

under: the Fast-track Approvals Act 2024

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

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

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

Dated: 21 May 2026

Reference: Paula Brosnahan (paula.brosnahan@chapmantripp.com)
Nicola de Wit (nicola.dewit@chapmantripp.com)

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

- 1 This memorandum is filed on behalf of the New Zealand Transport Agency Waka Kotahi (*NZTA*) in relation to its notices of requirement (*NORs*) and applications for resource consents and archaeological authorities (together, *Application*) for the North West Rapid Transit Project (*NWRT* or *Project*).
- 2 This memorandum responds to the Panel's request for information in Minute 5 dated 7 May 2026 (*RFI#2*).
- 3 We wish to acknowledge the Panel's careful consideration of the comments in our 9 April 2026 memorandum concerning the potential 'cross over' between *RFIs* and comments/responses to comments (as recorded in paragraph 9 of Minute 3). *NZTA* appreciates the opportunity to provide its response to *RFI#2* before the comment response period closes.
- 4 *NZTA's* response to *RFI#2* consists of:
 - 4.1 This memorandum, which contains commentary (relating to the relevance of previous decisions on *NZTA* projects and the effects of the Project) and addresses the parts of *RFI#2* concerning lapse dates and resource consents;
 - 4.2 The table in **Appendix A**, which provides *NZTA's* responses to the parts of *RFI#2* concerning the ecology, landscape and visual and transport assessments;
 - 4.3 The evidence of Ms Helen Hicks at **Appendix B**; and
 - 4.4 A corrected version of the redacted Ecology Assessment at **Appendix C**.

Relevance of previous decisions on *NZTA* projects to the Panel's decision-making on this Project

- 5 In both the Panel's first (Minute 3 dated 5 May 2026) (*RFI#1*) and second (*RFI#2*) requests for information, the Panel refers to the Supporting Growth Alliance (*SGA*) and the *NORs* lodged by *NZTA* and Auckland Transport (*AT*) through that alliance. The references suggest the Panel is considering differences between this Project and the *SGA* projects in its consideration of the *Application*.
- 6 As the Panel will be aware, previous *NOR* and resource consent decisions do not establish strict precedent. However, they are reference points, particular to their circumstances, that may be valuable for comparison. Previous decisions may be informative, but only where the issues and facts are analogous.¹ Caution is therefore required when making comparisons to previous projects as part of

¹ *Murphy v Rodney District Council* (2004) 10 ELRNZ 353 (HC).

the decision-making process. The focus of decision-making must be on the particular project and circumstances before the decision-maker, taking learnings from prior matters where appropriate.

- 7 In our submission, the Panel should be cautious when making comparisons between the SGA projects and NWRT, noting the following particular reasons:
- 7.1 *Different legal tests:* SGA sought NORs through the standard RMA process. In comparison, the Panel’s decision-making on NWRT must be undertaken in accordance with the legal framework set out in the Fast-track Approvals Act 2024 (FTAA). As set out in NZTA’s opening legal submissions, the FTAA framework contains a number of unique tests that differ substantially from the standalone RMA tests.
- 7.2 *Different policy framework:* SGA sought NORs during the period 2021-2024 under a different policy framework from that which applies today. Most relevantly, the National Policy Statement for Infrastructure 2025 (NPS-I) came into effect earlier this year (as addressed in our memorandum of counsel dated 1 May 2026).
- 7.3 *Construction ready:* SGA sought NORs only, for ‘route protection’ purposes, as the SGA projects are not intended to be constructed for decades.² For this Project, NZTA seeks NORs, resource consents and archaeological approvals to enable the construction and operation of the Project. Although it is anticipated the Project will be staged over a 20- year period as funding allows, the Project’s initial stages are expected to commence construction immediately following the grant of approvals (assuming they are granted).³
- 7.4 *Factual differences:* There are a number of important factual differences between the SGA projects and this Project, which are addressed in the response to the request for information concerning lapse periods below.

Response to the Panel’s request for information concerning lapse dates

- 8 RFI#2 includes the following comments and requests for information from the Panel:

[3] ... no specific assessment (beyond comment in the memorandum of counsel of 15 December 2025) has been provided in respect of the proposed lapse date(s) within the Application, as compared to the default period of 10 years (section 184(1) RMA)...

² Evidence of Helen Hicks, dated 21 May 2026 (*Ms Hicks’ evidence*), paragraph 20.

³ Part 2 – The Project, section 4.2.1.

[5] The condition structure of SGA conditions responded to proposed lapse dates... Those conditions established processes for the provision of information during the lapse period...

[6] The Panel was advised at the conference that more recently, the Applicant has decided to pursue changes to its approach to the way in which it would engage with affected parties through the lapse period and how that would be reflected in designation or consent conditions. However, the reasons for that has not been expressed in the application documentation... and may result in a high level of uncertainty and associated effects in view of the lengthy lapse period proposed.

[7] Further justification for the lapse dates is therefore sought, including with regard to the following considerations:

(a) The FTAA does not address NoR lapse dates, and refers instead to section 184(1) of the RMA - i.e., 10 years, having only recently been amended in August 2025 under the RM Amendment Act;

(b) Schedule 5 clause 26(3) of the FTAA provides that, "*If no date is specified under subclause (1), the approval lapses after it commences*" – in general terms this suggests a more confined timeframe than an extended one;

(c) Whether such an extended timeframe is consistent with the purpose of the FTAA (and Policy 4 of the National Policy Statement for Infrastructure) and whether the FTAA is the appropriate vehicle for a designation with a lapse period of this proposed duration...

(d) The impacts of a 25-year lapse period on landowners and occupiers of land affected by the proposed designations; and

(e) Whether further conditions are necessary and capable of appropriately managing effects arising from the proposed extent of the lapse period.

