

Before an Expert Panel appointed under the Fast-track Approvals Act 2024

I mua i te roopu tohunga

Under	The Fast-track Approvals Act 2024 ('FTAA')
In the matter of	A substantive application for alterations to existing designations, resource consents, a wildlife approval, and complex freshwater fisheries activity to construct, maintain and operate the Mill Road Project – Stage 1
By	New Zealand Transport Agency Waka Kotahi Applicant

Legal submissions for the New Zealand Transport Agency

Waka Kotahi

Dated 17 September 2026

DENTONS

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1 Introduction

- 1.1 These submissions support the substantive application lodged by the New Zealand Transport Agency Waka Kotahi (**'NZTA'**) under the Fast-track Approvals Act 2024 (**'FTAA'**) for alterations to designations, resource consents, wildlife approvals and freshwater fisheries approvals (collectively, the **'Application'**).
- 1.2 The Application relates to a 7.1km transport corridor between the State Highway 1 (**'SH1'**) interchange at Redoubt Road and the Phillips Road intersection with Mill Road. It seeks to authorise both upgraded sections of the existing Redoubt Road and Mill Road and offline sections of new road corridor where the route deviates from the existing Mill Road (the **'Project'**).
- 1.3 The Minister for the Environment referred the Project under section 26 of the FTAA on 11 November 2025.
- 1.4 These submissions have been prepared to assist the Panel convenor and the Panel in their consideration of the Application against the requirements of the FTAA. They provide an overview of the relevant statutory framework and the key matters that the Panel will need to consider.
- 1.5 In preparing the Application, NZTA has sought to ensure its scope and contents are proportional to the complexity of the Project, the approvals sought, and the nature and scale of the Project's impacts.¹ Consequently, the Application documentation reflects the focus and context of the FTAA, and it has been carefully tested to ensure it provides the Panel with the necessary information.
- 1.6 We submit that the Project meets the purpose of the FTAA and comfortably satisfies the relevant statutory tests such that the approvals can be granted by the Panel. The Project will deliver significant national and regional benefits as evidenced by the fact that it forms part of a Road of National Significance (**'RoNS'**) under the Government Policy Statement on Land Transport 2024 (**'GPS 2024'**), and is a priority 2 regionally significant activity in the Auckland Regional Land Transport Plan (**'RLTP'**). The economic benefits from the construction phase alone are regionally significant. When the operational benefits of the Project are also taken into account, this major infrastructure project will have a significant economic impact at a national scale.

¹ See the Panel Conveners' Practice and Procedure Guidance, paragraph 4.1(c).

- 1.7 NZTA acknowledges that Mana Whenua² consider the loss of ancient rākau resulting from the construction of the Project to have a significant adverse effect on cultural values. NZTA has sought to avoid these effects as far as practicable, and to manage them through a Cultural Management Plan and Old Growth Tree Management Plan. In all other respects, the adverse effects resulting from the Project are, at most, no more than minor.
- 1.8 We submit that the Project is consistent with the purpose of the FTAA and that the approvals sought in the Application can be granted by the Panel.

2 Scope of these submissions

- 2.1 These submissions provide an overview of:
- a The background to the Project;
 - b The Project;
 - c The benefits of the Project;
 - d The Application;
 - e The approach to invited comments;
 - f The statutory framework; and
 - g The conditions proposed by NZTA to manage the effects of the Project.

3 Background to the Project

- 3.1 The strategic need for the upgrading of the Mill Road corridor has been extensively considered through successive studies and business cases dating back to 2004. The Project has long been anticipated by the local community.
- 3.2 Auckland Transport ('AT') obtained three designations for the Project in 2016 ('Existing Designations') as shown on Figure 1 below.

² The relevant Mana Whenua groups are listed in Section 10.4 of Part B of the Substantive Application Report.



Figure1: The Existing Designations

- 3.3 Extensive stakeholder consultation undertaken by AT informed numerous aspects of the design that underpins the Existing Designations and their conditions. AT's decision on the designations was also appealed to the Environment Court and further changes were made to the design of the Project and the conditions as part of that process. Consent orders were issued by the Court in 2016.
- 3.4 In 2018 the Existing Designations became part of the Te Tupu Ngātahi Supporting Growth³ programme. The Existing Designations became known as 'Stage 1' of the broader 'Mill Road Corridor' which extends further south to reconnect with SH1 and includes the Takaanini, Papakura and Drury sections (see **Figure 2** below).
- 3.5 Financial responsibility for the delivery of the Mill Road Corridor was passed to NZTA in 2020 and in 2024 the Corridor was identified as a RoNS in the GPS 2024. An Investment Case was endorsed by the NZTA Board in April 2025 and provided approval to proceed with the design of, and consenting for, the Project (i.e. Stage 1 of the Mill Road Corridor). AT transferred the Existing Designations

³ Te Tupu Ngātahi Supporting Growth (Te Tupu Ngātahi) is a collaboration between Auckland Transport (AT) and New Zealand Transport Agency Waka Kotahi (NZTA) to undertake route protection for strategic transport networks to support Auckland's planned growth over the next 30+ years.

for the Project to NZTA on 21 October 2025.

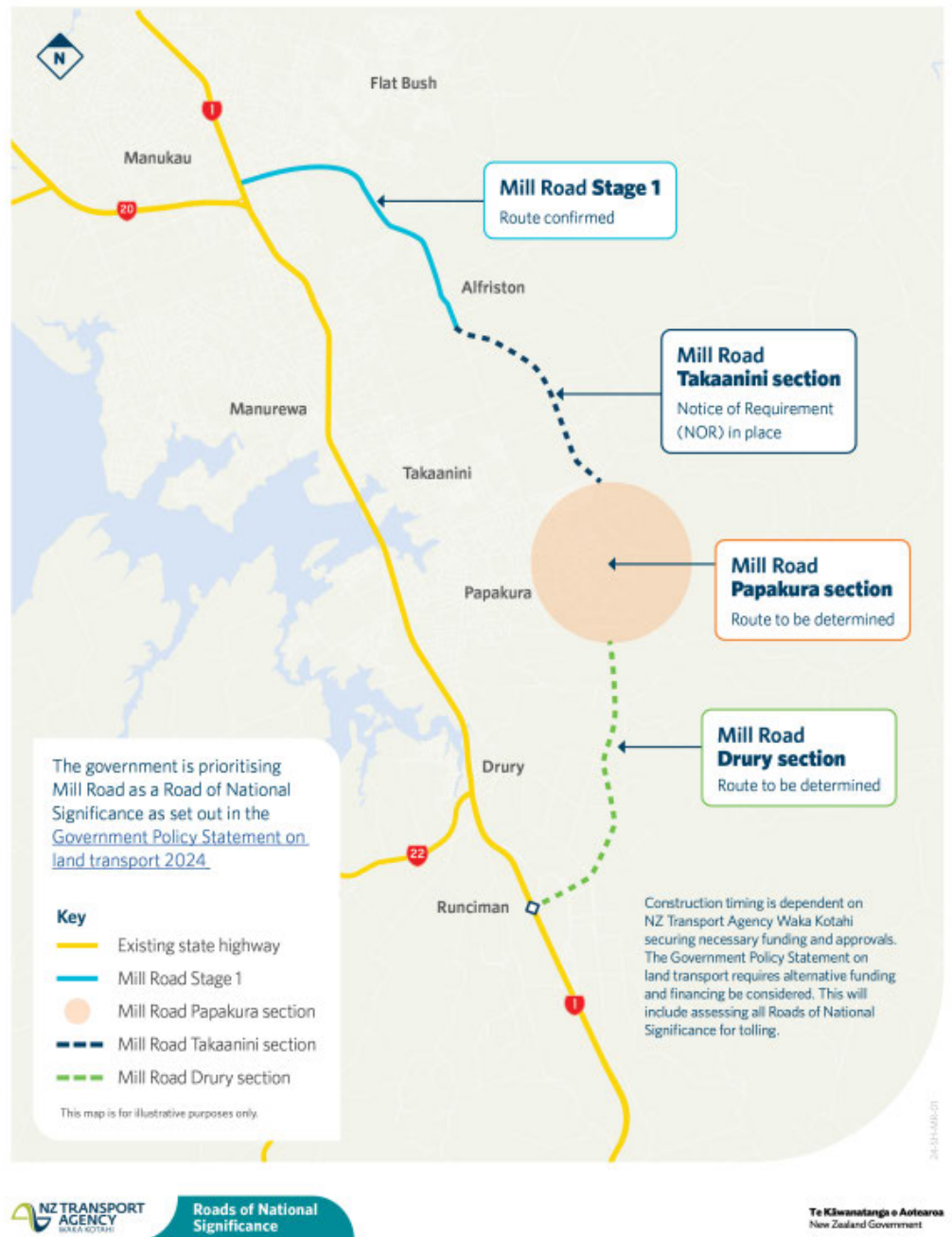


Figure 2: Wider Mill Road Corridor showing the remaining indicative stages.

- 3.6 The Mill Road Corridor is listed in Schedule 2 of the FTAA. However, at the time that NZTA commenced preparation of this Application the FTAA did not enable the staging of listed projects. Accordingly, NZTA sought the referral of Stage 1 of the Mill Road Corridor and a decision on the referral application was issued on 14 November 2025. NZTA relies on the referral decision for this Project (rather than seeking staging of the listed project which it could now do following the 2025 amendments to the FTAA).

- 3.7 NZTA lodged a notice of requirement (**NoR**) with Auckland Council for the Takaanini section of the Mill Road Corridor in June 2025. The remaining approvals for future stages of the Mill Road Corridor will be sought at a later date.

