

Before the Expert Consenting Panel

under: the Fast-track Approvals Act 2024

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

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

Legal submissions on behalf of the New Zealand Transport Agency
Waka Kotahi

Dated: 29 July 2026

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LEGAL SUBMISSIONS ON BEHALF OF THE NEW ZEALAND TRANSPORT AGENCY WAKA KOTAHI

INTRODUCTION

- 1 These legal submissions are filed on behalf of the New Zealand Transport Agency Waka Kotahi (NZTA) in relation to its notices of requirements (NORs) and applications for resource consents and archaeological authorities (together, the *Application*) for the North West Rapid Transit (NWRT or *Project*).
- 2 These submissions are intended to assist the Panel in making its decision on the Application, including in relation to conditions. They address the matters on which the Panel will be required to make a determination, by reference to the statutory framework and evidence before the Panel. To provide a complete picture, these submissions necessarily repeat or summarise parts of NZTA's:
 - 2.1 legal submissions dated 15 December 2025, which (among other things) provide an overview of the Fast-track Approvals Act 2024 (FTAA) framework as relevant to the Project;
 - 2.2 memorandum of counsel dated 19 May 2026, which addresses the Panel's first request for information¹ (RFI#1) concerning the 'effects envelope' approach;
 - 2.3 memorandum of counsel dated 21 May 2026, which addresses the Panel's second request for information² (RFI#2) concerning lapse dates and other matters; and
 - 2.4 legal submissions dated 3 June 2026, which contain NZTA's response to the Panel's third request for information³ (RFI #3) relating to alternatives assessments.⁴
- 3 These submissions address:
 - 3.1 The Requiring Authority and Applicant;
 - 3.2 The Project;
 - 3.3 The legal framework;
 - 3.4 The significant national and regional benefits of the Project;
 - 3.5 The Project's potential adverse effects and the NZTA's proposed effects management approach; and
 - 3.6 The following particular issues: lapse, reasonable necessity, alternatives and property acquisition concerns.

¹ See Minute 3 dated 5 May 2026.

² See Minute 5 dated 7 May 2026.

³ See Minute 7 dated 19 May 2026.

⁴ See the legal submissions dated 3 June 2026 and SOE Karyn Sinclair dated 3 June 2026.

- 4 NZTA's updated proposed designation and consent conditions are provided in **Appendices A and B** to these legal submissions. To assist the Panel, we have provided one set of designation and consent conditions, which identify the conditions relevant to each NOR or consent. We note that the conditions will need to be split across the designations and consents following the Panel's decision. NZTA is happy to assist the EPA with this administrative task.
- 5 NZTA is working with Heritage New Zealand Pouhere Taonga (*HNZPT*) to resolve the one remaining issue relating to the archaeological authorities and will provide an update to the Panel (including agreed conditions) as soon as possible.

OVERVIEW

- 6 The Project will provide transformative public transport infrastructure for Auckland. It will enable fast, frequent, reliable and high-capacity bus rapid transit between Northwest Auckland and the City Centre, and will fill a missing link in Auckland's rapid transit network. It will support urban growth in one of the city's largest population growth areas (Northwest Auckland) and improve accessibility to key employment, retail, education and social destinations along the corridor. It will provide genuine transport choice for current and future generations.
- 7 It is not in doubt that the Project will provide significant regional and national benefits. The Project's transport benefits include significantly reduced bus travel times, substantially improved bus travel time reliability, improved public transport user experience, improvements for general traffic and freight vehicles using SH16, and more efficient movement within the corridor. The Project will also support urban intensification enabled by the Auckland Unitary Plan (*AUP*). It will therefore enable wider economic benefits, including increased productivity, and provide a range of social benefits. The Project is recognised in national and regional policy documents as a key priority for Auckland's future, including in the current Government Policy Statement on Land Transport 2024-2034 (*GPS*).
- 8 There is significant and broad-based support for the Project, including within the communities that it will both affect and serve. Auckland Council (*Council*) has "*reaffirm[ed] its strong and consistent strategic support for the Northwest Rapid Transit project*". Auckland Transport (*AT*), which will operate the bus services and stations, has provided a letter in support of the Project. The Minister and Associate Minister of Transport both lodged comments recording their support for the Project. Most other commenters also acknowledged the benefits of the Project. And, although several thousand directly affected and adjacent landowners and occupiers were invited to comment, only a very small number lodged a comment.
- 9 In our submission, the Panel must carefully consider the unique context of this Project when making its decision. The relevant contextual factors include:
 - 9.1 NZTA is a responsible Crown entity that must operate in accordance with its statutory obligations. It has decades of experience and an exemplary record in delivering complex infrastructure for the public benefit, with public funds. In our submission, these features are a relevant consideration, particularly in relation to the Panel's decisions on appropriate conditions.