Justification for the 25-year lapse period (response to RFI#2, paras 3 and 7)

9 We consider the lapse issue raised by the Panel is a technicality that arises only because NZTA has sought more than one designation for the Project.⁴ However, NWRT is one project consisting of the construction, operation and maintenance of new bus rapid transit facilities alongside SH16 from the Brigham Creek/SH16 intersection through to Ian McKinnon Drive in the Auckland City Centre.⁵ It will of course take time to construct the whole, but it is clear that it is one bus rapid transit project.

⁴ NZTA seeks five primary designations for the Project – NOR 1, 2 and 3 to the west of the causeway and NOR 9 and 10 to its east – to reflect the staged construction of the Project, as well as seven overlapping designations for the stations.

⁵ Part 2 – The Project, Section 1.1.

- 10 It is presently anticipated that the first stage of Project works will commence in 2027.⁶ In our submission, if NZTA had not sought multiple designations, the first stage of works would “give effect to” the full suite of approvals for the Project⁷ such that none would lapse. NZTA is seeking multiple designations to:
- 10.1 assist with contract management;
 - 10.2 provide clear delineations for resource consent boundaries (assisting with compliance for both NZTA and Auckland Council); and
 - 10.3 enable future administration (and potential transfer) of parts of the Project (eg the stations).⁸
- 11 This approach will also allow the benefits of the Project to be delivered incrementally as funding becomes available to deliver stages of the Project. In our submission, it would be inconsistent with the purpose of the FTAA for lapse periods to be imposed that undermine that approach.
- 12 The reasons for the 25-year lapse period sought by NZTA are set out in paragraphs 13-18 of Ms Hicks’ evidence at Appendix B. In summary:
- 12.1 It is presently anticipated that the Project will be constructed over an approximately 20-year period.
 - 12.2 Indicative construction staging for the Project has been provided in the Application. However, the staging of the Project is not fixed, and needs to be flexible to accommodate changes in priority, funding and a range of other matters.
 - 12.3 A lapse period shorter than 25 years would risk one or more of the approvals lapsing prior to being implemented, which would lead to additional, unnecessary approval processes, which would be an inefficient use of time, resources and public funds. It would also subject affected landowners/occupiers (and the wider community) to additional processes – increasing their efforts and their uncertainty.

The default lapse period under s184(1) RMA (response to para 7(a) RFI#2)

- 13 Section 184(1) of the RMA was recently amended to increase the default lapse period for designations from 5 years to 10 years, and

⁶ Part 2 – The Project, Section 4.2.1.

⁷ *Biodiversity Defence Society Inc v Solid Energy New Zealand Limited* [2013] NZHC 3283 establishes that approvals are to be treated as an integrated package and it is not appropriate to examine whether each individual approval is given effect to (paragraphs 3 – 4).

⁸ Part 1 - Legal Submissions, paragraph 27.1.

NZTA considers that change reflects the legislature's acknowledgment that infrastructure development requires long lead-in times (including to allow for utility relocations).⁹

- 14 Additionally, the s184(1)(c) discretion for a decision-maker to specify a longer lapse period for a designation remains undisturbed. The RMA does not specify the matters to be considered when exercising that discretion. The Environment Court in *Beda Family Trust v Transit New Zealand*¹⁰ considered the following factors support a longer lapse period:¹¹
 - 14.1 The desirability of the lapse period reflecting the realistic timeframe within which the project is likely to be constructed;
 - 14.2 That the designation will safeguard the chosen alignment from inappropriate development in the period before the project becomes fundable;
 - 14.3 That the designation will provide certainty for affected landowners and the local community as to the requiring authority's future intentions over the longer term; and
 - 14.4 That the designation will provide certainty for the requiring authority that it will be able to fully implement the project when it becomes fundable.
- 15 NZTA considers that all of these factors are both relevant and important in this case. The reasons for the 25-year lapse period sought by NZTA for NWRT (as summarised above) meet and substantiate each of them.
- 16 NZTA is well-aware that a designation restricts what landowners can do with their land, and that the Environment Court's power to order a requiring authority to acquire land under s185 RMA will not always be an adequate remedy.¹² However, restrictions are both an unavoidable and intended consequence of planning for infrastructure.
- 17 In NZTA's experience, the confirmation of a designation often facilitates development of neighbouring land. A designation provides landowners (both directly impacted and adjacent), the community and the local authority with greater certainty as to where transport infrastructure will be built, and over what period of time. It allows landowners to plan accordingly at an individual level and enables the

⁹ Regulatory Impact Statement: Policy analysis of designations proposals for inclusion in Resource Management Amendment Bill no.2, dated 1 August 2024 (see page 6).

¹⁰ *Beda Family Trust v Transit New Zealand* EnvC A139/2004, 10 November 2004 (*Beda Family Trust*).

¹¹ *Beda Family Trust*, at [117].

¹² *Beda Family Trust*, at [118].

Council to plan for and support growth and development at a local level.

- 18 A shorter lapse period that does not reflect the timeframe within which the Project is likely to be constructed could be misleading by suggesting that parts of the Project will be progressed sooner than is likely. A shorter lapse period that risks approvals lapsing, and either an extension or fresh process, will not assist the community's understanding or desire for certainty. NZTA has established processes and practices to communicate with affected and interested communities, and to keep them up-to-date with the what, where and when of new transport infrastructure.
- 19 We also note that it is relatively common for designations for major roading projects to be confirmed with extended lapse periods. For example, the following NZTA projects were all granted 20-year lapse periods: Southern Links (Hamilton), Tauranga Eastern Link, Hamilton Ring Road (E1) and the Penlink Project (linking State Highway 1 and Whangaparaoa).