4 The Project

- 4.1 NZTA's objective for the Project is to provide an upgraded transport corridor between the SH1 Redoubt Road Interchange and the intersection of Mill Road and Phillip Road in order to improve:
- a Traffic efficiency – The existing two-lane corridor experiences significant congestion during peak periods due to its limited capacity and frequent disruptions caused by crashes and by turning traffic between Redoubt Road/Mill Road and side roads; and
 - b Enhance network resilience – The southern Auckland transport network is vulnerable to incidents on SH1. When closures or disruptions occur, traffic is diverted to the already constrained local road network, including Mill Road. The level of congestion on Mill Road means it is not an effective alternative route.
- 4.2 A detailed description of the Project is provided in Section 5 of Part B of the Substantive Application Report ('**SAR**') and is not repeated here. The key components of this 7.1km long project are:
- a Realignment, widening, and upgrading of Redoubt Road and Mill Road to form a four-lane transport corridor, including associated local road connections;
 - b Provision of a westbound bus lane on Redoubt Road between Hollyford Drive and SH1;
 - c Construction of a new shared use path between SH1 and Murphys Road;
 - d Signalisation or upgrades to traffic signals at five existing intersections – Diorella Drive, Hollyford Drive/Everglade Drive, Goodwood Road, Hilltop Road, and Murphys Road;
 - e Intersection upgrades at Bartells Drive and Alexia Place; and
 - f Construction of three new bridges (within the Rural Section) where the road alignment crosses the existing Mill Road, Puhinui Gully, and Cheesman's Bush.

- 4.3 Over the past two years, NZTA has retested and advanced the design that underpins the Existing Designations. The following factors have influenced that work:
- a The Mill Road Corridor is now a RoNS which means there is an increased emphasis on value-for-money, and reduced emphasis on multi-modal investment;
 - b The Project objective has been revisited to align with the GPS-2024; and
 - c NZTA has published RoNS standards that guide the design of RoNS projects.
- 4.4 NZTA is advancing the design for the Project to prepare for it to be ready for construction. This Project differs from other NZTA projects in the following respects:
- a There is a long history of discussions with, and commitments to, Mana Whenua, key stakeholders and the community;
 - b It involves an alteration to a designation which has a set of conditions which are not fit for purpose and require changes for various reasons explained below;⁴
 - c The Project's design is well advanced and the level of design detail available has enabled NZTA to finalise management plans which are included within this Application; and
 - d The level of detail available has also enabled NZTA to seek a waiver to the outline plan approval as part of the Application.
- 4.5 These factors, and the advanced stage of the design process, have meant that a number of amendments need to be made to the physical footprint of the Existing Designations as follows:
- a Provision of a new roundabout intersection connecting the new Mill Road alignment with existing Redoubt Road and Kinnard Lane to enable continued connectivity to the 'Old' Mill Road alignment via Redoubt Road;
 - b Inclusion of a bridge on the new Mill Road alignment where it crosses the existing alignment, allowing the existing route to remain open (replaces the

⁴ Section 2.4 of Part C of the SAR also explains the rationale for the changes to the conditions in more detail.

embankment proposed in the 2014 design which would have necessitated closure of the existing alignment);

- c Changes have been made to the provision for active modes. A shared use path is proposed in the urban/peri-urban sections of the Project and the 'Old Mill Road' will be used for walking and cycling access in the rural section.
- d Various changes are proposed to key intersections and the configuration of access to specific properties.
- e A raised median barrier is proposed on Redoubt Road between SH1 and Hollyford Drive, replacing the flush median proposed in the Existing Designations.
- f A wire rope median barrier is proposed within parts of the rural section.
- g Various changes have been made to the designs for the Puhinui Gully and Cheesman's Bush bridges as a result of further work to avoid Significant Trees⁵ and minimise impacts on Significant Ecological Areas ('SEAs').
- h Changes have been made to the stormwater management design (and the land areas required to accommodate stormwater management) including:
 - i Updates to reflect Auckland Council's new GD01 which was introduced after the Existing Designations were confirmed;
 - ii Adoption of a higher level of stormwater treatment through adoption of a treatment train approach;
 - iii Adjustments to the location and type of devices proposed as a result of changes in road geometry, to address flood risk, inclusion of raingardens in some locations, and changes to culvert designs.
- i Additional areas of restoration and enhancement planting outside the Existing Designations are proposed at Cheesman's Bush and Puhinui Gully.
- j Changes to the interface with Tōtara Park, including a new accessway for the Tōtara Park Equestrian Centre off Redoubt Road.

⁵ The term 'Significant Trees' is defined in the Old Growth Tree Management Plan and in summary includes old growth/remnant, large and mature trees as well as nine identified sub-mature trees.

- k The creation of approximately 2 hectares of lizard habitat at the [REDACTED]
[REDACTED]
 - l Shallower cut batters and reduced retaining wall heights are proposed at the Murphys Road tie-in following completion of site investigations.
 - m Retaining walls are proposed at several locations within the rural section of the Project to reduce impacts on streams and to minimise culvert lengths.
 - n Changes required to provide sufficient construction working space.
- 4.6 Alterations to the boundaries of the Existing Designations are sought where necessary to accommodate these changes.⁶
- 4.7 An alteration to the purpose of the Existing Designations is also required. The wording in the Existing Designations does not reflect what was sought by AT or NZTA's requiring authority status and some further changes have been made to accurately describe the purpose of the Project.⁷
- 4.8 Alterations are also sought to the internal boundaries between the three designations that form the Existing Designations. The existing internal boundaries are shown in Figure 2 above. The new internal boundaries are shown in Figure 3 below. The changes have been made in response to the anticipated construction methodology for the Project. Designation 2 covers the 1.8km section of Murphys Road between Thomas Road and Flat Bush School Road and the design for this section is not as advanced. The existing conditions will continue apply to Designation 2 (subject to some minor updates) and the physical footprint remains unchanged.

⁶ See section 2.2 of Part C of the SAR for further details.

⁷ Section 2.3 of Part C of the SAR.

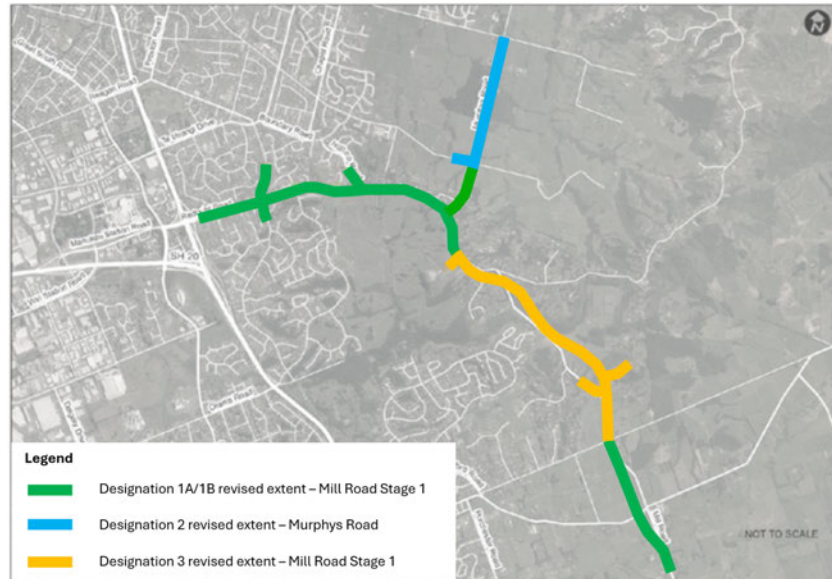


Figure 3: Proposed alterations to the internal boundaries of the Existing Designations

- 4.9 There are 45 pages of conditions that apply to the Existing Designations. The existing conditions are complex, administratively cumbersome, more onerous than necessary and do not reflect the NZTA approach to Project implementation so require updating. As outlined above, the advanced stage of the design for the Project has meant that management plans have been prepared to address the majority of the effects covered by the existing conditions. This approach provides a high level of confidence that the effects of the Project will be appropriately managed and has enabled a refined set of designation conditions to be prepared in reliance of the detailed content in the management plans.
- 4.10 The rationale for the changes to each of the existing conditions is set out in the table in **Annexure A** of these submissions. The updated conditions can be found in Appendix G1 of the SAR. Section 8 below contains further information about how the proposed designation conditions and management plans have been crafted to manage the effects of the Project.

5 The benefits of the Project

- 5.1 The Project will create significant regional and national benefits, as set out in Section 9 of Part B of the SAR. The Project's benefits include:
- a Construction phase economic benefits of \$1.18 billion and total operational benefits of \$5.66 billion;

- b Improved traffic efficiency on the Mill Road corridor between Redoubt Road interchange and Phillips Road, with over 20 percent faster journeys during peak hours and a nine percent reduction in congestion;
- c Increased capacity in the corridor to accommodate detoured traffic during SH1 incidents;
- d A safer corridor between Redoubt Road interchange and Phillips Road, with death and serious injury crashes expected to reduce by over 60 percent;
- e Improved transport connections for housing development and economic growth in proximity to the Mill Road corridor in Drury, Manukau and Papakura (including private plan changes and fast-track developments that were not initially accounted for in the Auckland Future Development Strategy);
- f Social benefits associated with enhanced connectivity and accessibility across rapidly growing areas such as Drury, Papakura, Flat Bush, and Manukau, ensuring more reliable journey times, improving access to schools, workplaces, shops, essential services, and improving active transport modes and upgraded bus routes;
- g Water quality improvements as a result of proposed stormwater treatment;
- h A reduction in the flood hazard risk to road users at Ranfurly Road;
- i A net gain in stream and wetland ecological values (818 m of stream restoration is proposed across three stream extents, along with 0.956 ha of wetland restoration across five locations); and
- j Positive visual amenity effects in some locations including in the Tōtara Park and Alfriston areas.