- 9.2 NZTA seeks designations – not s9(3) consents. A designation is a bespoke planning tool that recognises the unique characteristics of a requiring authority and infrastructure. It both enables land use and provides route protection. The appropriate level of assessment and effects management approach for a designation is less than a resource consent, including because the Outline Plan of Works process allows for design detail to be confirmed later with Council feedback.
- 9.3 The Project is situated in a highly modified urban environment, which is dominated by major transport (SH16) and utility infrastructure. Its context is one in which change is familiar, anticipated and appropriate. It is also an environment with very limited remaining natural values, so the Project's impacts are generally low. The Project impacts that do require management (such as construction noise) are of a nature that is well understood and already experienced in a developed urban environment. Most impacts are temporary in nature, and all can be effectively managed using established and well-tested measures, which are set out in the Proposed Conditions.
- 10 Since the Application was lodged, the National Policy Statement for Infrastructure (*NPS-I*) has been published and come into effect. It is directly relevant to the Project. The Project is clearly consistent with the objective and policies of the NPS-I. The NPS-I also supports NZTA's approach to both alternatives assessment and effects management (particularly where the NPS-I applies alongside other national direction).
- 11 The Panel's scope to decline the Application under the FTAA is confined. In our submission, none of the mandatory or discretionary matters allowing the Panel to decline the Application are engaged in this case. No commenter on the Application has suggested that the Application should be declined in its entirety. Accordingly, we expect the Panel's deliberations will focus on conditions.
- 12 NZTA suspended processing of the Application for over a month to allow time to work collaboratively with Council to see if, together, the parties could assist the Panel by narrowing the issues between them. Through facilitated discussions, NZTA and Council agreed a large number of the matters that were raised in the Council's comments, and other matters were materially narrowed. During the consenting process, NZTA has also agreed conditions with the National Trading Company of New Zealand Limited (*NTC*) and Woolworths New Zealand Limited (*Woolworths*) (in relation to delivery vehicle access to their businesses). The Ministry of Education has also written to the Panel to confirm that its comments have been resolved through discussions and it no longer seeks any amendments to NZTA's Proposed Conditions.
- 13 For those effects management-related issues that remain outstanding, as discussed in the legal framework section of these submissions, the Panel will need to consider the evidence before it to determine which conditions satisfy the normal Resource Management 1991 (*RMA*) tests and are the 'least onerous' while addressing relevant effects. It will need to do that in a way that supports the purpose of the FTAA. In our submission, NZTA's Proposed Conditions (as updated) appropriately manage the Project's impacts and should be preferred over the more onerous conditions proposed by commenters.
- 14 Somewhat unusually for a transport project, the issue that has been addressed in the most detail in comments relates to construction traffic effects at

Westgate. NZTA considers the commenters' emphasis on short-term traffic impacts is out of proportion to the substantial, long-term transport and traffic improvements and the benefits the Project will deliver for Westgate, northwest Auckland and the broader Auckland region. In our submission, and consistent with the purpose of the FTAA, the Panel must keep the significant permanent positive transport effects of the Project front of mind throughout its deliberations.

- 15 As the Panel is aware, NZTA seeks approval on an 'effects envelope' basis. The Proposed Conditions secure the environmental outcomes within the envelope of effects that has been assessed, while allowing the final design and construction methodology to respond to the environment at the time of construction and innovate and/or to adopt advances in technology. In our submission, this approach is consistent with the purpose of the FTAA and the alternative approach of a traditional Condition 1 would be "*more onerous than necessary*".
- 16 In conclusion, we submit that the Panel should approve the Application subject to NZTA's Proposed Designation and Consent Conditions at Appendices A and B and the archaeological authority conditions that will be lodged shortly. The conditions are proportionate to the effects they address, and will facilitate the delivery of the Project and its significant national and regional benefits in a way that appropriately manages and mitigates adverse effects.

THE REQUIRING AUTHORITY AND APPLICANT: NEW ZEALAND TRANSPORT AGENCY WAKA KOTAHI

- 17 It is important for the Panel to bear in mind the nature of the Requiring Authority and Applicant in this case, NZTA, and its statutory functions and obligations.
- 18 NZTA's statutory objective is to "*undertake its functions in a way that contributes to an effective, efficient, and safe land transport system in the public interest*".⁵ Its functions, as relevant to the Project, include:⁶
- 18.1 Contributing to an effective, efficient, and safe land transport system in the public interest;
 - 18.2 Managing the state highway system, including planning, funding, design, supervision, construction, and maintenance and operations, in accordance with the Land Transport Management Act 2003 and the Government Roadway Powers Act 1989;
 - 18.3 Overseeing the planning, operation, implementation, and delivery of public transport (including issuing guidelines for regional public transport plans); and
 - 18.4 Managing funding of the land transport system.
- 19 NZTA is a Requiring Authority under s167 of the RMA.

⁵ Land Transport Management Act 2003 (LTMA), s94.

⁶ LTMA, s95(1)(a), (h), (i) and (j).

- 20 NZTA must “*give effect to*” the GPS when performing its land transport planning and funding functions.⁷ The overarching “*economic growth and productivity*” strategic priority explicitly includes planning for the delivery of the Northwest Rapid Transit Corridor as a key focus. The “*value for money*” strategic priority requires NZTA to improve value for money from transport investment including through “*a focus on whole-of-life costs to maximise long-run value*”.⁸
- 21 As Ms Fisk explains in her evidence, NZTA’s functions reflect a general duty to ensure that all parts of the land transport system (not just State highways) operate in a safe, effective and integrated manner.⁹ Additionally, she explains that NZTA’s statutory obligations require it to work towards providing environmentally and socially responsible outcomes for each project within the overall funding budget.⁴
- 22 NZTA has decades of experience delivering complex roading developments, which required extensive construction and earthworks activities across a broad range of environments. NZTA is a national delivery agent, with an exemplary record.¹⁰
- 23 All of the above means that NZTA is a Crown entity, responsible for delivering public infrastructure with public funds, and must operate in accordance with its statutory obligations. The “*value for money*” strategic priority in the GPS reflects the fact that Project costs (including any additional costs arising from conditions imposed during the consenting process) are borne by the taxpayer, not private individuals.
- 24 Accordingly, in our submission, NZTA’s role, function and responsibilities are relevant considerations when the Panel considers the Project’s potential effects and determines the appropriate management approach for those effects. In our submission, one consequence of this character is that ‘standard’ or ‘belts and braces’ conditions are neither needed nor appropriate for this Application because the matters they cover are already part of NZTA’s standard project procedures (as discussed later in these submissions).