The relevance of Sch 5, cl 26(3) FTAA (response to para 7(b) RFI#2)

- 20 Schedule 5, clause 26(3) of the FTAA was amended on 31 March 2026 to insert "2 years" after "lapses".
- 21 NZTA acknowledges that clause 26 references a shorter default lapse period than that in the RMA. NZTA considers that while a relatively short lapse period may be appropriate for some projects approved under the FTAA (for example, a residential subdivision), the circumstances and requirements of each case will still determine what is appropriate. Clause 26 does not set a fixed or mandatory timeframe, nor is it intended to create a one-size-fits-all lapse period for all projects.
- 22 The FTAA retains the general discretion for decision-makers to set lapse periods that are longer than the default period. That position contrasts with the fast-track consenting process contained in the Natural and Built Environment Act 2023, which set a 2-year default lapse period and a 5-year maximum lapse period.¹³

Purpose of the FTAA and NPS-I (response to para 7(c) RFI#2)

- 23 NZTA considers the proposed lapse periods are consistent with the purpose of the FTAA and Policy 4 of the NPS-I as:
- 23.1 The FTAA provides a fast-track *approvals* process, but does not require a fast-track *delivery* process. While the purpose of the FTAA is "*to facilitate the delivery of infrastructure and development projects*", the FTAA does not require projects to be delivered immediately following approvals being granted. Rather, its purpose is to address the speed and efficiency of

¹³ Natural and Built Environment Act 2023, Schedule 10, Clause 36(7)-(8).

the process to obtain statutory approvals. It can be contrasted with the COVID-19 Recovery (Fast-track Consenting) Act 2020 which was explicitly directed at driving urgent delivery (as per its purpose to “urgently promote employment to support New Zealand’s recovery from the economic and social impacts of COVID-19 and to support the certainty of ongoing investment across New Zealand” (Section 4)).

- 23.2 NZTA is not seeking just “route protection” for the Project (leaving full approvals to be secured in the future). Rather, NZTA is seeking all approvals that are needed to be “construction ready” and, as identified in the indicative construction staging, NZTA intends to deliver parts of the Project immediately following the grant of approvals (assuming they are granted).
- 23.3 NZTA is seeking all necessary approvals for the busway and, as discussed above, has constructed the approvals package to provide contractual, compliance and administrative efficiencies. It would be inefficient and could potentially delay project delivery (inconsistent with Policy 4 of the NPS-I) to require repeat approval processes for different parts of the Project.
- 23.4 A lapse period shorter than 25-years for the approvals for this Project than NZTA has sought would undermine the FTAA purpose of facilitating infrastructure as it would risk one or more of the designations or consents lapsing prior to being implemented.
- 24 For the above reasons, NZTA considers the FTAA is an “*appropriate vehicle for a designation with a lapse period of [25 years]*”.
- The SGA approach is not relevant (response to para 5 RFI#2)**
- 25 Ms Hicks’ evidence at Appendix B addresses the approach taken to lapse periods for the SGA NORs and explains why the same approach is not appropriate for this Project.
- 26 Ms Hicks explains that the factual context for NWRT is very different from the SGA factual context. The vast majority of the busway will be located within an existing built-up urban environment, whereas the SGA projects were located predominantly in the Future Urban Zone. The timing of the SGA projects was uncertain because it was unknown when urbanisation would occur and the transport projects would be required.
- 27 Further, as noted above, the legal and policy context applying to this Project is different to that which applied to the SGA projects.

Uncertainty is not an environmental effect (response to paras 7(d) and (e) RFI#2)

- 28 Ms Hicks acknowledges that a longer lapse period means that landowners with properties subject to a designation may be uncomfortable with the lack of certainty about the timing of project implementation. However, she does not consider that discomfort to be an effect.¹⁴ Ms Hicks considers the way to manage this uncertainty is by NZTA communicating and providing information to those persons through a project-specific website, with contact details available for inquiries, and enabling people to subscribe to receive updates via email.
- 29 Ms Hicks does not consider any conditions, such as those developed (predominately by AT) through SGA, are necessary to manage an adverse effect from the proposed lapse period. Uncertainty is a consequence of a longer lapse period. However, uncertainty is not an effect and therefore a condition is not required. Additionally, NZTA already has processes set up to ensure communication and sharing of information with those impacted by the Project, and s185 RMA provides certain protection for landowners/occupiers.

NZTA's approach to lapse (response to para 6 RFI#2)

- 30 NZTA notes that the record of comments made at the project overview conference in paragraph 6 of Minute 5 is not accurate.
- 31 NZTA is not changing the way it engages with landowners and occupiers affected by a designation. NZTA consistently puts considerable effort into community and stakeholder engagement, going above and beyond any requirement in the RMA or other legislation. NZTA will continue to actively engage with impacted parties throughout all phases of this Project, including between approvals being granted and construction commencing.
- 32 The statement made at the project overview conference was that NZTA has deliberately examined and refined its approach to conditions generally. It is carefully considering the effects of its projects and how to manage those effects in conditions. For FTAA processes, it is doing so in a way that addresses the goals and imperatives of the FTAA and NZTA's objectives under the Government Policy Statement on Transport. NZTA is no longer proposing conditions that are not required to manage effects (except for some conditions offered on an *Augier* basis to address exceptional circumstances in relation to Project Partners or stakeholders). NZTA has invested time, care and effort into examining the scope and drafting of conditions, in order to focus on the appropriate management of effects and essential administrative content.

¹⁴ Ms Hicks' evidence, paragraph 26.

Information provided to support application for coastal permits

33 RFI#2 includes:

[8] ... the Panel has significant concern with the proposed applications for certain regional consents, in the absence of any suitably detailed plans associated with the subject matter of those consents and, again, the absence of 'Condition 1' in respect of them. As a particular example, the Application seeks consents under section 12 of the RMA, for construction and use of structures in the CMA, occupation of the seabed and ancillary activities in the Wai o Pareira/Henderson Creek and Huruhuru Creek... the Panel queries whether the requirements of Schedule 4 of the RMA are met by the proposed approach, and those set out in General Rule C1.2(1) of the AUP.