5.2 Accordingly the Panel can have a high level of confidence that the benefits of the Project comfortably meet the regional and national benefits threshold set out in the FTAA and is consistent with the purpose of the FTAA.

6 The Application

6.1 NZTA seeks the following approvals under the FTAA:

- a Resource consents that would otherwise be applied for under the Resource Management Act 1991 ('**RMA**');

- b Alterations to the Existing Designations for which a NoR would otherwise be lodged under the RMA;
 - c A wildlife approval for an act or omission that would otherwise be an offence under the Wildlife Act 1953; and
 - d An approval or dispensation that would otherwise be applied for under regulation 42 or 43 of the Freshwater Fisheries Regulations 1983 ('FFR') in respect of a complex freshwater fisheries activity.
- 6.2 NZTA is not applying for archaeological authorities under the Heritage New Zealand Pouhere Taonga Act 2014 at this time, and separate applications will be lodged with Heritage New Zealand Pouhere Taonga (**HNZPT**).
- 6.3 The following works are required outside the Existing Designations in Tōtara Park:
- a Daylighting of an existing piped stream and associated restoration – the land use aspects of these works will be authorised by a land use consent sought as part of this application. The relevant regional consents also cover the works in this area.
 - b Rearrangement of grazing and access tracks for Tōtara Park Equestrian Centre – no land use consent required.

7 Invitations to comment

- 7.1 The Panel must invite comments on the Application in accordance with section 53 of the FTAA. The persons or groups that the Panel **must** invite comments from are (relevantly):
- a Relevant local authorities⁸ – Auckland Council;
 - b Relevant iwi authorities⁹ and Treaty settlement entities¹⁰ – Te Ākitai Waiohū, Ngāi Tai ki Tāmaki, Ngāti Tamaoho, Ngaati Whanaunga, Ngāti Maru, Ngāti Te Ata Waiohū, Ngāti Paoa Iwi Trust, Te Ahiwaru, Ngāti Tamaterā Treaty Settlement Trust, Waikato-Tainui, Te Kawerau ā Maki, Ngāti Hako, Ngāti Koheriki, Marutūāhu Collective, and Pare Hauraki Collective;

⁸ FTAA, s 53(2)(a).

⁹ FTAA, s 53(2)(b).

¹⁰ FTAA, s 53(2)(c).

- c The owners of the land to which the Application relates and land adjacent to that land¹¹ – set out in Appendix B1 of Part B of the SAR and covered below;
 - d The occupiers of the land to which the Application relates and the land adjacent to that land unless, after reasonable inquiry, an occupier cannot be identified¹² – set out in Appendix B1 of Part B of the SAR and covered below;
 - e The Minister of Cities, Environment, Regions, and Transport and other relevant portfolio Ministers;¹³
 - f Relevant administering agencies¹⁴ – the Department of Conservation (**DOC**);¹⁵
 - g Any requiring authority that has a designation on land to which the Application relates or on land adjacent to that land – Watercare Designation 9508 (two airspace designations also apply for Auckland International Airport Limited (Designation 1102) and Ardmore Airport Limited (Designation 200));¹⁶ and
 - h The New Zealand Conservation Authority, relevant Conservation Boards, the New Zealand Fish and Game Council and the Game Animal Council.¹⁷
- 7.2 The Panel's ability to invite comments from any other person or group¹⁸ is addressed further below.

Land to which the Application relates and adjacent land

- 7.3 The land adjacent to the 'site' has been identified as land that is not part of a parcel of land that includes the site, but is contiguous with the site (i.e., contiguous with the designation) or is across a road or a watercourse from the site. Where there are large parcels which are only partially within the designation, the area within the designation has been identified as the 'site', and the area of that land parcel outside the designation has been identified as 'adjacent'. The 'site' and 'land adjacent to the site' are shown on the drawings included in **Appendix B1** of the SAR. The area within Tōtara Park where the stream daylighting works are to be undertaken is included within the 'site' for the purpose

¹¹ FTAA, s 53(2)(h).

¹² FTAA, s 53(2)(i).

¹³ FTAA, s 53(2)(j).

¹⁴ FTAA, s 53(2)(k).

¹⁵ The Director-General of Conservation is also required to be invited under s 53(2)(m)(i).

¹⁶ FTAA, s 53(2)(l).

¹⁷ FTAA, s 53(2)(m)(iv) and sch 7, cl 4.

¹⁸ FTAA, s 53(3).

of the resource consent applications. Project works are also proposed within Tōtara Park on the Redoubt Road frontage. Tōtara Park is 216 ha and the properties on the opposite side of the park have not been included as 'adjacent' properties.

Comments from any other party

- 7.4 Under section 53(3) of the FTAA, the Panel **may** also invite comments from any other person or group the Panel considers appropriate. We submit it is unnecessary, and would be inconsistent with the FTAA, to invite comments from additional parties in relation to this Project.
- 7.5 The Fast-track Practice and Procedure Guidance Note recommends that panels take a principled approach to the exercise of discretion in section 53(3), and consider the following matters when determining whether to invite other persons to provide comment:¹⁹
- a The purpose of the FTAA and the procedural principles set out in section 10;
 - b Any relevant aspect of the public or community interest that requires consideration;
 - c The comprehensiveness and quality of the applicant's technical information and how the applicant has addressed the issue of consultation;
 - d The likely extent of local authority participation in the application process;
 - e Whether the activity would otherwise be prohibited under relevant legislation;
 - f Whether the application is for a project that has been previously declined under another statutory process;
 - g Whether the application is likely to involve novel or contentious legal or disputed factual issues; and
 - h Any other matter that, in the opinion of the Panel, ought to be considered.
- 7.6 NZTA submits that none of the factors that could justify the use of section 53(3)²⁰ to invite comments from any 'other person' are present because:

¹⁹ *Fast-track Approvals Act 2024: Panel Conveners' Practice and Procedure Guidance*, 22 July 2025, page 9.

²⁰ See also the decision of expert panel for Port of Auckland Fast-track Application for Bledisloe North Wharf and Fergusson North Berth Extension, 21 August 2025, at [89].

- a Not inviting comments from any other person is consistent with the purpose of the FTAA to facilitate the delivery of infrastructure with significant national and regional benefits and the procedural principles of the FTAA to use timely, efficient, consistent and cost-effective processes that are proportionate;
- b NZTA has provided the Panel all of the information it needs to grant the approvals being sought;
- c NZTA has undertaken extensive consultation as set out in Section 11 of Part B of the SAR, and the Social Impact Assessment in Appendix C12;
- d There are no contentious legal or factual disputes, and the Application does not raise any legal issues beyond those which might be expected as part of a regionally or nationally significant project processed under the FTAA;
- e The Application has not been previously declined;
- f The works for the Project are not otherwise prohibited under the relevant legislation; and
- g There are no exceptional factors that warrant comments to be invited from any other person.

8 Legal framework

8.1 The FTAA requires the Panel to:²¹

- a Decide whether it can and will grant the Application; and
- b Determine what conditions should be applied to each approval.

8.2 The matters relevant to the decision to approve the Application are addressed below. The legal framework relevant to conditions is addressed in section 9 of these submissions.

Scope to decline

8.3 The Panel may only decline the Application if any one of the matters listed in section 85 of the FTAA, and set out below, is present.

The Project is an ineligible activity

²¹ FTAA, ss81, 83 and 85, Schedule 5, cl17 and cl24, and Schedule 8, cl4.

- 8.4 NZTA has completed a comprehensive investigation, including checking titles, Gazette notices, and other sources, to confirm that the Project is not an ‘ineligible activity’.

The Project is inconsistent with the relevant Treaty settlements

- 8.5 The applicable Treaty settlements are set out in Section 10.5 of Part B of the SAR. The following Treaty settlements contain specific provisions that are directly relevant to the Project:

- a Relevant principles of the Ngāti Tamaoho Deed of Settlement include:
- i Promoting a coordinated, co-operative, and collaborative approach to natural resource and environmental management, restoration and care within the Ngāti Tamaoho area of interest;
 - ii Ngāti Tamaoho working with public agencies and others to achieve mutually beneficial goals and objectives through joint projects, contracted delivery of goods and services, and providing advice, information and other assistance;
 - iii Supporting the building of the capability and capacity of Ngāti Tamaoho in environmental management in a way that will be a legacy for future generations;
 - iv Recognising the importance of encouraging pride in Ngāti Tamaoho cultural identity, and by encouraging awareness and use of mātāuranga Tamaoho to support environmental management; and
 - v Working together to ensure the whenua, the moana, and the awa are one day again capable of sustaining the cultural traditions, practices and uses of Ngāti Tamaoho.

Ngāti Tamaoho has been directly involved with the Project since 2012 and provided a cultural statement as part of the 2014 NoR. NZTA will continue to address the above principles through ongoing engagement with Ngāti Tamaoho.

- b The Te Ākitai Waiohū Deed of Settlement contains a Conservation Relationship Agreement with DOC that sets out how Te Ākitai Waiohū and DOC will work together. Te Ākitai Waiohū have a statutory acknowledgement over St John’s Redoubt Historic Reserve. Part of the St John’s Redoubt Historic Reserve is within the existing designation for the

Mill Road Project. NZTA does not need to permanently acquire land within the St John's Redoubt Historic Reserve to construct the Mill Road Project. Temporary works will be required within a small part of the reserve adjacent to the carriageway to regrade the existing vehicle access into the site. NZTA will work with Auckland Council, HNZPT, Te Ākitai Waiohū and DOC in relation to the regrading of the existing access.