THE PROJECT: NORTH WEST RAPID TRANSIT

Project overview

- 25 The Project is the construction, operation, maintenance and improvement of new bus rapid transit facilities located adjacent to SH16, from the Bringham Creek Road/SH16 intersection in northwest Auckland to Ian McKinnon Drive in the Auckland City Centre.
- 26 A bi-directional, offline busway will extend from Bringham Creek to Te Atatū and then from the Waterview Interchange to the Auckland City Centre. The Project will rely on the existing bus shoulder lanes along the causeway between Te Atatū and the Waterview Interchange, and no approvals are sought or required in this area.

⁷ LTMA, s70(1).

⁸ GPS, page 23.

⁹ SOE Emma Fisk dated 3 June 2026, paragraphs 9 – 10. Section 96(1)(a) of the LTMA requires NZTA to “exhibit a sense of social and environmental responsibility”.

¹⁰ Application, Part 2 – The Project, Section 2.1.

27 The Project includes seven rapid transit stations located at Brigham Creek (which also includes a park and ride facility), Westgate, Royal Road, Lincoln Road, Te Atatū, Point Chevalier and Western Springs.

28 Part 2 of the Application provides a full description of the Project.¹¹

Approvals required

29 NZTA seeks the following approvals for the Project:

29.1 Twelve designations: NZTA has issued notices for five primary designations to enable staged construction of the busway (three to the west of the causeway and two to the east). NZTA has issued notices for a further seven overlapping designations for the stations, to enable future transfer of the stations to another requiring authority as operator if needed.

29.2 Resource consents required in accordance with sections 9(1), 9(2), 12, 13, 14 and 15 of the RMA (*Consents*), except for consents relating to works in the vicinity of natural wetlands or permanent diversion or reclamation of any perennial or intermittent watercourse. Overall, the activity status for the Consents is discretionary.¹²

29.3 Archaeological authorities: NZTA has applied for authorities for all publicly-owned land.

30 The extent of the twelve NORs is collectively referred to as the 'Proposed Designation' in these legal submissions. The term 'Project Area' is used to refer to both the Proposed Designation and the extent of the coastal occupation permits sought.

31 NZTA has not sought a wildlife permit for the Project. NZTA will comply with the Wildlife Act 1953 (or subsequent legislation) when undertaking Project works.¹³ The Wildlife Act and its processes will ensure appropriate management of any direct effects of the Project on protected species, and duplication of effects management through RMA approvals should be avoided in any event. For this reason, matters regulated under the Wildlife Act are not before the Panel for consideration or decision. The Council initially raised a concern about this approach in its comment and suggested a lizard management plan condition.¹⁴ However, through facilitated discussions, Council agreed that such a condition is not needed.¹⁵

¹¹ Application, Part 2 – The Project.

¹² Application, Part 4 – RMA 1991 Approvals, Section 1.2.

¹³ It is noted that ecological surveys for the Project identified two copper skink, which are protected under the Wildlife Act 1953: Application, Part 4, section 10.1.1.3. If any protected wildlife is present at the time of Project works, NZTA will need to relocate the protected wildlife in accordance with a wildlife permit (general or Project-specific).

¹⁴ As set out in Auckland Council's planning memorandum dated 2 June 2026, Appendix 16, section 5, Auckland Council's expert stated that "*In my opinion and with extensive experience in compliance matters, the deferment to a 3rd Party (DOC) is quite irregular and a significant departure from normal regulatory compliance and monitoring associated with designations and/or consenting requirements; especially where Auckland Council has discretion*".

¹⁵ Joint memorandum of counsel from the Applicant and Auckland Council dated 8 July 2026, Attachment 1, page 54.

LEGAL FRAMEWORK

- 32 The legal framework for the Panel's consideration of the Application is addressed in paragraphs 30–40 of NZTA's legal submissions provided with the Application. We do not repeat those submissions in full. We do however focus on the parts of the legal framework that are key to the Panel's final deliberations and updates to the legal framework since the Application was lodged.

Scope to decline approvals under the FTAA

- 33 The Panel's scope to decline the Application is limited under the FTAA to:¹⁶

33.1 Ineligibility;

33.2 Inconsistency with relevant Treaty settlements; and

33.3 Adverse impacts that (after taking into account conditions) are sufficiently significant so as to be out of proportion to the Project's benefits.

- 34 We submit that none of the mandatory or discretionary matters allowing the Panel to decline the Application are engaged in this case.¹⁷ No commenter on the Application has suggested that the Application should be declined in its entirety.

- 35 Accordingly, the Panel's deliberations will focus on the conditions to be imposed on the designations, consents and archaeological authorities. We have therefore focused on the legal framework applying to conditions in these submissions.

Considerations relevant to conditions

- 36 The approvals sought in the Application may be granted subject to conditions.¹⁸

The RMA tests governing conditions continue to apply

- 37 The Panel may impose any condition on a resource consent that it considers "appropriate",¹⁹ provided those conditions are "directly connected to... an adverse effect of the activity on the environment" or "an applicable district or regional rule".²⁰

- 38 Case law also establishes that conditions must be for a resource management purpose (not an ulterior one), must fairly and reasonably relate to the approved development, and must be reasonable.²¹ Conditions must also be certain, enforceable, not delegate decision-making powers, and not rely on third

¹⁶ Fast-track Approvals Act 2024 (FTAA), s85.

¹⁷ See full reasons at paragraph 33 of NZTA's legal submissions filed with the Application.

¹⁸ FTAA, s81(2)(e). For resource consents, see FTAA, sch 5 cl18. For designations, see FTAA, sch 5 cl25. For archaeological authorities, see FTAA, sch 8 cl5(1).

¹⁹ FTAA, sch 5 cl18. RMA, s108.

²⁰ RMA, s108AA(1)(b), pursuant to FTAA, sch 5 cl18 and cl25. Although s108AA does not expressly apply to designations, we submit that same requirements for conditions should similarly apply.

