part 2.
- 501 It is important to record that clause 17(1) gives express direction to the Panel regarding the weighting to be applied to the various matters it must take into account when considering a consent application. The greatest weight must be given to the purpose of the FTAA so that, if the Application achieves that purpose, that matter will be determinative even in the face of Panel findings as to adverse impacts (assuming they are not sufficiently significant as to warrant a decline under section 85 FTAA) or inconsistency with national, regional or local policy direction. Even failure to achieve the purpose of the RMA would be insufficient, on its own, to displace the weight to be given to the purpose of the FTAA.

#### Panel finding

- 502 The Applicant addressed Part 2 of the RMA in the AEE.<sup>260</sup> As a result of the conclusions reached on the effects of the Application and in the context of the relevant planning provisions and the conditions, the Panel has not given greater weight to the RMA considerations than to the overall purpose of the FTAA, as required by clause 17. However, the Panel observes that its consideration of the relevant RMA provisions also supports its overall decision to grant the RMA approvals and therefore it was not placed in a position of having to weigh competing considerations under clause 17.

---

<sup>260</sup> Substantive Application, 4.3.16

### **PART M: FTAA, SECTION 3**

- 503 The Panel's decision is subject to the purpose of the FTAA, contained in section 3, to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.
- 504 As noted in this decision report, the Panel accepts the Applicant's assessment that the Project will deliver infrastructure with significant regional and national benefits. Therefore, the Project meets the purpose of the FTAA.

### **PART N: OVERALL ASSESSMENT**

- 505 As noted in Part C, the Panel may decline an approval if, in complying with section 81(2), the panel forms the view that:—
- (a) there are 1 or more adverse impacts in relation to the approval sought; and
  - (b) those adverse impacts are sufficiently significant to be out of proportion to the project's regional or national benefits that the panel has considered under section 81(4), even after taking into account—
    - (i) any conditions that the panel may set in relation to those adverse impacts; and
    - (ii) any conditions or modifications that the applicant may agree to or propose to avoid, remedy, mitigate, offset, or compensate for those adverse impacts.<sup>261</sup>
  - (4) To avoid doubt, a panel may not form the view that an adverse impact meets the threshold in subsection (3)(b) solely on the basis that the adverse impact is inconsistent with or contrary to a provision of a specified Act or any other document that a panel must take into account or otherwise consider in complying with section 81(2).
- 506 This test is different from the test developed over the years under the RMA which culminated in the decision of *Environmental Defence Society v The New Zealand King Salmon Company Limited & Ors (King Salmon)*<sup>262</sup>. The King Salmon case was clear – the approach by the Courts and local authorities of adopting an overall broad judgement approach to environmental decision making under the RMA was incorrect.
- 507 In contrast the FTAA clearly envisages an overall judgment or balancing approach to decision making. The Panel must balance the adverse impacts against the regional or national benefits of the project.
- 508 With reference to our evaluation of the effects of the Project (which address the principal issues in contention) the Panel is satisfied that there are no adverse impacts of such significance as to be out of proportion to the Project's regional or national benefits. There is therefore no basis for the approvals sought to be declined.

### **PART O: FINAL DECISION**

- 509 The Application by NZTA to construct, operate and maintain 7.7km of median-divided highway seeks a range of resource consent approvals, archaeological authorities, wildlife approval and complex freshwater fisheries, and an amendment to existing designations to enable the Project and authorise the land use aspects.
- 510 The Panel has considered the Application and supporting information (including the

---

<sup>261</sup> Section 82 FTAA

<sup>262</sup> [2014] NZSC 38

Applicant's proposed conditions), the comments received on the Application, the outcomes recorded in the JWS, the Applicant's response to our RFIs, the Applicant's Closing Submissions and supporting material (including the revised condition set) and the parties' comments on our draft conditions. We thank all participants involved in the process for their contributions. This information has been considered in the context of the relevant planning and policy provisions and the applicable statutory framework.

- 511 Overall, the Panel is satisfied that the matters set out in section 81 of the FTAA have been addressed appropriately and that the purposes of the FTAA are achieved by granting all of the approvals sought subject to the conditions imposed by the Panel. In reaching that view, the Panel has had regard to the actual and potential effects on the environment of allowing the activity.
- 512 The Panel determines to **grant** the approvals sought by NZTA subject to the Conditions attached as **Appendix A** to this Decision.
- 513 As required by section 99 of the FTAA the persons listed in that section are entitled to appeal and must commence any appeals within the 20-working day period from the day this Decision is published under section 88(3).