- 8.6 The Project is therefore consistent with the relevant Treaty settlements.

The adverse effects are sufficiently significant (after taking into account conditions) so as to be out of proportion with the Project's benefits

- 8.7 NZTA acknowledges that Mana Whenua have expressed that the effects of the Project in removing ancient rākau are significant from a cultural values perspective. NZTA also acknowledges that it is a well settled judicial principle that only Mana Whenua have the authority to determine and speak to the cultural effects of an activity.²² The measures set out in the Old Growth Tree Management Plan and the conditions (including the requirement for a Cultural Management Plan) must be factored in when considering the effects of the Project on the cultural values associated with the ancient rākau. Notably, the Old Growth Tree Management Plan requires NZTA to offer the removed rākau to Mana Whenua for repurposing.
- 8.8 The remaining effects (including the effects on ecological values) are not significant and range from negligible to no more than minor post mitigation and in many cases the effects will be positive. The Project's conditions and management plans will ensure that the adverse effects of the Project are appropriately managed.
- 8.9 The use of the term 'out of proportion' requires an evidential finding that adverse impacts must outweigh and exceed the national and regional benefits unlocked by a project before decline is warranted under section 85.
- 8.10 The Panel cannot form the view that an adverse impact is out of proportion with the Project's benefits solely on the basis that the adverse impact is inconsistent with, or contrary to, a provision of an Act specified in the FTAA or any other document²³ that the Panel must take into account.²⁴ The term 'adverse impact' is

²² *Ngawaka v Ngāti Rehua-Ngātiwaki Ki Aotea Trust Board* [2021] NZHC 291 at [57] – [59].

²³ Including national direction and the objectives and policies in any relevant regional or district plans (sch 5, cl 17(1)(b) FTAA).

²⁴ FTAA, s 85(4).

defined as “any matter considered by the panel in complying with section 81(2) that weighs against granting the approval”.²⁵

- 8.11 The Maitahi Village decision provides the following guidance on the Panel's discretion under section 85(3):²⁶
- a If the factors in section 85(3) are met (the adverse impacts are significantly out of proportion to the anticipated regional and national benefits) the Panel *still has a discretion* to allow the approvals. The discretion will be informed by the purpose of the FTAA;
 - b The mere fact that a project generates or may generate adverse impacts, does not mean it should be declined. A degree of adverse impact is “hard baked” into the FTAA legislative regime (as also reflected in section 85(4)); and
 - c In the context of a weighing process against any adverse impacts, it is the extent of such regional or national benefits that must be assessed.²⁷
- 8.12 We submit the Application would pass the ‘tests’ under the traditional RMA, Wildlife Act and FFR processes without needing to weigh, in a proportionality sense, any adverse impacts against the significant national benefits of the Project (i.e. the section 85 ‘proportionality test’ is not in play).
- 8.13 In the alternative, if the Panel considers section 85 to be engaged, then we submit that none of the adverse impacts of the Project (following the implementation of the requirements set out in the management plans and conditions) are sufficiently significant to be out of proportion to the quantitative benefits that will occur during the construction phase, and the enduring qualitative and quantitative benefits post-construction. On this basis, Panel has no discretion to decline the approvals sought in the Application.
- 8.14 Even if the Panel was to find that the adverse impacts were sufficiently significant to be out of proportion to the Project's significant national benefits, it still has the discretion to grant the approvals. In such a case, NZTA submits the Panel should exercise its to discretion to grant the approvals for the reasons set out above.

²⁵ FTAA, s 85(5).

²⁶ Maitahi Village expert panel decision, at [93]-[95].

²⁷ Maitahi Village expert panel decision, at [62].

Relevant considerations and weighting

- 8.15 In considering the application, the Panel must ‘take into account’ the purpose of the FTAA, as well as the following matters:
- a Resource consents: Parts 2, 3, 6 and 8 to 10 of the RMA (excluding sections 8 and 104D) that “direct decision making on an application” and the relevant provisions of any other legislation that directs decision making under the RMA;²⁸
 - b Designations: Part 8 of the RMA (except section 170) and the relevant provisions of any other legislation that directs decision making under the RMA;²⁹
 - c Wildlife approvals: the Panel must take the purpose of the Wildlife Act into account, as well as any information and requirements relating to the protected wildlife impacted by the approval;³⁰ and
 - d Freshwater fisheries approvals: the Panel must assess a complex freshwater fisheries activity approval in accordance with the process set out in clause 5 of Schedule 9.³¹
- 8.16 The requirement to “take into account” certain matters is also found in the RMA. The Court of Appeal has held that the direction to “take into account” a certain factor under the RMA requires the decision maker to consider the particular factor in making a decision, to weigh it with other relevant factors, and to give it whatever weight is appropriate in all the circumstances.³²
- 8.17 The phrase “take into account” is qualified by clause 17(1) which expressly directs greatest weight be given to the purpose of the FTAA when considering a consent application and setting conditions.

Purpose of the FTAA

- 8.18 The Panel is required to give the ‘greatest weight’ to the purpose of the FTAA, which is to “facilitate the delivery of infrastructure and development projects with significant regional or national benefits”.

²⁸ FTAA, s81 and Schedule 5, cl17(1).

²⁹ FTAA, s81 and Schedule 5, cl24(1).

³⁰ FTAA, s81 and Schedule 7 cl5.

³¹ FTAA, s81 and Schedule 9 cl5.

³² *Trustees of the Motiti Rohe Moana Trust v Bay of Plenty Regional Council* [2024] NZCA 134 at [15].

- 8.19 The panels in the POAL Decision and Milldale decisions considered caselaw³³ relating to similar weighting requirements under other legislation and concluded that:³⁴
- a Panels must not rely on the purpose of the FTAA at the expense of due consideration of the other factors;
 - b Panels must still consider all factors on an individual basis, prior to standing back and conducting the overall weighting exercise; and
 - c Environmental effects do not become less minor simply because of the purpose of the FTAA, but they may be outweighed by the purpose of facilitating the delivery of infrastructure and development projects with significant regional or national benefits.
- 8.20 The panel for the Maitahi Village application did not find reference to this caselaw useful, given different statutory context and language.³⁵ However, the panel did note that to give the greatest weight to the purpose of the FTAA does not mean that it will always outweigh other considerations,³⁶ but in the event of any tension with the purpose of the RMA, the FTAA must prevail.³⁷
- 8.21 Summarising the approach taken by FTAA panels to date, we submit that the Panel must:
- a Consider each factor on an individual basis; and
 - b Conduct an overall weighting exercise that gives the greatest weight to the purpose of the FTAA.
- 8.22 As noted above, the purpose of the FTAA is to "facilitate the delivery of infrastructure and development projects with significant regional or national benefits".³⁸ This is a firm directive to "facilitate" projects with such benefits and is distinct from the purpose of the RMA, which focuses on sustainable management and the balancing of competing interests.
- 8.23 An assessment of the Project against this purpose is provided in Part B of the SAR. That assessment concludes that the Project will achieve the purpose of the

³³ *Enterprise Miramar Peninsula Inc v Wellington City Council* [2018] NZCA 541.

³⁴ Decision of expert panel for Port of Auckland Fast-track Application for Bledisloe North Wharf and Fergusson North Berth Extension, 21 August 2025, at [121]; decision of expert panel for Milldale Application, 3 October 2025, at [60].

³⁵ Decision of the expert panel for Maitahi Village, 18 September 2025, at [69].

³⁶ Maitahi Village expert panel decision, at [70].

³⁷ Maitahi Village expert panel decision, at [105].

³⁸ FTAA, s3.

FTAA as it is an infrastructure project that will deliver significant national and regional benefits.

- 8.24 The weighting exercise to be undertaken for this Project is straightforward because the Project will achieve the purpose of the FTAA while also satisfying the other matters to be considered for each approval as set out below. Even if parties invited to comment on the Application argue that other matters are not satisfied, the significant national and regional benefits of the Project weigh overwhelmingly in favour of granting the approvals.

Effects of the Project

- 8.25 A summary of the assessment of the Project's potential effects on the environment is contained in Section 5 of Part C of the SAR and further detail is contained within the technical assessments attached to the SAR.