²¹ *Newbury District Council v Secretary of State for the Environment* [1980] 1 All ER 731; adopted by the Supreme Court in *Waitakere City Council v Estate Homes Limited* [2007] 2 NZLR 149; (2007) 13 ELRNZ 33, at [65]–[67]; [2007] NZRMA 137 (SC) and cited more recently by the High Court in *Ngai Te Hapu Incorporated v Bay of Plenty Regional Council* [2018] NZHC 1710, at [45].

parties.²² NZTA has carefully considered these legal principles in the development of its Proposed Conditions.

Additional FTAA test – the purpose of the FTAA must be given the greatest weight

- 39 When considering conditions, the Panel must also “take into account” the purpose of the FTAA, as well as the following additional matters under the RMA and Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA)²³ as relevant:

39.1 For the resource consents, the provisions within Parts 2, 3, 6 and 8 to 10 of the RMA (excluding s 104D) that “direct decision making on an application” as well as the relevant provisions of any other legislation that directs decision making under the RMA;²⁴

39.2 For the designations, the provisions of Part 8 of the RMA that direct decision making on “an application [sic] for a designation” (except section 170) as well as the relevant provisions of any other legislation that directs decision making under the RMA;²⁵ and

39.3 For the archaeological authorities, the matters in s59(1)(a) of the HNZPTA, as well as a relevant statement of general policy confirmed or adopted under the HNZPTA.²⁶

- 40 For the purposes of the Panel’s evaluation, and its weighing of relevant considerations, the FTAA expressly directs the Panel to give the “greatest weight” to the purpose of the FTAA, being:²⁷

To facilitate the delivery of infrastructure and development projects with significant regional or national benefits.

- 41 As noted in the legal submissions filed with the Application, the first decision under the FTAA considered and provided guidance on the “greatest weight” test.²⁸ Based on that guidance, in our submission, when deciding whether to grant or decline the Application, the Panel must consider the purpose of the FTAA and other relevant matters (under the RMA and HNZPTA) individually, and then weigh those factors in an overall balancing exercise that gives the greatest weight to the purpose of the FTAA.

²² These requirements have been considered throughout case law, for example, see *McKay v North Shore City Council* EnvC W146/1995; [1995] ELHNZ 382 at [3] (where the proposed conditions sought to impose restrictions on third parties, which the Planning Tribunal deemed to be ultra vires and unenforceable); *Mount Field Limited v Queenstown Lakes District Council* [2012] NZEnvC 262 at [77] (where the Court noted conditions must be certain and could not delegate the making of substantive decisions), citing *Royal Forest and Bird Protection Soc v Gisborne District Council* (W26/2009) at [88]. These requirements have also been recognised in the Environment Court Practice Note 2023, paragraph 10.4.

²³ Including relevant provisions of the RMA and HNZPTA pursuant to FTAA, s81(3).

²⁴ FTAA, s81 and sch 5 cl17(1).

²⁵ FTAA, s81 and sch 5 cl24(1).

²⁶ FTAA, s81 and sch 8 cl4. Sections 47(1)(a)(ii) and 47(5) of the HNZPTA are not relevant as NZTA is seeking archaeological authorities under s44(a) of the HNZPTA, not s44(b).

²⁷ FTAA, s3 and sch 5 cls 17 and 25 and sch 8 cl4.

²⁸ Decision of the Bledisloe North Wharf and Fergusson North Berth Extension Expert Panel (dated 21 August 2025), paragraphs 120-121.

- 42 The same considerations, including the “*greatest weight*” test, apply to the Panel’s determinations on conditions.²⁹ We do not contend that each individual condition should be tested for consistency with the FTAA purpose.³⁰ However, the FTAA purpose will be relevant (including by informing the “no more onerous than necessary” test discussed below) where the Panel needs to make a decision between different conditions before it.³¹ Further, in our submission, the conditions overall must be consistent with the FTAA purpose given it is the overarching and dominant consideration under the FTAA framework.

Additional FTAA test – conditions must be “no more onerous than necessary”

- 43 Any conditions set by the Panel must also be “*no more onerous than necessary to address the reason for which those conditions are set.*”³²
- 44 This test is novel. It adds an additional layer to the existing RMA tests that have been imported into the FTAA, and must be considered separately.³³
- 45 The “*no more onerous than necessary*” test is clearly directed at minimising the burden of conditions in a way that is proportionate to the effect that those conditions will manage. As explained by the Pound Road Expert Panel:³⁴

...our task is not limited to determining whether a particular condition is legally available (in the sense of the well-known RMA tests), but also whether the condition represents the least onerous and most appropriate mechanism for addressing the relevant adverse effects while still giving effect to the purpose of the Act.

- 46 In order to satisfy this test, we submit the Panel must actively consider “*whether there is some other less onerous means of achieving the purpose of the condition*”.³⁵ A ‘less onerous means’ may be not imposing a condition or imposing a less onerous condition. Later in these submissions we address the effects management issues for which there are multiple options before the Panel and why we consider the Panel should prefer the ‘less onerous means’ proposed by NZTA (which is no condition in some cases and a different condition to that proposed by a commenter in other cases).

Conditions developed for other purposes should be treated with caution

- 47 As discussed in NZTA’s response to RFI#2, previous decisions made on applications made under the RMA do not establish precedent.³⁶ Caution is therefore required when making comparisons to previous projects as part of the

²⁹ Decision of the Pound Road Industrial Development Expert Panel (dated 1 May 2026), paragraphs 148(c) and 198.

³⁰ Decision of the Pound Road Industrial Development Expert Panel (dated 1 May 2026), paragraph 200.

³¹ Decision of the Pound Road Industrial Development Expert Panel (dated 1 May 2026), paragraph 201.

³² FTAA, s83.