34 NZTA considers that Schedule 4 of the RMA, and Rule C1.2(1) of the Auckland Unitary Plan (*AUP*) (which requires an application for resource consent to include certain information) are not relevant to the Panel's decision-making under the FTAA. The EPA has determined the application to be complete. If the Panel considers further information is required, it may specify and request it.

35 NZTA has addressed the 'no Condition 1' approach in its response to RFI#1 (provided to the EPA on 19 May). In relation to the consents sought under s12 RMA, NZTA considers the scope of the activities for which it seeks consent is clearly defined by:

35.1 The limited extent of the Project Area at Wai-o-Pareira/Henderson Creek and Huruhuru Creek (as mapped in Schedule A to the Proposed Consent Conditions); and

35.2 The Project works in those two locations being limited to the construction and operation of bridge structures. Proposed Consent Condition 21 requires permanent bridge crossings of Henderson and Huruhuru Creeks with a minimum freeboard height no less than the existing SH16 bridge.

Relevance of extent to which standards are exceeded

36 RFI#2 includes:

[9] In reviewing Appendix C to Part 4 of the application, which sets out the consents the Applicant is seeking and activity status, the information provided does not enable the Panel to determine the extent of some of the excesses of standards that consent is sought for. For example, in relation to earthworks:

(a) E26.5.3.2(A103): To what extent does the proposal exceed the 50,000m³ threshold for the relevant area(s) under consideration (individual sections or cumulative)?

(b) E26.5.3.2(A107): What is the extent of earthworks within the SCPA (individual sections or cumulative)?

(c) E26.5.3.2(A118): What is the extent of earthworks within the SEA (individual sections or cumulative)?

(d) E10.4.1(A10): To what extent do the works exceed Standards E10.6.1 and Standard E10.6.4.2?"

- 37 The AUP standards inform the activity status for an application and (in some cases) inform assessment criteria. Where relevant standards will be exceeded, it is necessary to apply for resource consent.
- 38 The Application seeks all resource consents necessary for all works associated with the Project (including earthworks). The overall activity status for the resource consents sought is discretionary. All actual and potential effects of the Project are assessed in Part 4 of the Application, supported by the assessment reports in Part 6 prepared by NZTA's technical specialists. NZTA has proposed conditions that respond appropriately to the assessed effects, taking into account the relevant FTAA legal tests.
- 39 For those reasons, NZTA does not consider the Panel needs to understand the exact extent to which the Project will exceed the AUP standards to inform its decision-making.
- 40 In relation to the specific information sought in paragraphs 9(a) to (d), NZTA considered the extent of earthworks in those areas to inform its rules assessment. However, NZTA does not consider the information sought by the Panel to be necessary to inform its decision-making on the s9(2) consents sought. NZTA therefore has not provided responses to the specific requests from the Panel.
- 41 The earthworks for the Indicative Design would be approximately 35ha in total, with approximately 500,000 m³ of cut and 450,000 m³ of fill.¹⁵ For a major NZTA project, the scale of earthworks required is very small.
- 42 Regardless of the scale of earthworks required for the final design, as set out in NZTA's response to RFI#1, the proposed consent conditions require standard management measures to be implemented that will appropriately mitigate potential effects.¹⁶ No 'upper limit' on the extent of earthworks is therefore required to manage effects.

The Project's effects on the environment are minimal despite the scale of the infrastructure

- 43 As noted in our response to RFI#1, we consider it is important for the Panel to keep in mind during its consideration of the Application that the effects of this Project are very limited (either pre- or post-mitigation). The low level of effects could be surprising, particularly in the context of the scale of the infrastructure and benefits that will be delivered. The Project is complex – but generally due to matters that sit outside the resource management sphere (such as property acquisition). In our submission, the consenting process must respond

¹⁵ Assessment of Construction Stormwater Effects dated 15 December 2025, Section 4.2.

¹⁶ Memorandum of Counsel on behalf of NZ Transport Agency Waka Kotahi dated 19 May 2026, Appendix A, page 12.

proportionately to the Project's limited effects, not to the scale of the infrastructure itself.

Dated 21 May 2026

A handwritten signature in blue ink, appearing to be 'P. Brosnahan' or 'N. de Wit', written in a cursive style.

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

APPENDIX A

Panel’s request	NZTA response
Ecological Assessments (paras 11–12)	
<p>“The memorandum of counsel of 27 April 2026 included provision of two ecological peer review reports, and a redacted version of the Applicant’s original Ecological Assessment...” (para 11)</p> <p>“Having regard to the extent of redacted components of the Ecological Assessment, the Panel is unclear whether the author of that original Ecological Assessment is aware of the redactions made to their report. Please provide confirmation as to whether the report author remains of the view(s) set out within the remaining parts of the report in light of the redactions of certain of their recommendations (with that content since removed from the version now within the Application webpage, but which remains of the same December 2025 date of issue).” (para 12)</p>	<p>NZTA wishes to clarify that the Terrestrial Vegetation Ecology Assessment dated, 24 April 2026 (<i>Terrestrial Vegetation Assessment</i>), and the Freshwater Ecology Assessment, dated 27 April 2026 (<i>Freshwater Assessment</i>), were prepared following a peer review process. However, they are not “peer review reports” (ie commenting on the Assessment of Ecological Effects, dated 15 December 2025 (redacted version) (<i>Ecology Assessment</i>)) as they provide the opinions of the authors (Mr Andrew Blayney and Mr Jeremy Garrett-Walker respectively) in relation to the effects of the Project and their recommended management measures.</p> <p>Following lodgement of the Terrestrial Vegetation Assessment and the Freshwater Assessment, the scope of the Ecology Assessment, is limited to:</p> <ul style="list-style-type: none"> • The ecological desktop and site investigations (covered in Section 3); and • Assessment of actual and potential effects on terrestrial fauna, wetland and marine ecology, as well as the assessment relating to kauri dieback (covered in the remaining parts of Section 4–5 of the Ecology Assessment). <p>The reduced scope of the Ecology Assessment means it must be read carefully. The Executive Summary and Section 6 - Conclusion are unfortunately somewhat disjointed in light of the reduced scope. However, NZTA does not consider the Executive Summary is necessary to inform the Panel’s decision-making, and suggests it can safely be disregarded. The Conclusion should be read with the reduced scope of the Ecology Assessment in mind. Further, parts of Section 1 – Introduction and Section 2 – Assessment Methodology are no longer relevant to the extent they relate to the assessment of effects on terrestrial vegetation and streams. NZTA considers those sections have limited relevance to the Panel’s decision-making but nevertheless should be read with the reduced scope of the Ecology Assessment in mind.</p> <p>In preparing this response to RFI#2, it has come to our attention that some minor errors were made in the redacted version of the Ecology Assessment (on pages 42, 46 and 47). A corrected version of the Ecology Assessment has been lodged as Appendix C to this response.</p> <p>The author of the Ecology Assessment, Mr Ian Bredin, has confirmed that he remains of the views set out within Section 3 and the remaining parts of Sections 4–5 of the Ecology Assessment relating to terrestrial fauna, kauri dieback, wetland and marine ecology.</p> <p>NZTA notes that the parts of the Ecology Assessment relating to wetland ecology have no relevance to the Panel’s decision-making given NZTA is not seeking consents for works in or affecting wetlands.</p>