Construction effects

- 8.26 The construction effects of the Project are all temporary (with the exception of the effects of the Project on the ancient rākau), are to be expected in relation to a major infrastructure project of this nature and scale, and will be managed using well-established and proven mitigation techniques and management plan processes used by NZTA and approved by relevant consenting authorities across the country.
- 8.27 As explained above, the level of detail available for this Project significantly exceeds the level of detail normally available for NZTA RoNS projects, including construction methodologies. This level of detail has enabled the following management plans to be finalised for the construction works and lodged with the application:
- a Terrestrial Management Plan (Appendix C5) – sets out vegetation clearance protocols including bat management, bird management and restoration and enhancement planting;
 - b Old Growth Tree Management Plan (Appendix C6) – covers management of Significant Trees within the SEAs;
 - c Freshwater Management Plan (Appendix C8) – covers construction works in watercourses and wetlands;
 - d Native Fish Capture and Relocation Management Plan (Appendix C9) – sets out the protocols for fish salvage;

- e Construction Traffic Management Plan (Appendix C11) – sets out the requirements for managing traffic during the construction period;
 - f Construction Noise and Vibration Management Plan (Appendix C17) – sets out the performance standards and requires the use of best practicable options for managing construction noise effects;
 - g Dust Management Plan (Appendix C18) – covers the measures to control and minimise dust;
 - h Historic Heritage Management Plan (Appendix C20) – sets out procedures for archaeological monitoring, accidental discovery protocols and measures for the nine areas identified as being higher risk;
 - i Contaminated Soil Management Plan (Appendix C24) – sets out the measures for managing soil movement across the Project including handling and disposal requirements, specific measures in relation to three HAIL sites, and accidental discovery protocols;
 - j Lizard Management Plan (Appendix E11) – sets out the process for lizard salvage; and
 - k Erosion and Sediment Control Plans (Appendix H2) – set out the requirements for the Site Specific Erosion and Sediment Control Plans which will be implemented during the construction period, including flocculation treatment where required.
- 8.28 The management plans contain clear directions as to the methods for managing construction activities, the outcomes that must be achieved, and the relevant standards to be applied.
- 8.29 In addition, groundwater interception may occur during earthworks, piling and bridge construction. The Groundwater Effects Assessment in Appendix C22 concludes that less than minor adverse effects are expected from the predicted localised drawdown and mounding, with no net loss of stream baseflow and no adverse effects on neighbouring groundwater users, wetlands or land stability.
- 8.30 As noted above, NZTA acknowledges that Mana Whenua have expressed that the cultural effects of the removal of ancient rākau at Puhinui Gully and Cheesman's Bush to enable the construction of the Project are significant and irreversible. NZTA has undertaken an exhaustive assessment of alternatives to

avoid these impacts.³⁹ No feasible alternative has been identified. NZTA has also worked with Mana Whenua to refine the construction footprint to minimise and avoid the impacts on ancient rākau. This work has resulted in:

- a A shift of the alignment of the Puhinui Bridge to the north;
- b The identification of a clearly defined construction footprint underneath the Puhinui Gully bridge;
- c A reduction in the number of trees that will be affected by the Project (156 Significant Trees were potentially affected under the Existing Designations and this number has been reduced to 65);
- d Limits on vegetation clearance under Cheesman's Bridge and clear identification of trees that do need to be removed or pruned; and
- e The identification of a bridge maintenance area adjacent to the deck of both the Puhinui Gully and Cheesman's Bush bridges where future tree trimming and maintenance may occur.

8.31 Proposed condition 4 of the designations also requires the preparation of a Cultural Management Plan in collaboration with Mana Whenua. The following construction related matters are to be addressed in the Cultural Management Plan:

- a Cultural protocols, requirements and procedures for contractors and subcontractors;
- b The tikanga and cultural protocols that must be undertaken in relation to the removal of ancestral rākau;
- c The role and function of kaitiaki and cultural monitors; and
- d Activities, sites and areas where cultural monitoring is required during construction works and what the cultural monitoring will comprise.

8.32 In addition, the Old Growth Tree Management Plan requires that the 14 ancient rākau to be removed are offered to Mana Whenua who will be invited to repurpose the removed trees for cultural expression within the Project area. Mana Whenua will also be provided with the opportunity to collect seeds from within the Cheesman's Bush and Puhinui SEAs areas. NZTA's effects management

³⁹ Section 2.6 of Part C of the SAR.

package provides for 23.5 ha of restoration and enhancement planting (which forms part of the wider package of 27.66 ha of native planting proposed across the Project).

Operational effects

- 8.33 The operational effects of the Project will be overwhelmingly positive as set out in paragraph 5.1 above. The potential adverse effects of the Project following completion of construction will be managed as follows:
- a Operational noise: A further Assessment of Noise Effects has been carried out using the updated design and further design detail. The Project is predicted to result in an increase in noise in some Protected Premises and Facilities. Condition 8 of the designations specifies the specific road pavement surfaces that must be implemented across the Project. Condition 9 requires building modification mitigation (such as ventilation and/or upgrades to glazing) to be investigated, and where practicable implemented, for dwellings predicted to receive Category C noise levels. Condition 10 requires the construction of a noise wall at 353 and 375 Redoubt Road.
 - b Visual, landscape and natural character: The visual, landscape and natural character effects of the Project range between low-moderate to moderate in most character areas prior to the implementation of any mitigation. The greatest effect is a 'High' rating which is expected in relation to the visual effects of the Project in Character Areas 3 and 4. The implementation of the ULDMP and planting plans in Appendix C10 will ensure that the visual, landscape and natural character effects are managed to a less than minor level.
 - c Freshwater ecology: The Project will result in the permanent loss or modification of stream and wetland habitat, along with potential associated habitat fragmentation. Stream restoration, creation and daylighting, and wetland restoration and creation is proposed. The resulting outcome will be 'Very Low' to 'Moderate' residual effects on most stream and wetland features, with the potential for a net gain in stream and wetland ecological values.
 - d Terrestrial ecology: The existing terrestrial environment is largely modified but contains remnant indigenous forest, including WF9 taraire, tawa, podocarp forest, VS5 broadleaved scrub / forest, and mature and old-growth Significant Trees. The Project will result in the loss and modification of WF9

forest and VS5 vegetation, Significant Trees, and confirmed and potential native lizard habitat, and potential effects on king fern. The potential impacts will be managed through indigenous forest restoration, enhancement of retained forest remnants, habitat enhancement, lizard habitat replacement, pest plant and pest animal control, and outcome monitoring which will deliver a positive modelled outcome for the affected terrestrial ecosystems.

- e Water quality and quantity: The drawings in Appendix H1 contain the details of the proposed stormwater management system for the Project. As noted in section 5.1(g) above, the effects of the Project on water quality will be positive. In terms of water quantity, the Assessment of Stormwater Effects concludes that the potential effects will be 'negligible' provided that the design complies with proposed designation condition 5 which requires flooding to be made no worse at three identified properties and condition 6 which requires any modification to an overland flow path not to increase upstream and downstream flood risk. The potential effects of stormwater discharges on stream health will be managed through a network of detention-based stormwater devices, including raingardens, wetlands, underground storage systems and check dams, designed in accordance with GD01 and SMAF-1 requirements.⁴⁰

- 8.34 The potential adverse effects described in paragraphs 8.33(a) and (b) above are already authorised by the Existing Designations. Further detail about the proposed approach to managing the effects outlined in paragraphs 8.33(c), (d) and (e) is set out in section 9 below.

Additional considerations relevant to the NOR

- 8.35 The Panel is required to take into account RMA provisions that are relevant to decision making in relation to a NoR.⁴¹ The requirement to take into account Part 2 does not include a requirement to take into account section 8 of the RMA.⁴²
- 8.36 An assessment against relevant RMA provisions is set out in Section 6 of Part D of the SAR. That assessment concludes that the resource consents are consistent with:
- a The purpose and principles of the RMA;⁴³ and

⁴⁰ See condition 7 on page 6 of Appendix G2 of the regional resource consent conditions.

⁴¹ FTAA, Schedule 5 cl 24.

⁴² FTAA, Schedule 5 cl 17(2)(a).

⁴³ Section 6.3 of Part D of the SAR.

- b The relevant national policy statements, national environmental standards, and regional and district planning documents.⁴⁴

Consideration of alternatives

- 8.37 NZTA does not have an interest in all of the land required for the Project. The Panel must therefore have regard to “whether adequate consideration has been given to alternative sites, routes or methods for undertaking the work” when considering the NORs.⁴⁵
- 8.38 Caselaw under the RMA is clear about what ‘adequate consideration’ entails.⁴⁶ The Panel’s focus should be on the process, not the outcome. NZTA is responsible for selecting the preferred alternative, and there is no requirement to select the ‘best’ alternative. The word ‘adequate’ means sufficient or satisfactory, and does not require an exhaustive process. The consideration of alternatives needs to be more careful where there is a greater impact on private land.
- 8.39 As set out in Section 2.5 of Part C of the SAR, NZTA has undertaken an extensive consideration of alternative corridors, routes and sites since the Project’s inception. The adequacy of the alternatives assessment underpinning the Project has been tested on multiple occasions, including through the 2014 NoRs, Council Hearing and subsequent Environment Court appeal proceedings. This approach has ensured that the process has been robust, replicable, and transparent.

Reasonable necessity for the work and designation

- 8.40 The work that forms part of this Project is necessary to achieve its project objectives, which can be summarised as being to:⁴⁷
 - a Improve traffic efficiency; and
 - b Enhance network resilience.
- 8.41 A designation is preferable to land use consents or other planning mechanisms because:
 - a There is an existing designation and the alteration of the designation will provide planning certainty for landowners and the Council;

⁴⁴ Section 1.1 of Part D of the SAR and Appendix D1 of the SAR.

⁴⁵ RMA, s171(1)(b).

⁴⁶ See for example *New Zealand Transport Agency v Waikato Regional Council* [2023] NZEnvC 55 at [62]-[65].

⁴⁷ Section 3.3 of Part B of the SAR.

- b It will protect against third parties doing anything that would prevent or hinder the Project; and
- c It is a suitable planning tool for linear infrastructure that crosses multiple zones.