---

Mary Hill (Chair)



---

Juliane Chetham (Member)



---

Euan Williams (Member)

**APPENDIX A: CONDITIONS OF CONSENT**

**APPENDIX B: CONSENTS REQUIRED****Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011**

Activity	Regulation	Status	Comment
<b>Contaminated land disturbance</b>	Clause 11	Discretionary	Based on PSIs completed to date

**Resource Management (National Environmental Standards for Freshwater Regulations) 2020**

Activity	Regulation	Status	Comment
<b>Vegetation clearance within, or within a 10m setback from, a natural wetland for the purpose of constructing specified infrastructure</b>	45(1)	Discretionary	RM25-0466-LC.01  The Project traverses a number of wetlands and requires earthworks, land disturbance and vegetation clearance in close proximity to wetlands and within wetlands. Based on the specimen design, the earthworks and land disturbance are unlikely to result in the drainage of any wetlands but for the avoidance of doubt consent is sought for this activity. It is therefore a discretionary activity.
<b>Earthworks or land disturbance within, or within a 10m setback from, a natural wetland for the purpose of constructing specified infrastructure</b>	45(2)		
<b>Earthworks or land disturbance outside 10m, but within a 100m setback from a natural wetland for the purpose of constructing specified infrastructure that is likely to result in complete or partial drainage of all or part of the natural wetland</b>	45(3)		
<b>The placement, use, alteration, extension, or reconstruction of a culvert in, on, over, or under the bed of a river</b>	71	Discretionary	RM25-0466-BC.01  The Project traverses a number of water bodies and requires the installation, extension, reconstruction and use of multiple culverts. Based on the specimen design, all of the permitted activity conditions in Regulation 70 will not be complied with, meaning it is a discretionary activity.

<b>Taking, use, damming, diversion, or discharge of water within, or within a 100m setback from, a natural wetland for the purpose of constructing specified infrastructure.</b>	45(4)	Discretionary	RM25-0466-BC.01 The Project includes temporary and permanent damming and diversion of water bodies and discharge of stormwater in proximity to wetlands.
<b>Taking, use, damming, diversion of water within or within a 100 metre setback from a natural inland wetland</b>	47(3)	Restricted Discretionary	The Project includes taking, use, damming or diversion of water within, and within 100m of, Natural Wetlands.
<b>Discharge of water into water within, or within a 100m setback from, a natural inland wetland for the purpose of constructing specified infrastructure, and there is a hydrological connection, the discharge will enter the natural wetland and will or is likely to change the water level range or hydrological function of the natural wetland</b>	45(5)	Discretionary	RM25-0466-DC.01  The Project includes construction activities in close proximity to wetlands. There is likely to be a discharge of water close to or into wetlands. Based on the specimen design, the discharge is unlikely to change the water level or the hydrological function of the wetlands, but for the avoidance of doubt consent is sought for this activity.
<b>The discharge of water into water within or within a 100m setback from a natural inland wetland for the purpose of maintaining or operating specified infrastructure, and there is a hydrological connection, the discharge will enter the wetland and will change or is likely to change the water level range or hydrological function of the natural inland wetland.</b>	47(3A)	Restricted Discretionary	RM25-0466-DC.01  The Project includes the operation and maintenance of stormwater infrastructure which may result in a discharge of water into or in close proximity to wetlands. Based on the specimen design, the discharge is unlikely to change the water level or the hydrological function of the wetlands, but for the avoidance of doubt consent is sought for this activity.

### Bay of Plenty Regional Natural Resources Plan

Activity	Rule	Status	Comment
<i>s9 RMA</i>			
<b>Earthworks, Overburden Disposal</b>	LM R4 – Rule 1C	Discretionary	RM25-0466-LC.01  The Project includes approximately 100ha of earthworks, and extensive vegetation clearance which exceeds the volumes, exposed area and setback distances from water bodies of the permitted, controlled and restricted discretionary thresholds in the rules. It is therefore a discretionary activity.
<b>Vegetation Clearance</b>	LM R10 - Rule 2C	Discretionary	
<i>s9 and s13 RMA</i>			
<b>Wetland Modification and/or Destruction</b>	WL R9 – Rule 85	Discretionary	RM25-0466-LC.01  The Project traverses multiple wetlands which will be modified, partially lost or wholly lost. Note, for clarity, wetland restoration and enhancement which are proposed as mitigation, are permitted activities.
<i>s15 RMA</i>			
<b>Discharging Contaminants to Air</b>	AIR – Rule R16	Discretionary	RM25-0466-LC.01  The Project includes discharges of particulates (dust) to air from the disturbance of land and soil that exceed the permitted earthworks areas and volumes in rules LM R1, LM R2 or LM R3. Therefore, it is a discretionary activity.
<b>Discharge of Temporary Dust Suppressant Chemicals</b>	DW R8 – Rule 37	Discretionary	LC25-066-LC.01  Dust suppressants may be used during construction, and are a contaminant that may be discharged to land in circumstances which may result in it entering water, which is a discretionary activity
<i>s13 RMA</i>			
<b>Drilling within the Bed of a Watercourse (Piling)</b>	BW R36 – Rule 71	Discretionary	RM25-0466-LC.02  The Project includes multiple bridges that require the drilling