Panel's request	NZTA response
Landscape and Visual Assessment (paras 14-15)	
<p>a) Section 4.2.2.2 of the LVA states: "Where bridges span through the CMA they will be at a similar level to the existing SH16 carriageway and will be viewed as visually integrated elements, complementing the existing SH16 bridges and infrastructure"; (section 4.2.2.3 goes on to refer to 'colocation', and 'integrated with'). Further comment is sought in respect of the Henderson Creek crossing in particular, where it appears to be located approximately 40-50m south of SH16. Comment is also sought as to the author's assumptions as to the form and scale of the structure itself, including the likely support structures within the CMA and the natural character value of the creek in this location.</p>	<p>As the Panel is aware, the final design of the Project will be determined during detailed design and may differ from the Indicative Design. Regardless, as explained in NZTA's response to RFI#1, the Project works at Te Wai-o-Pareira/Henderson Creek are constrained by the limited extent of the Project Area in this location (as mapped in Schedule A to the Proposed Consent Conditions) and Proposed Consent Condition 21, which requires a permanent bridge crossing of Henderson Creek with a minimum freeboard height no less than the existing SH16 bridge.</p> <p>The Indicative Design bridge over Henderson Creek is separated from the existing SH16 bridge by a short distance to allow the Indicative Design to avoid the Watercare pump station and Transpower pylons on the eastern side of Henderson Creek. The Indicative Design over the Henderson Creek is a single bridge with a two-lane carriageway (one in each direction). It also includes a pier (or set of piers) in Henderson Creek (although section 4.2.1.3 of the Landscape and Visual Assessment referred to a single pier, the author (Mr Matthew Jones) has confirmed that a set of piers would not change his assessment). The Project design team has advised that piers are required within the CMA for the bridge spanning Henderson Creek, however piers within the permanent wet channel may not be required.</p> <p>We note that Henderson Creek is not identified in the AUP as an area of outstanding natural character or high natural character. Section 3.2.1.3 of the Landscape and Visual Assessment outlines that the natural character value of Henderson Creek is low-moderate <i>"...attributed to the coastal edge and tidal flow margin, the mangrove and native vegetation cover and also the presence of the adjacent industrial land uses and the existing SH16 motorway bridges and the degraded stream margin"</i>.</p> <p>Mr Jones has reviewed the Panel's query in paragraph 14(a) of RFI#2 and has confirmed that, even though the Indicative Design of the bridge over the Henderson Creek is not immediately adjacent to the existing bridge, it will be viewed in the context of the existing SH16 and will be read as integrated transport infrastructure associated with the SH16 corridor.</p>
<p>b) The LVA assessment refers at numerous places to the 'presumption of landscaping' being carried out, along with riparian margin restoration. Clarification is sought as to how is this to be ensured (beyond the broad requirements of Condition 26), and whether there a specific landscape strategy proposed for this landscaping (e.g., nature of species, expected specimen tree distribution/heights etc) that is relevant to the context and landscape conditions of the various sections of the designation route? See also item (g) below.</p>	<p>It is standard NZTA practice to undertake landscaping following completion of construction. NZTA is intrinsically motivated to undertake landscape planting in areas not under pavement to minimise its maintenance burden. The details of landscape planting for this Project will be determined closer to construction of the relevant stage, when it is known what vegetation can likely be retained and what locations will be available for planting. No 'specific landscape strategy' has been prepared for the Project at this stage as those types of details will not be confirmed until closer to construction. As specified in Proposed Designation Condition 26, the landscaping proposed for each stage of the Project will be shown in the Outline Plan, as appropriate under the RMA.</p>