Additional matters relevant to the resource consent applications

RMA provisions

- 8.42 The Panel is required to take into account RMA provisions that are relevant to decision making on a resource consent application, excluding the section 104D gateway test for non-complying activities.⁴⁸ The requirement to take into account Part 2 does not include a requirement to take into account section 8 of the RMA.⁴⁹
- 8.43 An assessment against relevant RMA provisions is set out in Section 6 of Part D of the SAR. That assessment concludes that the resource consents are consistent with:
 - a The purpose and principles of the RMA;⁵⁰ and
 - b The relevant national policy statements, national environmental standards, and regional and district planning documents.⁵¹

Additional considerations relating to wildlife approvals

- 8.44 When considering an application for a wildlife approval, including conditions, the Panel must take into account the purpose of the Wildlife Act 1953. While the Wildlife Act does not have a specific purpose section, the POAL Decision concluded that the Act should be interpreted in light of its purpose, which is that, with some limited exceptions, wildlife is “to be absolutely protected throughout New Zealand”.⁵² The Supreme Court found in *Shark Experience Ltd v PauaMAC5 Inc* that one of the principal purposes of the Wildlife Act 1953 is the protection of wild animals.⁵³

⁴⁸ FTAA, sch 5, cl 17(1)(b). In any event, the Application does not include any activities that would otherwise be non-complying, if sought under the RMA.

⁴⁹ FTAA, sch 5, cl 17(2)(a).

⁵⁰ Section 6.3 of Part D of the SAR.

⁵¹ Section 1.1 of Part D of the SAR and Appendix D1 of the SAR.

⁵² Decision of expert panel for Port of Auckland Fast-track Application for Bledisloe North Wharf and Fergusson North Berth Extension, 21 August 2025, at [128]. The relevant provision of the Wildlife Act 1953 is section 3.

⁵³ *Shark Experience Ltd v PauaMAC5 Inc* [2019] NZSC 111 at [44]-[45].

- 8.45 The purpose of the Wildlife Act, the effects of the Project on the protected wildlife, and information and requirements relating to the protected wildlife, are addressed in Part E of the SAR. The SAR concludes that granting the approval would be consistent with the purpose of the Wildlife Act⁵⁴ and that the adverse effects on lizards will be avoided, minimised or remedied through their relocation and management through the implementation the Lizard Management Plan.⁵⁵

Additional considerations relating to the freshwater fisheries approvals

- 8.46 The Panel must assess a complex freshwater fisheries activity approval in accordance with the process set out in clause 5 of Schedule 9.⁵⁶ Four permanent culverts that will not provide for fish passage are proposed within intermittent streams. Temporary culverts (or other temporary diversion structures) may be necessary to facilitate the construction of the Project or the proposed stream realignments. In addition, four permanent stream diversions are proposed but do not require approval under the FFR because they do not involve dams or diversion structures.⁵⁷
- 8.47 When considering an application for a complex freshwater fisheries activity, the Panel must take into account:
- a The alignment of the proposed activity with best practice and the New Zealand Fish Passage Guidelines;
 - b How the proposed activity will manage risks to freshwater values or habitat, including prevention of access to or spread of invasive species;
 - c The availability and quality of the habitat upstream and downstream of the proposed activity;
 - d The presence of threatened, data-deficient, or at-risk species under the New Zealand Threat Classification System in the vicinity of the proposed activity; and
 - e The advantages and disadvantages of providing fish passage upstream or downstream of the proposed activity.

- 8.48 Fish passage will not be provided within the temporary culverts or in conjunction with any other temporary diversion structures. The Native Fish Capture and

⁵⁴ Section 4 of Part E of the SAR.

⁵⁵ Sections 4-5 of Part E of the SAR.

⁵⁶ FTAA, section 81(3)(k).

⁵⁷ Freshwater Fisheries Regulations 1983, sections 41.

Relocation Management Plan sets out native fish salvage and relocation requirements and will be complied with in relation to any stream works including where temporary culverts or diversion structures are required.

Other legislation

- 8.49 The Panel is required to take into account the relevant provisions of any other legislation that directs decision making under the RMA.⁵⁸ There is no other relevant legislation for the purposes of schedule 5, clause 17(1)(c).

Mana Whakahono ā Rohe or joint management agreements

- 8.50 There are no Mana Whakahono ā Rohe or joint management agreements relevant to the Application.⁵⁹

9 Proposed conditions

- 9.1 The approvals sought in the Application may be granted subject to conditions.⁶⁰
- 9.2 A panel may set conditions to recognise or protect a relevant Treaty settlement.⁶¹ No principles or provisions were identified in the relevant Treaty settlements that would warrant a condition being imposed on any of the approvals sought.
- 9.3 As noted above, the Panel must not impose a condition that is more onerous than necessary to address the reason for which it is set in accordance with the provision of the FTAA that confers the discretion.⁶²
- 9.4 The specific requirements for each type of approval are:
- a For resource consent conditions, the relevant provisions of the RMA.⁶³ This includes section 108 of the RMA, and the restrictions which section 108AA imposes on the imposition of conditions;
 - b For the designation alteration, the provisions of Part 8 of the RMA 1991 that are relevant to setting conditions on a designation;⁶⁴

⁵⁸ FTAA, sch 5, cl 17(1)(c), cl 24(1).

⁵⁹ FTAA, sch 5, cl 24(1).

⁶⁰ FTAA, s 81(2)(e).

⁶¹ FTAA, section 84(1).

⁶² FTAA, s 83.

⁶³ FTAA, sch 5, cl 18.

⁶⁴ FTAA, sch 5, cl 25.

- c For the wildlife approval, the Panel may set any conditions that the Panel considers necessary to manage the effects of the activity on protected wildlife. In doing so, the Panel must:⁶⁵
 - 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 relevant international conservation agreement that may apply in respect of the protected wildlife that is to be covered by the approval.
- d For complex freshwater fisheries activities, the Panel may impose conditions that it considers 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.⁶⁶

9.5 No specific conditions have been proposed by NZTA for the freshwater fisheries approvals because the conditions on the resource consents will manage the effects of the activity on freshwater fisheries species.⁶⁷ Clause 19 of Schedule 5 to the FTAA allows this approach.⁶⁸

9.6 The panels for the POAL Decision and Milldale decisions approached the assessment of the proposed resource consent conditions in a manner consistent with established RMA jurisprudence on conditions.⁶⁹ Relevant to this Application:

- a A resource consent condition must be for a resource management purpose, not an ulterior one; it must fairly and reasonably relate to the development authorised by the resource consent; and it must not be so unreasonable that a reasonable planning authority, duly appreciating its statutory duties, could not have approved it.⁷⁰ Section 108AA of the RMA similarly limits conditions to those:

⁶⁵ FTAA, sch 7, cl 6.

⁶⁶ FTAA, sch 9, cl 6.

⁶⁷ Section 1.8 of Volume E of the SAR.

⁶⁸ This approach was also adopted in the recent Panel decisions in relation to NZTA's Belfast to Pegasus Project

⁶⁹ Decision of expert panel for Milldale Application, 3 October 2025, at [192].

⁷⁰ *Newbury District Council v Secretary of State for the Environment* [1980] 1 All ER 731 (HL), at 739.

- i Directly connected to adverse effects, district or regional rules or a national environmental standard;
 - ii Directly connected to other specified matters; or
 - iii Related to administrative matters that are essential for efficient implementation;
 - b Conditions must be certain and enforceable;⁷¹ and
 - c 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.⁷²
- 9.7 We submit that the same approach should apply to the conditions on the designation and wildlife permit.
- 9.8 NZTA proposes a robust suite of conditions and a comprehensive mitigation package for the Project, which together will appropriately manage and mitigate its potential adverse effects. NZTA is a Crown entity and its statutory objective under the LTMA is to undertake its functions in a way that contributes to an effective, efficient, and safe land transport system in the public interest.⁷³ In meeting that objective, NZTA must exhibit a sense of social and environmental responsibility, and use its revenue in a manner that seeks value for money.⁷⁴ As a statutory entity, NZTA is also subject to administrative law obligations, including the requirement to act reasonably. These factors distinguish NZTA from private developers.
- 9.9 NZTA has decades of experience in delivering major, complex projects, engaging with a broad range of stakeholders, and managing significant construction and earthworks activities in a wide variety of New Zealand's natural and physical environments. NZTA has earned a strong reputation as a responsible and trusted designer, constructor and operator of nationally significant infrastructure.
- 9.10 The proposed conditions are included in Appendices G1, G2 and G3 of the SAR. As an experienced user of designation and resource consent processes across multiple projects, NZTA has invested significant resources into drafting conditions across its FTAA projects that are succinct, clear for contractors to understand,

⁷¹ *Bitumix Ltd v Mt Wellington Borough Council* [1979] 2 NZLR 57.

⁷² *Turner v Allison* (1970) 4 NZTPA 104.

⁷³ Land Transport Management Act 2003, s 94.

⁷⁴ LTMA, s96(1)(a) and (b).

achieve the outcomes sought and easy for councils to monitor. It has also been mindful of the fact that the FTAA provides opportunities to address effects in a way that aligns with NZTA's responsibility to seek value for money, in accordance with the GPS 2024 in particular.

- 9.11 As explained above, this Project is very different from other NZTA projects that are using, or have already used, the FTAA process. This Project is unique in terms of its advanced level of design. NZTA has been able to build on the existing design work undertaken by AT and the further work undertaken by the Supporting Growth Alliance and has advanced the design quickly to ensure that construction of the Project can commence as soon as funding is available.
- 9.12 The level of design detail available means that NZTA has been able to lodge considerably more detail than would normally be available for its projects of this scale. It would make no sense to require management plans to be prepared later, when NZTA already has this information available. NZTA wishes to emphasise that this level of detail is not normally available (or feasible) for projects of this nature and scale, and the amount of information lodged with this application should not be seen as a precedent for future NZTA projects.
- 9.13 NZTA acknowledges that the Project will, as with any infrastructure project of this size, scale and significance, result in changes to the environment. It will impact, areas of significance to Mana Whenua, SEAs, wetlands and streams. During construction, the Project also has the potential to impact neighbours in terms of noise and other amenity effects if these effects are not carefully managed. NZTA has been mindful of these potential effects when preparing the proposed conditions and associated management plans.
- 9.14 The technical experts who have undertaken the effects assessments all consider that the mitigation, offsetting and compensation package in the proposed conditions responds appropriately and proportionately to the effects of the Project.