³³ Decision of the Maitahi Village Expert Panel (dated 18 September 2025), paragraphs 97 - 99.

³⁴ Decision of the Pound Road Industrial Development Expert Panel (dated 1 May 2026), paragraph 201. See also Decision of the Waitaha Hydro Scheme Expert Panel (dated 17 April 2026), paragraph 1118 and Decision of the Ryans Road Industrial Development Expert Panel (dated 7 May 2026), paragraph 585.

³⁵ Decision of the Takitimu North Link – Stage 2 Expert Panel (dated 19 March 2026), paragraph 333.

³⁶ *Murphy v Rodney District Council* (2004) 10 ELRNZ 353 (HC).

decision-making process. By way of example, NZTA's response to RFI#2 explains in detail why comparisons between the Supporting Growth Alliance (SGA) projects and this Project are of limited utility (due to the different legal and policy frameworks, and material factual differences).

48 There are robust reasons for the different approach taken by NZTA to its proposed conditions in this case when compared with the conditions that have been imposed on other, recent NZTA projects considered under the RMA (again, including the SGA designations).

49 In our submission, the Panel's focus must be on this particular Project and its statutory context. The conditions must respond to the FTAA purpose and tests, the relevant current policy framework and the evidence before the Panel in this case.

RMA planning instruments remain relevant, but have less weight

50 As NZTA's legal submissions filed with the Application observe, RMA planning instruments have less weight in FTAA decision-making than in standard RMA processes. That is because the Panel is required to give "*greater weight*" to the purpose of the FTAA than the relevant directions in the RMA, which require the Panel to "*have regard to*" or "*have particular regard to*" RMA planning instruments. RMA planning instruments remain relevant to the Panel's decisions on conditions, but must be approached with due regard to the above factors.

51 Part 4 of the Application provides an assessment of the provisions of the relevant RMA planning instruments, including the AUP, the National Policy Statement for Freshwater Management 2020 (*NPS-FM*), the National Policy Statement for Urban Development 2020 (*NPS-UD*), the National Policy Statement for Indigenous Biodiversity 2023 (*NPS-IB*), the National Policy Statement on Electricity Transmission 2008 (*NPS-ET*), ss6 and 7 of the Hauraki Gulf Marine Park Act 2000 and the New Zealand Coastal Policy Statement 2010 (*NZCPS*).³⁷ Part 4 concludes that the Project is consistent with the relevant national and regional planning documents.³⁸

52 Since the Application was lodged, a number of those RMA planning instruments have been amended, although those amendments do not materially alter the statutory evaluation in Part 4 of the Application.³⁹

53 Most importantly, the NPS-I has been published and come into effect since the Application was lodged. The NPS-I is directly relevant to the Project⁴⁰, and the Panel must take it into account (and consider NZTA's addendum to Section 22.3 of Part 4 of the Application⁴¹) during its deliberations.⁴²

³⁷ Application, Part 4, Section 22.1-22.3, and 22.5. FTAA, sch 5 cl5(2).

³⁸ Application, Part 4, Section 23.

³⁹ Memorandum of counsel dated 1 May 2026. The National Policy Statement - Electricity Transmission has also been replaced with the National Policy Statement for Electricity Networks but the relevant policies have the equivalent intent.

⁴⁰ The Project comprises "*infrastructure activities*" and "*infrastructure supporting activities*" within the meaning of clause 1.3(1) of the NPS-I.

⁴¹ Memorandum of counsel dated 1 May 2026.

⁴² NPS-I, cl 3.1; *Royal Forest and Bird Protection Society of New Zealand Inc v West Coast Regional Council* (2023) 24 ELRNZ 759 (Env Ct) at [351].

- 54 The Project is clearly consistent with the objective and policies of the NPS-I.
- 55 The NPS-I also supports NZTA's approach to the Project's effects on coastal, freshwater and indigenous biodiversity and, by extension, the NZCPS, NPS-FM and NPS-IB. As noted above, NZTA's statutory evaluation in Part 4 of the Application concludes that the Project is consistent with those latter documents. The only commenter to suggest otherwise is the Director-General of Conservation (*DOC*) (in relation to the NPS-FM⁴³) and we address that aspect of the DOC comment in more detail later in these submissions.
- 56 Policy 9 NPS-I (*Managing the effects of new infrastructure and major upgrades*) specifically addresses how the environmental effects of infrastructure should be managed and the interaction between the NPS-I and other RMA planning instruments. It provides:
- (1) Decision-makers must enable new infrastructure or major upgrades of existing infrastructure activities in all environments.
- (2) Where infrastructure activities are proposed to locate in or are likely to have adverse effects on environments and values provided for in section 6 of the Act, the provisions of this policy must be read alongside other relevant national direction, regional policy statements and regional and district plans.
- (3) Where (2) does not apply, the adverse effects of new infrastructure and major upgrades must be, where practicable, avoided, remedied or mitigated.
- 57 Critically, Policy 9(1) NPS-I *requires* decision-makers to *enable* new infrastructure and major upgrades in *all environments*. The remainder of the policy then addresses how adverse effects are to be managed in different environments.
- 58 In our submission, NZTA's Proposed Conditions appropriately address adverse effects on s6 RMA environments and values in line with Policy 9(2) (for example, Proposed Consent Condition 14 addresses potential impacts on Significant Natural Areas (*SNA*) consistent with the NPS-I and NPS-IB read together). For other environments and values (including freshwater), NZTA's Proposed Conditions appropriately avoid, remedy or mitigate adverse effects in line with Policy 9(3).
- 59 Accordingly, in our submission, the Project is consistent with the relevant national and regional planning documents. Even if the Panel found the Project was not consistent with those documents in any respect, they have less weight in FTAA decision-making (compared to RMA decision-making) and cannot justify decline of the Application or the imposition of overly onerous conditions.
- Conclusion – approach to outstanding conditions issues***
- 60 Most of the outstanding issues before the Panel relate to conditions, and the Panel has generally been presented with two versions of those conditions (eg a version from NZTA and a version from a commenter). In each of those cases, the Panel will need to determine the approach that:

⁴³ Comment #27 – Director-General of Conservation at 2.11.