Panel's request	NZTA response
<p>c) Please advise why no specific assessment has been provided in respect of the effects of the overpass and intersection structures on the landscape values of the ONF at Orangihina Park (Harbour View Pleistocene Terraces).</p>	<p>Section 3.1 of the Landscape and Visual Assessment notes:</p> <p><i>There are three Outstanding Natural Features (ONFs) in the vicinity of the Proposed Designation. These are the Harbour View Pleistocene Terraces (ID ONF40), Meola Creek and Estuary (ID ONF95), and the Northwest Motorway lava flow, Western Springs (ID ONF132). ONFs are identified under the Auckland Unitary Plan (Operative in Part) (AUP) for earth science values rather than landscape values and are addressed in Part 4 of the application.</i></p> <p>Section 4.3.1.1 of the Landscape and Visual Assessment provides an assessment of the relevant part of the Project, including the proposed 'raised landform' within Ōrangihina Harbour View Park.</p> <p>The potential effects of the Project on the Harbour View Pleistocene Terraces ONF are assessed in Section 15.2.1 of Part 4 – RMA 1991 Approvals given the attributes for which the ONF is scheduled relate to scientific and geological matters, not landscape values.</p>
<p>d) Section 4.3.1.1 (Stations): The LVA advises that "[t]he scale and form of the proposed stations per the Indicative Design will be consistent with the anticipated character and land use along the transport corridor. They will not be out of context or unexpected within this environment". Please provide additional comment in this regard with respect to the current residential context of McCormick Green (Te Atatu).</p>	<p>The Te Atatū Ōrangihina station will be located on what is presently the McCormick Green reserve (open space). The station is located at a major junction where SH16 intersects and connects with Te Atatū Road. To the south and west of the Te Atatū Ōrangihina station, the land use is residential. Accordingly, the context for this proposed station is a mixture of transport and major utility infrastructure and residential land use. The residential context will be reinforced by intensification around the station over time, as enabled by the National Policy Statement on Urban Development and Auckland Unitary Plan (AUP).</p> <p>The author of the Landscape and Visual Assessment has reviewed the Panel's query in paragraph 14(d) and has confirmed his opinion is that, although the Te Atatū Ōrangihina station will result in the loss of open space and an increase in transport infrastructure, the station's location is logically proximate to the SH16/Te Atatu Road intersection, which provides connection to the wider area, particularly into Te Atatū north and south. He considers the proposed Te Atatū Ōrangihina station and associated infrastructure is appropriate in this context.</p>
<p>e) The Panel queries why, for proposed crossings of SH16, and the Great North Road viaduct, visual perspective illustrations have not been provided to assist to inform the assessments provided in the LVA (noting the comment that these structures "will be highly visible due to their scale").</p>	<p>NZTA has not provided 'visual perspective illustrations' of the Indicative Design in its application documentation because it considers such information could be misleading. As the Panel is aware, the Indicative Design is likely to change through the detailed design process. In our experience, 'visual perspective illustrations' can give a false sense of certainty of design (ie readers of the application expect that what is shown in the illustrations will be what is constructed). Accordingly, the assessments have been based on the Indicative Design as described in Part 2 – The Project and shown in Attachment 6.1 – Indicative Design West, and Attachment 6.2 – Indicative Design East, with sensitivity testing undertaken to account for potential design changes within the Project Area as described in NZTA's response to RFI#1.</p>

Panel's request	NZTA response
<p>f) Section 4.4.2 of the LVA advises that there is a lack of design certainty and that the potential for more vertical changes would be 'moderate/moderate-high' in regard to Westgate, Royal Road, Lincoln Road, Te Atatu and Point Chevalier. Please advise as to how a change in effects of this scale is to be managed.</p>	<p>NZTA is not proposing any mitigation for the effects of the structures that are a necessary and integral part of the Project. As noted in Section 6 of the Landscape and Visual Assessment, large, elevated structures have unavoidable adverse impacts, however those impacts are localised to the areas proximate to the Project.</p> <p>Policy 1(1) of the National Policy Statement for Infrastructure 2025 (NPS-I) requires the Panel to "ensure that the national, regional or local benefits of infrastructure, relative to any localised adverse effects on the environment, are recognised and provided for". NZTA considers Policy 1(1) means that localised adverse effects are acceptable in order to deliver the benefits that infrastructure such as the NWRT will provide. The purpose of the FTAA also supports that approach.</p>
<p>g) Section 6 of the LVA incorporates a recommendation that landscape plans are provided for each stage as follows: ...</p> <p>However, proposed Condition 26 is as follows: ...</p> <p>Please advise of the basis as to why the proposed condition does not incorporate the matters recommended in the LVA.</p>	<p>Section 5 of the Landscape and Visual Assessment recommends that the Project "implements landscaping as normally carried out as part of major transport infrastructure works". While the Landscape and Visual Assessment recommends a condition to require a landscape plan to be prepared for each stage of the Project, NZTA does not consider such a condition is necessary to achieve the recommendation set out in the Assessment. The Outline Plan for each stage of the Project will show "the height, shape, and bulk of the ... work", "the likely finished contour of the site" and "the landscaping proposed" as required by s176A(3) of the RMA. It is not necessary for a condition to duplicate those requirements. It is also inappropriate for a condition to require NZTA to comply with its own guidelines (which may also change from time to time).</p>