10 Conclusion

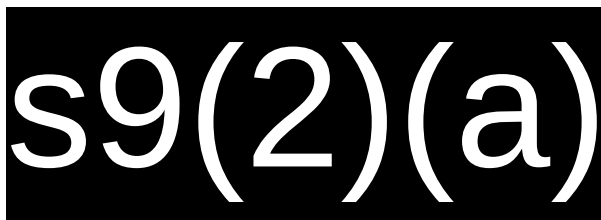
- 10.1 The Application demonstrates that:
- a The Project will deliver significant national and regional benefits and is consistent with the purpose of the FTAA;
 - b The adverse effects on cultural values associated with the removal of ancient rākau, as expressed by Mana Whenua, will be reduced where

possible through the Old Growth Tree Management Plan, the Terrestrial Management Plan and conditions;

- c All other adverse effects of the Project are negligible to low or no more than minor when the proposed management plans and conditions are applied; and
- d There is significant community support for the Project and an eagerness to see its benefits realised.

10.2 We submit that the Panel can be satisfied that there is no mandatory or discretionary reason to decline the approvals sought. NZTA asks the Panel to grant the approvals, subject to the proposed conditions.

Dated this 17th day of September 2026

A black rectangular box containing the white text 's9(2)(a)', indicating a redacted signature.

Christina Sheard / Liam Bullen
Counsel for NZTA

ATTACHMENT A: SUMMARY OF CHANGES TO EXISTING DESIGNATION CONDITIONS

Condition	High level summary of existing condition	Proposed change and rationale
1	Project to be undertaken in 'general accordance' with the documents lodged with the 2014 notice of requirement ('NoR') and additional drawings for the retaining walls on Murphys Road, Wetland 7 at 125 Murphys Road, the bridge at Cheesmans Bush and access arrangements in the vicinity of the intersection of Alfriston Road and Mill Road.	Condition amended. Condition 1 has been amended to refer to the Project being constructed in general accordance with the updated drawing set contained in Part H of the Substantive Application Report ('SAR') and the management plans listed in condition 1. The Project design is at an advanced stage and these documents contain detailed information about how the Project will be constructed. The drawing set includes details of the stormwater management measures, erosion and sediment control plans and structure cross sections (including bridges). The management plans are complete, and do not require any further certification by the Council. A process for amending the management plans is included in proposed condition 3. The original conditions will continue to apply to the Murphys Road section of the original designation (Designation 2), subject to some minor administrative updates (see Appendix G1). The original drawings for the retaining wall on Murphys Road and the requirements for Wetland 7 at 125 Murphy's Road remain unchanged and continue to be referenced in Designation 2. Extensive further design work has been undertaken in relation to the Cheesman's Bush bridge design and new updated drawings have been included in the drawing set referenced in condition 1. The access arrangements at the intersection of Alfriston Road and Mill Road have been discussed with the landowner. Further discussions have occurred with the landowner, agreement has been reached in relation to provision for access and the drawings have been updated.
2	NoRs 1 and 2 lapse on 30 August 2036 if not given effect to. NoR 3 has a lapse period of 15 years from the date on which the existing designation was confirmed.	Condition deleted. The lapse dates remain unchanged.

Condition	High level summary of existing condition	Proposed change and rationale
3	As soon as reasonably practicable, the requiring authority to identify parts of the designation which are no longer necessary and give notice to remove those from the designation.	Condition deleted. This condition duplicates the requirements and processes already provided for section 182 of the Resource Management Act 1991 ('RMA').
3A	Requirements for equipment and footwear used in areas where Kauri or Elm trees are present are to be cleaned. Soil material removed near a Kauri or Elm tree to remain onsite or be transported to landfill.	Condition deleted. There are no Kauri or Elm trees present within the Project footprint.
4 - 5	Minor activities can be undertaken by network utility operators before construction begins without requiring authority approval. Requiring authority to work collaboratively with network utility operators during detailed design phase, and CEMPs/ DWPs.	Condition deleted. Discussions with network utility operators are well advanced. The engagement undertaken with the network utility operators is outlined in Part B of the SAR. In addition, the Utilities Access Act 2010 and associated National Code of Practice for Utility Operators' Access to Transport Corridors (Code of Practice) provides protocols for works within existing road reserves.
6	Process for on-going consultation and input of mana whenua into the project design, various management plans and construction process required. Specifies which mana whenua need to be involved in as a minimum.	Condition amended. Mana Whenua have been engaged during various phases of the Project over the past decade, including during the 2014 NoR phase. They have been involved in the development of the design, reviewed the technical reports, provided input into management plans and helped develop cultural mitigation. These outcomes have been incorporated into the management plans referenced in the designation and resource consent conditions. Designation condition 3 requires the establishment of a Mana Whenua Kaitiaki Forum to input into the detailed design process and condition 4 requires NZTA to prepare a Cultural Management Plan in consultation with Mana Whenua.
7	Outline plan to be submitted including various management plans. Independent peer review panels to be formed for specific disciplines to review various management plans and provide recommendations prior to submitting the outline plan. The management plans need to	Condition amended. An outline plan waiver is sought as part of this application. The finalised management plans have been lodged with this SAR and form part of this approval process. The management plans have been prepared by Suitably Qualified Persons ('SQPs') and will be reviewed by the Hearing Panel as well as DOC and Council as part of the application process. Proposed condition 1 requires

Condition	High level summary of existing condition	Proposed change and rationale
	cover whether the feedback was adopted, and the reasons for any recommendations not adopted.	the Project to be constructed in general accordance with the management plans and allows for management plans to be prepared in stages to reflect the construction programme. This process replaces the previous requirement for peer review panels to be used during the preparation and certification of the management plans.
8	Availability of Construction Environmental Management Plan ('CEMP'), Detailed Work Plans ('DWP') and Stakeholder Engagement Plan ('SEP') on the Project website and for public viewing at each construction site.	Condition deleted. NTZA already has a Project page on its website which is regularly updated. This website includes contact details for the Project team should any member of the public have any questions or complaints.
9	Requires a collaborative working process with the Council during and after construction. The purpose and function of the collaborative working process is to assist the Council with compliance and provide a mechanism for design changes.	Condition deleted. NZTA has a collaborative working relationship with Auckland Council. This condition is uncertain and does not serve a proper resource management purpose. The monitoring requirements for the Project are clearly set out in the relevant conditions and management plans and NZTA is required to comply with these requirements.
10	Work to be carried out in accordance with the CEMP(s) and the DWPs. Sets out a change process for the CEMP and DWP.	Condition amended. The construction effects of the Project are addressed in the Construction Noise and Vibration Management Plan ('CNVMP'), Construction Traffic Management Plan ('CTMP') and Dust Management Plan ('DMP'). Proposed condition 2 sets out a mechanism for amendments to these management plans.
11	Social Impact Management Plan ('SIMP') is to be prepared by a suitably qualified expert and to include a review of the social environment when construction starts, potential social impacts, monitoring programme, engagement strategy and documentation of information relating to stakeholders.	Condition deleted. A Social Impact Assessment ('SIA') has been completed by a suitably qualified expert and is attached to this application. This assessment considers the social environment when construction starts (including an updated community baseline), potential social impacts, and sets out NZTA's engagement strategy. The SIA concludes that the social effects of the Project are appropriately managed by the CTMP, CNVMP and DMP. There are no businesses within the Project area that would warrant a Business Disruption Plan.

Condition	High level summary of existing condition	Proposed change and rationale
12	Requiring authority to manage acquired properties so they do not deteriorate.	Condition deleted. The acquired properties are owned by the Crown and are being effectively managed by NZTA in accordance with its internal policies.
13	Social Impact and Business Disruption DWP to be prepared for each stage setting out methods to manage social impacts during construction, maximize positive impacts and address disruption to access, loss of customers and loss of amenity.	Condition deleted. The SIA concludes that there are no businesses within the Project area that would warrant a Business Disruption Plan.
14	Contact person to be made available for public enquiries regarding the construction works, including for out-of-hours emergencies.	Condition deleted. Contact details are available on the NZTA website. The CNVMP, the CTMP and DMP require a complaints hotline to be established.
15 - 16	Requires the preparation of a SEP to set out a framework for communication and consultation, identify a community liaison group, identify methods for communication and consultation generally and where construction will exceed noise and vibration limits, and work outside of construction hours.	Condition deleted. NZTA has undertaken significant further engagement in relation to the development of the design over the past 12 months. The CNVMP, CTMP and DMP set out processes for communication with stakeholders regarding traffic, noise and dust effects.
17	Requirement for Auckland Transport ('AT') to work collaboratively with NZTA.	Condition deleted. NZTA is now the requiring authority and is working collaboratively with AT (see Part B of the SAR).
18	CEMP to provide for notice boards, contact details for managers, document management systems, training requirements, complaint management procedures, outline of the programme, details on demolition and methods to ensure safety and an assessment of cumulative adverse effects.	Condition deleted. Management of construction effects and complaints processes are set out in the CTMP, CNVMP and DMP.
19.1	CEMP to include details on access points, methods to manage construction activities adjacent to buildings and structures, measures	Condition deleted. Management of construction effects is set out in the CTMP, CNVMP, DMP, ESCPs and the CSMP.