60.1 satisfies the RMA tests; and

60.2 is the 'least onerous' while addressing the Project's effects and supporting the purpose of the FTAA.

We address these legal tests in relation to the outstanding effects management issues below.

THE PROJECT WILL DELIVER SIGNIFICANT NATIONAL AND REGIONAL BENEFITS

- 61 As set out in NZTA's legal submissions lodged with the Application, there is no doubt the Project will provide *significant* regional and national benefits.
- 62 The Project's transport benefits include significantly reduced bus travel times, substantially improved bus travel time reliability, improved public transport user experience, improvements for general traffic and freight vehicles using SH16, and more efficient movement of people within the corridor.
- 63 The Project will also support urban intensification enabled by the AUP. It will enable wider economic benefits, including increased productivity, and provide a range of social benefits. The Project is recognised in national and regional policy documents as a key priority for Auckland's future, including in the current GPS.
- 64 Throughout NZTA's extensive engagement with iwi, stakeholders, directly affected landowners, and the community, the feedback has been positive with high levels of support for the Project.
- 65 That support has been demonstrated through the consenting process to date:
- 65.1 AT, which will operate the bus services and stations, has provided a letter in support of the Project.⁴⁴
- 65.2 The Council has "*reaffirm[ed] its strong and consistent strategic support for the Northwest Rapid Transit project*".⁴⁵
- 65.3 The Minister of Transport expressed his "*broad support for projects which deliver positive outcomes for New Zealand, including the North West Rapid Transit project*".⁴⁶
- 65.4 The Associate Minister of Transport stated that he "*support[s] the North West Rapid Transit project receiving the approvals it requires subject to any conditions the panel considers appropriate. The delivery of this regionally significant infrastructure will drive economic growth and productivity, and support growth and urban development while creating more viable transport choices*".⁴⁷

⁴⁴ Letter of support from Auckland Transport dated 8 December 2025.

⁴⁵ Memorandum of counsel dated 19 June 2026, attachment.

⁴⁶ Comment #7 – Minister For Infrastructure.

⁴⁷ Comment #8 – Associate Minister for Transport.

65.5 The benefits of the Project have been acknowledged by many commenters. By way of example, commenters referred to the Project as, “*valuable infrastructure that will benefit the wider area*”⁴⁸, stated that they were “*in broad agreement with...the benefits to [sic] improving public transport along this corridor*”,⁴⁹ and acknowledged “*the broader regional benefits of improved public transport Infrastructure*”.⁵⁰

65.6 Finally, although several thousand directly affected and adjacent landowners and occupiers were invited to comment, only a very small number (39) lodged a comment.⁵¹ We submit this outcome reflects the broad support for the Project within the communities that it will both affect and serve.

66 As noted earlier, the FTAA directs the Panel to give the “*greatest weight*” to the purpose of the FTAA⁵² in its decision-making, including in relation to conditions. Accordingly, we submit the Project’s benefits strongly support the granting of the Application in accordance with NZTA’s Proposed Conditions, and without the imposition of more onerous conditions that will not help facilitate delivery of the Project.

POTENTIAL ADVERSE EFFECTS – NZTA’S PROPOSED MANAGEMENT APPROACH SHOULD BE PREFERRED

67 The Panel’s decision must reflect on the impacts of this particular Project, which will be quite different from those associated with many NZTA projects, for two reasons:

67.1 First, the Project will be located adjacent to, and in several locations within, the existing SH16 corridor – meaning its impacts are akin to a road widening project, rather than a project creating a new road corridor.

67.2 Secondly, the Project is situated in a highly modified urban environment (ie a ‘brownfields’ location). The Project Area has already been subject to significant modification, both in built form and landform modification – any remaining natural values are very limited. Consequently, many of the impacts that are typically important to decision-making on NZTA projects, such as landscape/visual and ecology impacts, are far less present for this Project.

68 The impacts that do require management (such as construction noise) are of a nature that is well-understood and already experienced in a developed but growing urban development. Most are temporary in nature, and all will be effectively managed using familiar and tested measures.

⁴⁸ Comment #2 – Matthew Richmond.

⁴⁹ Comment #3 – Jo Johnson.

⁵⁰ Comment #25 – Alex & Kim Milne.

⁵¹ This number excludes the following comments: Auckland Council, Te Ākitai Waiohū; Minister of Transport / Minister for Infrastructure; Department of Conservation; Ministry of Education and Heritage New Zealand Pouhere Taonga.

⁵² FTAA, s3: “*To facilitate the delivery of infrastructure... projects with significant regional or national benefits*”.

- 69 We do not address every effects management issue raised by commenters in these closing submissions as NZTA has already provided the Panel with comprehensive responses to all comments.⁵³ This section instead focuses on the key outstanding effects management issues, which relate to:
- 69.1 Built heritage;
 - 69.2 Commercial properties (site-specific issues raised by Cabra Industrial Limited, Cabra Fred Taylor Limited and Foundry Industrial Limited (*Foundry Group*), NTC, Restaurant Brands Limited (*Restaurant Brands*), and Woolworths);
 - 69.3 Construction traffic at Westgate;
 - 69.4 Cultural matters;
 - 69.5 Design matters;
 - 69.6 Ecology;
 - 69.7 Geotechnical matters;
 - 69.8 Groundwater;
 - 69.9 Infrastructure providers (Transpower and Watercare);
 - 69.10 Residential properties; and
 - 69.11 The 'envelope of effects' approach.
- 70 We also note that NZTA has updated a number of its Proposed Consent Conditions to require it to provide a technical note to Council prior to construction that demonstrates compliance with outcomes-based conditions. We consider this approach should be preferred by the Panel as a requirement for Council certification is "*more onerous than necessary*" to provide Council with information to confirm compliance.