Panel's request	NZTA response
Assessment of Transport Effects (para 16)	
<p>a) "The ATE concludes that with mitigation of a CTMP, any temporary effects during construction can be managed to no more than minor. The Panel requires the Applicant define what it considers to be 'minor' effects - e.g., could this be via a one or two step loss in LOS or a certain level of reduction in capacity?"</p>	<p>Mrs Meredith Bates, Mr Brian Andrew Foy and Mr Matthew Hoyle (the authors of the Assessment of Transport Effects) have advised that:</p> <p><i>We expect the construction of the Project in accordance with standard temporary traffic management techniques will require (at times) reduced speed limits, narrowed lanes and lane shifts on the state highway and local road network, additional site access points, and lane closures outside of peak periods. As set out in NZTA's proposed designation condition 16, the CTMP will detail minimum network performance parameters and measures to be implemented in the event of those parameters being exceeded. Where capacity impacts affect the state highway, those are for NZTA to manage in the usual course as Road Controlling Authority under the Land Transport Management Act.</i></p> <p><i>The construction traffic effects are likely to be in line with other major projects. While there would be a reduction in capacity, delays would be minimised through the measures set out in the CTMP. In our opinion, for the reasons set out in the Assessment of Transport Effects and above, the Project will have minor construction traffic effects.</i></p>
<p>b) "The Panel is interested in testing the Applicant's definition of 'temporary effects' for each stage noting that some stages of construction are expected to take up to four years."</p>	<p>NZTA considers 'temporary effects' means effects that are "not lasting or permanent". Given the scale and significance of this Project, it is to be expected that some construction stages will be in the order of four years. We also note that transport effects will not be constant over a four-year construction period – they will vary and be intermittent based on the specific construction activities and locations at any particular time.</p> <p>As a guide, we note that temporary activities associated with building or construction for up to a 24-month period are a permitted activity (E40.4.1 (A20) in the AUP).</p>
<p>c) Section 3.3.1.3 of the ATE recommends widening of the Hobsonville off-ramp before construction works start – however this is not identified within the draft conditions and whether it will impact on the overall timeframe of construction or level of effects if it is not undertaken. The Panel seeks clarification on this matter.</p>	<p>For context, we note that NZTA could widen the Hobsonville off-ramp under its existing SH16 designation at any time.</p> <p>In relation to construction sequencing for this Project more generally, the Assessment of Transport Effects is based on indicative construction sequencing, but also provides sensitivity testing of changes to that construction sequencing (Section 3.5.4). The authors conclude that "the sequencing of major components may influence the nature and extent of construction transport effects and the CTMP should require the contractor to consider the construction sequencing within the CTMP". In accordance with that recommendation, NZTA's Proposed Designation Condition 16 requires the CTMP to address minimum network performance parameters and measures to be implemented in the event of those parameters being exceeded. NZTA will also be proposing an amendment to Condition 16 to explicitly require construction sequencing to be addressed in the CTMP.</p>

Panel's request	NZTA response
	<p>It is not appropriate for the conditions to 'lock in' the indicative construction sequencing, which has been prepared for the Indicative Design. Alternative sequencing may be required for a variety of reasons, and may also better manage traffic during the construction of the final design.</p> <p>Regardless of the conditions, NZTA is intrinsically motivated to ensure the construction sequencing is as efficient as possible and that it minimises construction transport effects given the potential impacts on its network.</p>
<p>d) The ATE refers to several transport models utilised to determine both construction and operational effects on both SH16 and the local road network. However, it provides no material outputs to validate the conclusions made. The Panel seeks more information in this regard to verify the assumptions on level of effect on the road network both during construction and operationally.</p>	<p>NZTA considers operational transport model outputs are not necessary to inform the Panel's decision-making on the Application given the operational transport effects of the Project are overwhelmingly positive. If there are specific operational transport effects that the Panel are considering, NZTA invites the Panel to issue a request for model outputs relating to those effects.</p> <p>NZTA expects to address construction traffic matters in its response to comments. Accordingly, relying on paragraphs 17 and 18 of Minute 5, NZTA elects to respond to the construction transport aspect of this request for information in the context of its response to comments.</p>
<p>e) Westgate Shopping Centre: The ATE indicates the potential for the loss of 244 parking spaces. What is the current usage rate of the 1,350 spaces referred to in the ATE and can 244 spaces be removed and parking supply be reasonably sustained?</p>	<p>The Proposed Designation includes 244 car parking spaces at the Westgate Shopping Centre, which may not be able to be used during construction. The number of car parking spaces permanently impacted will depend on the final design of the Project.</p> <p>The loss of private car parking spaces will be addressed through the PWA process. NZTA also notes that the landowners could remove those spaces at any time on their own initiative.</p>
<p>f) Royal Road station: The ATE recommends (at p15): "the construction of the new bus overbridge to be completed prior to commencing the underpass construction. This will enable general traffic to be diverted onto the overbridge during underpass works, diverting traffic away from construction areas and maintaining east-west connectivity across Royal Road". However, this is not identified within the draft conditions. The Panel seeks greater clarification on the effects of this diversion during construction and how it is to be secured via consent conditions.</p>	<p>As per the response to (c) above:</p> <p>In relation to construction sequencing for this Project more generally, the Assessment of Transport Effects is based on indicative construction sequencing, but also provides sensitivity testing of changes to that construction sequencing (Section 3.5.4). The authors conclude that "the sequencing of major components may influence the nature and extent of construction transport effects and the CTMP should require the contractor to consider the construction sequencing within the CTMP". In accordance with that recommendation, NZTA's Proposed Designation Condition 16 requires the CTMP to address minimum network performance parameters and measures to be implemented in the event of those parameters being exceeded. NZTA will also be proposing an amendment to Condition 16 to explicitly require construction sequencing to be addressed in the CTMP.</p> <p>It is not appropriate for the conditions to 'lock in' the indicative construction sequencing, which has been prepared for the Indicative Design. Alternative sequencing may be required for a variety of reasons, and may also better manage traffic during the construction of the final design.</p>

