

UNDER THE

FAST TRACK APPROVALS ACT 2024 (FTAA or Act)

IN THE MATTER OF

a substantive application by New Zealand Transport Agency Waka Kotahi for the construction, operation and maintenance of a highway and associated infrastructure to provide an alternative to the existing State Highway 1 corridor over the Brynderwyn Hills between Te Hana and Port Marsden Highway

**MEMORANDUM OF COUNSEL FOR
TE POUWHENUA O TIAKIRIRI KUKUPA TRUST
ON BEHALF OF TE PARAWHAU KI TAI
FOR INITIAL CONVENER'S CONFERENCE
TO BE HELD ON
10 JUNE 2026**

Richard Allen Law Ltd
Solicitor Acting: Richard Allen
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Counsel
Magdalene Chambers
Rob Enright
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1. This memorandum is filed on behalf of Te Pouwhenua o Tiakiriri Kukupa Trust on behalf of Te Parawhau ki Tai (**Te Parawhau ki Tai**) as an invited statutory participant in accordance with paragraph [3](b) and Schedule 3[5] of the Panel Convener’s Minute 2 (and related directions) dated 21 May 2026 (**Minute 2**).

Background

2. Te Parawhau ki Tai instructs that it is the resource management authority established by mandated Kaumātua and Rangatira to represent the interests of Te Parawhau ki Tai on the project application filed by New Zealand Transport Agency Waka Kotahi as applicant under FTAA-2603-1178 (**Project**).
3. Te Parawhau ki Tai notes that it has relevantly entered into a Mana Whakahono ā Rohe agreement with Northland Regional Council that reflects its position as a representative of Te Parawhau ki Tai in respect of environmental matters involving Northland Regional Council.
4. The Project is at least partially within the rohe of Te Parawhau ki Tai and will, at a minimum, affect cultural and environmental interests of Te Parawhau ki Tai who holds mana whenua interests in that part of the Project application area, and exercises rangatiratanga and kaitiakitanga over that area. The boundaries of the rohe of Te Parawhau ki Tai that are affected by the Project will be disclosed in its cultural impact assessment in respect of the Project (discussed below).

Directions sought

5. Minute 2 seeks invited “statutory participants”¹ to comment on the following issues | take:

¹ Per the Guidance Note in accordance with footnote 3 to Minute 2.

(1) decision by the Panel Convenor on appointment of Panel members;

(2) decision by the Panel Convenor on timing of Panel decision; and

(3) other key matters identified in paragraph [6] of Minute 2.

Composition of Panel

6. Te Parawhau ki Tai considers that expertise in cultural landscape and tikanga are core competencies that would assist decision-making (as well as the more obvious technical areas, such as engineering). In addition, Te Parawhau ki Tai considers that expertise in freshwater ecology and terrestrial ecology (again with an engineering background) should be sought as these are relevant and important areas of enquiry.

7. At this early stage, Te Parawhau ki Tai is not aware of any persons nominated as Panel members. Te Parawhau ki Tai otherwise reserves its position on this issue | take at this stage.

Timing of Panel decision

8. While the application has been deemed complete, Te Parawhau ki Tai takes issue with the substantive completeness of the proposal, because it has not addressed the relevant impacts on Te Parawhau ki Tai as a statutory participant. This is relevant to the question of timeframe for decision, especially as Te Parawhau ki Tai anticipates the need for resourcing, further information exchange, and the provision by it of a formal cultural impact assessment.

9. In this regard, it is noted that cultural impact assessments are recorded on the Fast-track website for this project as having been received from Patuharakeke Te Iwi Trust Board and Te Uri o Hau.² Both these assessments are recorded as currently withheld from public release at the request of the applicant.

² At: <https://www.fasttrack.govt.nz/projects/alternative-to-the-brynderwyn-hills/substantive-application>

10. Te Parawhau ki Tai intends to submit its own cultural impact assessment in respect of the Project. It will update the Panel Convenor at the meeting on Wednesday 10 June as to when this cultural impact assessment is expected be completed and available for submission and its expectation as to whether it will also seek to withhold this assessment from public release.
11. Te Parawhau ki Tai instructs that the applicant has to date provided information on a sporadic and limited basis so far, without adequate assessment of alternatives and without adequate time being permitted for Te Parawhau ki Tai to conclude its cultural impact assessment. In addition, information gaps / discrepancies exist that will take time to resolve prior to submission of the assessment by Te Parawhau ki Tai.
12. It is expected that sufficient time will be required for Te Parawhau ki Tai (and the other relevant iwi authorities listed in Schedule 3 as statutory participants) to assess the likely cultural and environmental effects and whether these can be appropriately and adequately addressed through the consent conditions that recognise and provide for cumulative impacts, or whether approval should be declined in whole or part.
13. It is submitted that sufficient additional time should be allocated (of no less than 60 working days duration) to ensure the Panel has sufficient time to assess the relevant cultural evidence, allow for tikanga based engagement, and to recognise and provide for the relevant cultural relationships impacted by the Project.
14. A further major issue likely to require sufficient time and a mini-hearing process, will be the topic of effects management (including offsetting/compensation) of the relevant cultural effects.
15. Allowing greater time reflects the public interest factors present, as well as the decision-making principles in section 10 FTAA. It is more likely to result in a lasting solution, that better recognises tikanga and facilitates tikanga-based engagement and enables some degree of

kanohi ki te kanohi engagement under the Panel's independent auspices.

16. Counsel acknowledge that ultimately any directions on cultural effects hearings / workshops (or related steps) and their impacts on the timing of the Panel's decision will be matters for the Panel.

Other key matters

17. Te Parawhau ki Tai has not yet had the opportunity to fully consider and identify key issues in contention for the purposes of the Project. While there is a need for an alternative route to the existing State Highway, a key question is whether NZTA has adequately addressed the relevant alternative routes that exist. Te Parawhau ki Tai is therefore required to reserve its position on support/opposition (and substantive conditions) pending completion of its cultural impact assessment.
18. As regards cultural effects and their corresponding management (in accordance with the effects management hierarchy), it is expected that there will be differing views on the relevant relationships and effects on the land | whenua and environment | taiao for Te Parawhau ki Tai, and other statutory participants listed in Schedule 3 to Minute 2.³
19. These types of issues are not unexpected in context of the substantial land areas and environmental habitats between Te Hana and the Port Marsden Highway in Northland | Te Tai Tokerau, and which areas tend to be subject to overlapping claims of interest and separate tikanga.
20. Accordingly, Te Parawhau ki Tai acknowledges that it would be appropriate to allow person to person | kanohi ki te kanohi engagement between the Panel and the relevant hapū and Iwi interests, to ensure that a proper understanding can be reached in respect of the s6(e) RMA relationships, having regard to tikanga. This might best be achieved by way of an in-person cultural effects workshop with the claimed tangata whenua parties, along similar lines

³ Being Te Rūnanga o Ngāti Whātua and Ngatiwai Trust Board.

to that held for the VTM project proposal (as noted above). Any proposal should be the subject of transparent engagement between all tangata whenua parties before any pōwhiri or other steps are taken by the Panel.

21. As noted above, Te Parawhau ki Tai holds mana whenua interests in at least part of the Project application area, and exercises rangatiratanga and kaitiakitanga over that area.
22. Counsel will attend at the Conference and will be available to address the above issues, as required.

Dated this 8th day of June 2026

Rob Enright / Marti Enright
Counsel for Te Pouwhenua o Tiakiriri Kukupa Trust on behalf of Te Parawhau ki Tai