			of land for bridge piles within the bed of Watercourses. Any drilling, excavation or disturbance of a stream or riverbed is a discretionary activity.
<i>s14 RMA</i>			
<b>Drilling on Land that may Intercept Water Piling</b>	WQ – Rule 40A	Controlled	RM25-0466-LC.02  The Project includes the drilling of land for bridge piles and piles for other structures that may intercept groundwater. Any drilling that may intercept water is a controlled activity.
<i>s13 RMA</i>			
<b>Culvert Installation</b>	BW R36 – Rule 71	Discretionary	RMA25-0466-BC.01  The Project traverses multiple streams and wetlands and includes installation of new (additional) culverts and discharge structures in Watercourses, and their operation and maintenance.  The Project also includes the erection of bridge structures over Watercourses, and their operation and maintenance. The erection of structures in, on, under or over the bed of a stream, and associated disturbance, is a discretionary activity.  The Project includes permanent realignment and diversion of streams. Any disturbance or reclamation of the bed of a stream is a discretionary activity.
<b>Discharge Structure Installation</b>			
<b>Erecting Structures over the Bed of a Watercourse</b>			
<b>Maintenance of Structures in water bodies</b>			
<b>Reclaiming Watercourses associated with the installation of culverts and permanent diversions</b>			
<b>Surface Water damming or diversion</b>	WQ R21	Discretionary	RM25-0466-BC.01  The Project includes damming or diversion of Watercourses for the purpose of permanently realigning streams, together with temporary damming or diversion of Watercourses during construction. The stream realignments (ie permanent diversions) are a discretionary activity.
<i>s14 RMA</i>			
<b>Groundwater Damming or Diversion</b>	WQ R21 – Rule 48	Discretionary	RM25-0466-WT.01  The Project may include the temporary and permanent

			damming or diversion of groundwater as a result of earthworks intercepting groundwater, including diverting perched groundwater. Diversion of groundwater is a discretionary activity.
<b>Temporary take and use of groundwater for dewatering</b>	WQ – Rule 43	Discretionary	RM25-0466-WT.02  The Project may impact on areas where there is a high water table which will result in the temporary taking of groundwater due to earthworks intercepting groundwater during construction. There is uncertainty whether dewatering during construction can meet the permitted activity standard in Rule 42, so a discretionary activity application is required.
<i>s15 RMA</i>			
<b>Contaminated Land Disturbance and Remediation, and associated Discharges of Contaminants to Land or to Land that may Enter Water</b>	DW R25 – Rule 35	Restricted Discretionary	RM25-0466-DC.02  A preliminary site investigation has identified that parts of the land within the designation have been subject to potentially contaminating land uses in the past. Therefore, the Project will involve the disturbance of contaminated sites which requires a restricted discretionary application.
<b>Discharging Temporary Contaminants to Land</b>	DW R8 - Rule 37	Discretionary	RM25-0466-DC.01  The Project includes numerous construction activities that will generate contaminants that will be discharged to land or to water during construction. These are a discretionary activity under Rule DW R8.
<b>Discharging Temporary Stormwater to Water or to Land that may enter Water.</b>			
<b>Discharge of Chemical Flocculants during earthworks</b>			
<b>Discharge of Dewatering Fluid</b>			
<b>Discharge of cement to groundwater during piling</b>			
<b>Discharging permanent stormwater to Water or Land that may enter Water</b>	DW R8 - Rule 37	Discretionary	RM25-0466-DC.03  The Project includes permanent discharges of treated stormwater to water and to land. As the discharges from the highway may contain

			contaminants and therefore may not comply with the permitted or restricted discretionary stormwater discharge rules, a discretionary activity application is required.
--	--	--	--