Built heritage

- 71 The Project may impact (depending on the final design):
- 71.1 *The historic core of Point Chevalier town centre*, including two scheduled heritage buildings, known as the Ambassador Theatre and the Auckland Savings Bank (ASB), and adjacent unscheduled buildings.
 - 71.2 *The "Gateway" heritage place at 956-990 Great North Road*: The gateway, marking the entrance to this site, and after which the extent of place is named, is located outside the Proposed Designation and will not be affected. However, several other built heritage features within the

⁵³ Memorandum of counsel dated 3 June 2026, Appendix A – New Zealand Transport Agency response to comments – Combined comments (*Combined Comments Response Table*) and Appendix B – New Zealand Transport Agency response to comments – Residential Landowners; Memorandum of counsel dated 9 July 2026, Appendix A – Designation response table and Appendix B – Resource consent response table (*AC Consent Response Table*); Response to late comments dated 20 July 2026; Response to Westgate Properties (2017) Limited additional comments dated 17 July 2026.

extent of place may be impacted by the Project: the former Chamberlain Park Clubhouse, a remnant fairway ramp and a stone grotto.⁵⁴

71.3 *Arch Hill Special Character Area*: This area is one of Auckland's earliest suburbs with many Victorian cottages. Although 'special character' is not 'historic heritage', we have addressed this matter within the built heritage topic.

72 The approach to managing the Project's impacts on built heritage was not resolved in the facilitated discussions with Council, although Condition 23 (which requires a Built Heritage Construction Management Plan) was agreed.⁵⁵

Point Chevalier town centre

73 Ms O'Neill considers the loss of the Ambassador Theatre and adjacent unscheduled buildings within the Proposed Designation would have a significant heritage impact.⁵⁶ NZTA has committed to retaining the original building footprint of the Ambassador Theatre and the two adjacent non-scheduled buildings, if practicable. If it is not practicable to retain either or all of these buildings, NZTA will seek to retain part of the buildings and consider adaptive re-use as part of the Project. Ms O'Neill considers such management measures will reduce the Project's impacts on built heritage to low.⁵⁷

74 The Council seeks:⁵⁸

74.1 A condition that prevents the total or substantial demolition of the Ambassador Theatre. Their suggested condition would allow the removal of the southern two vertical bays if "*demonstrated to be necessary for the construction of the busway*" and "*a detailed heritage investigation confirm[s] the appropriate and justifiable level of intervention*" and the stage and associated structures were reconstructed. Regardless of whether the building was modified at all, the condition would also require removal of non-original additions, a long-term management and protection strategy, and enhancement of the heritage values of the place through restorative works.

74.2 A condition that adopts the approach proposed by NZTA, in relation to the two adjacent non-scheduled buildings.

75 NZTA considers the Council's suggested Ambassador Theatre condition is not appropriate and is "*more onerous than necessary*" for the following reasons:

75.1 NZTA cannot practicably commit to retaining the Ambassador Theatre in whole or in part. The Ambassador Theatre is much larger than the adjacent buildings, and as such the Indicative Design directly impacts it (see Figures 4-1 and 5-3 in the Assessment of Built Heritage Effects). NZTA will address the practicability of retaining the Ambassador Theatre, in whole or in part, during the design

⁵⁴ Application, Part 6 – Drawings and Attachments, Attachment 6.11 – Assessment of Built Heritage Effects (*Built Heritage Assessment*), Section 3.2.2.1.

⁵⁵ Joint Memorandum of Counsel dated 8 July 2026, Attachment 1, Conditions 21 – 23.

⁵⁶ Built Heritage Assessment, Section 4.2.1.1.1.

⁵⁷ Built Heritage Assessment, Sections 5.1.1.1.1 and 5.1.1.1.2.

⁵⁸ Joint Memorandum of Counsel dated 8 July 2026, Attachment 1, Conditions 21 and HERc1.

process. That process will be informed by “*structural and topographical data and design detail*” and “*may also be contingent on the structural soundness of the building structure should alterations be made to the rear*”.⁵⁹

75.2 For that reason, the condition Council seeks is directly contrary to the approval NZTA has applied for. In effect, it would undermine the grant of the approval sought by imposing a requirement that cuts across the scope of the application itself. That is an inappropriate outcome, as a condition should implement the consent granted, not derogate from it or produce a perverse result by substantially frustrating the approval sought.

75.3 The Ambassador Theatre is scheduled in the AUP. However, Policy D17.3(26) recognises that total or substantial demolition or destruction of the Theatre may occur for infrastructure that will provide a significant public benefit, where there is a functional need or operational constraint, and there is no reasonable practicable alternative. The Project clearly meets this policy and NZTA’s Proposed Designation Condition 21 reflects that policy.

75.4 The Council’s suggested condition introduces very high and uncertain tests that must be satisfied for the removal of the Ambassador Theatre’s southern two vertical bays (“*demonstrated to be necessary for the construction of the busway*” and “*the appropriate and justifiable level of intervention*”).

75.5 The Council’s suggested condition requires NZTA to undertake enhancement measures regardless of whether the Project will have any impact on the Ambassador Theatre, which would impose an unlawful positive obligation. Even if the Project removed the southern two vertical bays, the suggested enhancement measures do not mitigate Project effects.