Panel's request	NZTA response
	Regardless of the conditions, NZTA is intrinsically motivated to ensure the construction sequencing is as efficient as possible and that it minimises construction transport effects given the potential impacts on its network.
g) The Panel queries whether the expected construction timeframe for the Royal Road overbridge incorporates the existing piers (currently covered, as described during the site visit) on the western side of SH16, but also the need to relocate the Watercare NH1 main and associated connections.	The Project team considers the timeframe of "approximately three years" for construction of the Royal Road overbridge is appropriate based on NZTA's ongoing engagement with Watercare in relation to NH1 and the existing Royal Road bridge and western approach was designed with provision for an additional span.
h) Lincoln Road: The Panel seeks clarification with respect to the overlap with AT designation 1477 as to the rationale for this overlap, and in terms of timeframes and compatibility of indicative design approaches for each designation (noting also the requirement within the AT designation for a Detailed Urban Design and Landscape Design Plan).	<p>The Proposed Designation overlaps with the Auckland Transport designation 1477 so that NZTA can undertake the work associated with the Project regardless of AT's timing on the Lincoln Road improvement project. The area of overlap is for intersection improvements at Lincoln Road/Triangle Road and Central Park Drive so that buses for the Project can efficiently access the Lincoln Road/Wai-o-Pareira Station. The AT designation extends beyond the Proposed Designation to the south on Lincoln Road to provide for future improvements.</p> <p>AT is the primary designation holder in this location and NZTA must seek their approval for any works within designation 1477 under s176 of the RMA.</p> <p>AT has advised that the Lincoln Road widening project is currently on hold with no future timing confirmed.</p> <p>NZTA and AT will continue to work together to coordinate both projects.</p>
i) Ian McKinnon Drive Connection: The ATE identifies the effect of 'Short term congestion', but notes a three-year construction period. Can this timeframe and description of effects be clarified.	Congestion will not be constant, nor at a constant level over a three-year construction period. The transport effects arising from the construction of the Ian McKinnon Drive Connection will vary based on the specific construction activities being undertaken at any particular time. They will be managed through measures set out in the CTMP required by NZTA's proposed designation condition 16 .
j) Pt Chevalier: The ATE at p21 indicates a construction timeframe of three and half years for the Pt Chevalier Station and underpass. However, at p22) a construction period of three years is indicated. Please clarify which one is correct.	The approximate construction timeframe for the Point Chevalier Station and underpass is estimated to be 3.5 years. The reference to a 3-year construction timeframe on page 22 is an error.

Panel's request	NZTA response
<p>k) Page 23 of the ATE states: "We recommend that two-way bus movements across the Carrington Road bridge are maintained throughout the construction period around Point Chevalier to preserve the operational reliability of existing bus services, including the OuterLink route, which operates every 12 minutes on weekdays from 6am to midnight." However, this is not identified within the draft conditions. The Panel seeks clarification on how this will be accommodated or the level of effects if it is not undertaken.</p>	<p>Any restrictions on bus movements across the Carrington Road bridge will be managed through the Traffic Management Plan required for works on the arterial network, which must be approved by the Road Controlling Authority. There is no need for conditions to duplicate this existing process.</p>
<p>l) On p23 the ATE states: "The Indicative Design shifts the SH16 motorway lanes southwards over a distance of approximately 800m to enable construction of a section of busway between the motorway and properties immediately north of the motorway, east of the Carrington Road bridge. This will require temporary narrowing and shifts of all motorway lanes. Widening occurs progressively from the south creating additional working room. Temporary speed limits and temporary traffic measures will slow vehicle movement on SH16 and lead to reduced road capacity, congestion and longer travel times for general traffic. In our opinion the temporary delays will be minor". There appears no basis provided for this conclusion. The Panel seeks clarification on this matter. On what basis is the conclusion formed and how is this addressed within the conditions.</p>	<p>For context, NZTA notes that it may undertake the specific works within SH16 under its existing designation, regardless of this Project. The works would not be subject to any conditions addressing construction traffic effects, and would be managed by NZTA in the normal way to minimise disruption to its network.</p> <p>The authors of the Assessment of Transport Effects have advised that:</p> <p><i>As set out in our assessment, we expect the shifting of the SH16 motorway lanes can be achieved in a staged manner with narrowing and shifts of lanes, and any lane closures limited to night time works. We do not expect there will be any need to close access at interchanges. We consider this level of effect to be minor.</i></p> <p>NZTA's Proposed Designation Condition 16 requiring preparation and implementation of a CTMP will apply to the works undertaken as part of this Project.</p>
<p>m) The ATE at 3.5.4 states: "We recommend CTMPs to consider construction sequencing within individual work packages and in coordination with other work packages in the Project (if staging were to change or accelerate) and with other concurrent projects in the area. CTMPs should provide measures to address any cumulative effects that may arise from simultaneous activities". However, this is not identified within the conditions. The Panel seeks clarification on how this will be addressed.</p>	<p>As per the response to (c) above:</p> <p>In relation to construction sequencing for this Project more generally, the Assessment of Transport Effects is based on indicative construction sequencing, but also provides sensitivity testing of changes to that construction sequencing (Section 3.5.4). The authors conclude that "the sequencing of major components may influence the nature and extent of construction transport effects and the CTMP should require the contractor to consider the construction sequencing within the CTMP". In accordance with that recommendation, NZTA's Proposed Designation Condition 16 requires the CTMP to address minimum network performance parameters and measures to be implemented in the event of those parameters being exceeded. NZTA will also be proposing an amendment to Condition 16 to explicitly require construction sequencing to be addressed in the CTMP.</p>

Panel's request	NZTA response
	<p>It is not appropriate for the conditions to 'lock in' the indicative construction sequencing, which has been prepared for the Indicative Design. Alternative sequencing may be required for a variety of reasons, and may also better manage traffic during the construction of the final design.</p> <p>Regardless of the conditions, NZTA is intrinsically motivated to ensure the construction sequencing is as efficient as possible and that it minimises construction transport effects given the potential impacts on its network.</p>
<p>n) The ATE at 4.3.6 states: "We understand property access relocation will be addressed through PWA processes, and therefore there will be no adverse effects." Why is there then specific conditions that relate to continued supermarket access (Pt Chevalier and Westgate), and the basis and sufficiency of specific condition requirements?</p>	<p>The Outline Plan is legally required to address vehicle access (s176A(3)(d)). Further, the requirements of the Government Roadway Powers Act 1989 and Public Works Act 1981 will ensure that properties with existing access continue to be provided with access following roadworks. No specific conditions are needed to duplicate these existing (and well established) processes and obligations.</p> <p>The New World and Woolworths Westgate sites are unique as they must accommodate heavy vehicle loading and manoeuvring. The proposed conditions are intended to minimise any disruption to the continued operation of those businesses.</p>