Condition	High level summary of existing condition	Proposed change and rationale
	to keep construction areas and methods to manage effects associated with hazardous substances and silt and sediment.	
20	CEMP to ensure the effects of working near network utilities are taken into account and to be prepared in consultation with the network utility operators. CEMP to include measures to identify the location of network utilities, ensure construction personnel are aware of them, ensure their continued operation, set out contingency management plans, and methods to manage effects on the National Grid. Where there is disagreement between the requiring authority and network utility operator over methods in the CEMP, a joint expert to be appointed to make a recommendation, which shall be provided with the CEMP.	Condition deleted. This condition has been superseded now that NZTA is the requiring authority and is working proactively with the network utilities to manage the effects of the Project on their assets. Discussions are well advanced reflecting the level of design that has already been undertaken. In addition, the Utilities Access Act 2010 and associated National Code of Practice for Utility Operators' Access to Transport Corridors (Code of Practice) provides protocols for works within existing road reserve.
21 - 22	Transport, Access and Parking DWP to be prepared to manage adverse effects on the transport network during construction and set out monitoring requirements.	Condition deleted. NZTA will be the road controlling authority and will manage potential construction traffic management effects in conjunction with AT. A CTMP has been lodged with the application and provides all the information required by the previous conditions.
23	Sets out various requirements in relation to the configuration of the road corridor. Requires consideration of providing traffic signals at the Murphys Road intersection and providing traffic signals rather than roundabouts at Mill Road intersections.	Condition deleted. The drawings and cross sections in Appendix H1 of the SAR show the proposed configuration of the road corridor. The configuration of the Murphys and Alfriston Road intersections has been assessed in the Transport Assessment (Appendix C10) and the design details are set out in the drawings in Appendix H1.
24	Construction noise to comply with NZS6803:1999 as far as practicable and to comply with specified limits in the condition (from the standard).	Condition deleted. The construction noise requirements are set out in the CNVMP (Appendix C15).

Condition	High level summary of existing condition	Proposed change and rationale
25	Construction vibration to comply with specified standards in relation to building damage and to be measured in accordance with German Standard DIN 4150-3:1999.	Condition deleted. The construction vibration requirements are set out in the CNVMP. The British Standard has been adopted as set out in the Assessment of Noise and Vibration Effects (Appendix C15) and is in line with NZTA's standard approach across NZ.
26	Construction vibration to not exceed PPV of 1mm/s for bedrooms and 2mm/s for retail/ offices. These limits will only be investigated and applied where there is a complaint.	Condition deleted. The construction noise requirements are set out in the CNVMP. As noted above the British Standard has been applied.
27	Construction Noise and Vibration DWP to be prepared and provide a framework for avoid, remedying or mitigating adverse effects.	Condition deleted. The construction noise requirements are set out in the CNVMP which requires site specific noise schedules to be prepared.
28	Historic Heritage DWP to be prepared and implemented.	Condition deleted. A further Historic Heritage Assessment has been completed and an Historic Heritage Management Plan ('HHMP').
29	Use best endeavours to relocate the Alfriston meeting house, preferably in the Alfriston area. Make the meeting house structurally sound and watertight in the meantime if the landowner consents. Where the meeting house is able to be made structurally sound and/or relocated, consult with Heritage NZ in relation to the methods and works required. Condition 28(4)(e) contemplates demolition.	Condition deleted. The HHMP requires the relocation of the meeting house if practicable and if a willing recipient can be found. NZTA has had discussions with various parties regarding potential relocation sites. Discussions continue with one party who may be willing to relocate the building to an offsite location.
30	Undertake a building condition survey prior to construction where there is potential for damage from construction activities using the process provided. Implement procedures that respond to information from monitoring of existing buildings, and record/repair damage to buildings. Undertake a post construction building survey and rectify any damaged buildings.	Condition deleted. Building condition surveys are addressed in the CNVMP.

Condition	High level summary of existing condition	Proposed change and rationale
31	Prepare an Urban Design and Landscape DWP. The objective of the Plan is to enable the integration of the Project's permanent works into the surrounding landscape and urban design context.	Condition deleted. An Urban and Landscape Design Management Plan ('ULDMP') and planting plan have been included as part of the application.
32	Open space restoration plan to be prepared in consultation with Council Parks Team and iwi to outline how open space is to be reinstated/ restored covering Tōtara Park, St Johns Redoubt, Murphy's Bush, and Ostrich Farm.	Condition deleted. The ULDMP and the attached Planting Plans contain details of how Tōtara Park is to be reinstated and restored, including ecological restoration works. St John's Redoubt is not affected by the Project except for regrading of the existing driveway. Murphys Bush and Ostrich Farm remain within Designation 2 and the conditions remain unchanged.
33	Landscape Mitigation Planting Plan to be prepared and implemented including planting plans and details, integration with the design of noise mitigation measures, communication with Council Parks and mana whenua and other specified matters. 16 replacement oak trees to be planted at 242 Redoubt Road.	Condition deleted. A Planting Plan has been included as part of the ULDMP and includes planting methodologies and requirements for the maintenance of the planting. The Planting Plan shows the 16 oak trees at 242 Redoubt Road that are to be retained.
34 - 37	Prepare and implement an Ecological Management and Restoration DWP covering avifauna management, tree removal methods, replanting requirements, ongoing maintenance and monitoring. Include a Lizard Management Plan, Bat Management Plan, and Tree Protection Plan. Site Specific Ecological Management and Monitoring Plan to be prepared for 146 Mill Road. Topped trees to be left standing, felled trees to be salvaged, the 'back paddock' is to be planted, pest control to be undertaken, consult on feral cat control, undertake weed control and stock exclusion, undertake enrichment planting.	Condition deleted. The ecological effects of the Project are covered by the resource consents and associated conditions. At the time the 2014 NoR was lodged, removal of vegetation within a Significant Ecological Area ('SEA') was a district matter but that has now changed. A Terrestrial Management Plan (including bat and avifauna management protocols) and Lizard Management Plan have been lodged as part of the resource consent applications. A detailed ecological survey has been carried out at 146 Mill Road and both plans cover the area at 146 Mill Road. The Old Growth Tree Management Plan sets out the processes for management of old growth trees within the SEAs.

Condition	High level summary of existing condition	Proposed change and rationale
38	Detailed Site Investigation in relation to site contamination to be undertaken and the soil management measures recommended in the report implemented.	Condition deleted. A Detailed Site Investigation has been completed by a SQP and is included this application. The conditions require implementation of the Contaminated Site Management Plan which is also included with the application.
39	Air Quality DWP to be prepared and implemented to reduce odour, dust, and fumes and ensure that the average concentration do not exceed a specific limit.	Condition deleted. A DMP has been prepared and has been lodged with this application.
40	Cheesmans Bush bridge to be constructed without piers or other bridge support structures between the abutments. Separate provision for cyclists from the carriageway where safe and practicable. Provide for pedestrian crossing points at appropriate locations. Install directional signs identifying the child care centre at 310 Mill Road. Stormwater wetlands to be designed in collaboration with a landscape architect and to be included in the Urban Design and Landscape DWP. Investigate opportunities to limit land take, limit removal of landscape plantings and provide suitable access in relation to 208 Redoubt Road. Consider providing a slip lane along existing part of Mill Road south of Alfriston Road. Stormwater infrastructure at Murphys Road shall be located within the road reserve and adopt water sensitive design principles where practicable.	Condition deleted. The design for Cheesmans Bush bridge is shown in Appendix H1 of the SAR. No piers or bridge support structures are proposed. The design drawings show that separate provision for cyclists from the carriageway has been made where practicable on a shared use path. Where not practicable, the existing Mill Road corridor will be able to accommodate cyclists and will have lower traffic flows due to the Project. Design guidelines for crossing points is included in the ULDMP. The ULDMP also provides guidance for directional signage which includes the child care centre at 310 Mill Road. Planting plans for the stormwater wetlands are included as an attachment to the ULDMP. The amount of land required at 208 Redoubt Road has been minimized as far as possible. The drawings in Appendix H1 show the land required. Appendix H1 also shows the access arrangements for the existing part of Mill Road south of Alfriston Road. Consent for stormwater discharges in relation to Designation 2 for Murphy's Road is not being sought at this time.

Condition	High level summary of existing condition	Proposed change and rationale
	Final design shall enable future access from 1345 Alfriston Road in accordance with specified plans.	
41	Sets out definitions for the conditions relating to operational noise.	N/A
42 - 53	Confirm the BPO and submit with the proposed mitigation to Council. Noise mitigation measures options include building modification, structural mitigation measures and/or low-noise road surfaces materials except where not practicable. Sets out a process for building modifications. Required to manage and maintain the mitigation to ensure it retains its noise reduction performance.	Condition amended. An updated noise assessment has been completed and this condition has been replaced by new noise conditions 8-11 of the designation.
54.1	Provide the owners of 116 Ranfurly Road with noise contours. Implement measures to meet the above noise contours at 116 Ranfurly Road. Design future buildings on balance land at 116 Ranfurly Road so that suitable internal noise levels are achieved. Carry out analysis of the BPO and implement it at outline plan stage. Requiring authority not to oppose future development at the balance land of 116 Ranfurly Road, subject to certain conditions.	Condition deleted. This condition can be deleted as the analysis has already been completed as part of the Traffic Noise Assessment (Appendix C16 of the SAR). This information has also been provided to the landowner through the property negotiation process.