76 Accordingly, we submit that the Panel should prefer NZTA’s proposed condition.

77 Importantly, NZTA’s proposed management approach addresses the Ambassador Theatre and the two adjacent non-scheduled buildings as a package.⁶⁰ The removal of the adjoining non-scheduled buildings is a permitted activity, and therefore the Panel cannot impose a condition preventing their removal.⁶¹ Nevertheless, NZTA has offered a combined condition based on Ms O’Neill’s advice that the buildings have collective value. If the parts of the condition relating to the Ambassador Theatre were proposed to be amended, then NZTA would reconsider the offered parts of its condition addressing the two adjacent non-scheduled buildings.

78 The ASB Building is located outside, but adjacent to, the Proposed Designation and therefore the designation will not authorise any direct impacts on it.

⁵⁹ Application, Part 4, Section 5.1.2.

⁶⁰ Application, Part 4, Appendix A – Proposed Designation Conditions (*Proposed Designation Conditions*), Condition 21.

⁶¹ *Haines House Haulage Northland Ltd v Whangarei District Council* [2020] NZHC 525, paragraphs 125-126.

Without management, there would be the potential for construction activities to damage the ASB Building. However, that risk will be managed through a Built Heritage Construction Management Plan and the Construction Noise and Vibration Management Plan (CNVMP). The conditions addressing those management plans have been agreed with the Council.

956-990 Great North Road – former Chamberlain Park Clubhouse

- 79 In our submission, the Project's effects on built heritage values at the Chamberlain Park Clubhouse site will be appropriately managed as follows:
- 79.1 Direct impacts on the gateway feature have been avoided through careful selection of the Proposed Designation boundary.
- 79.2 The loss of the remnant fairway ramp and stone grotto will not have material heritage impacts, so no mitigation is proposed.⁶²
- 79.3 The loss of the former Chamberlain Park Clubhouse would have moderate heritage impacts,⁶³ which would be mitigated through archival documentation and installation of interpretative material at the site.⁶⁴ As the Indicative Design is located just 2-3m from the rear corner of the former Chamberlain Park Clubhouse (see Section 5.1.4 of Part 4 of the Application), the practicability of retaining the buildings will need to be considered during detailed design.⁶⁵ NZTA has committed to retaining the former Chamberlain Park Clubhouse if practicable,⁶⁶ in which case the heritage impacts on these buildings would be negligible.⁶⁷ NZTA has updated its proposed condition to exclude a more recent veranda addition after it was identified by the Council during the facilitated discussions.⁶⁸
- 80 The Council seeks a condition that prevents the total or substantial demolition of the former Chamberlain Park Clubhouse. The Council's condition would allow the removal of the southern enclosed veranda if "*demonstrated to be necessary for the construction of the busway*" and "*detailed heritage investigations confirm the appropriate and justifiable level of intervention*" and reconstruction works were undertaken. Regardless of whether the building is modified at all, the condition would also require removal of non-original additions and a long-term management and protection strategy.⁶⁹
- 81 NZTA considers the Council's suggested condition is not appropriate and is "*more onerous than necessary*" for the following reasons:
- 81.1 The former Chamberlain Park Clubhouse is not a scheduled feature in the AUP, although it is located within the extent of place for the Gateway. Ms O'Neill considers the former Clubhouse makes a "*contribution to the understanding and appreciation of the heritage*"

⁶² Built Heritage Assessment, Section 4.2.1.3.1.

⁶³ Built Heritage Assessment, Section 4.2.1.4.

⁶⁴ Proposed Designation Conditions, Condition 13 (c).

⁶⁵ Application, Part 4, Section 5.1.4.

⁶⁶ Proposed Designation Conditions, Condition 16(a).

⁶⁷ Built Heritage Assessment, Section 5.1.2.1.

⁶⁸ Proposed Consent Conditions, Condition 22.

⁶⁹ Joint Memorandum of Counsel dated 8 July 2026, Attachment 1, Condition HERc2.

values of the Gateway". Nevertheless, if it occurs, she considers the loss of the former Clubhouse *"will not result in adverse effects on the overall significance of the place such that it no longer meets the threshold for scheduling"*.⁷⁰

81.2 Policy D17.3(26) of the AUP recognises that total or substantial demolition or destruction of features within a scheduled historic heritage place may occur for infrastructure that will provide a significant public benefit, where there is a functional need or operational constraint, and no reasonable practicable alternative. The Project clearly meets this policy and NZTA's Proposed Designation Condition 22 reflects that policy.

81.3 As noted above, the Indicative Design of the busway is approximately 2-3m away from the rear corner of the clubhouse building. Given its close proximity, it is not possible to confirm whether the building can be retained (with or without the southern veranda) until more detailed design is undertaken.

81.4 The Council's suggested condition introduces very high and uncertain tests that must be satisfied for the removal of the southern veranda (*"demonstrated to be necessary for the construction of the busway"* and *"the appropriate and justifiable level of intervention"*).

81.5 The Council's suggested condition requires NZTA to undertake enhancement measures regardless of whether the Project will have any impact on the former Chamberlain Park Clubhouse. Even if the Project did remove the southern veranda, the suggested enhancement measures go well beyond mitigating the Project's effects.

82 Accordingly, we submit that the Panel should prefer NZTA's proposed condition.

Arch Hill Special Character Area

83 Four dwellings within the Proposed Designation are within the Arch Hill Special Character Area (SCA), and are assumed to be demolished. Ms O'Neill considers the loss of those buildings (which are not scheduled) will not adversely impact the values of the SCA overall, and the Project's special character impacts will be low-moderate.⁷¹ Accordingly, NZTA has not proposed any mitigation.

84 The Council seeks a condition that requires retention of those dwellings if practicable, and otherwise requires consideration of temporarily or permanently relocating the dwellings.⁷²

85 NZTA considers the Council's suggested Special Character Area condition is not appropriate and is *"more onerous than necessary"* for the following reasons:

85.1 The Council's expert states that these dwellings make a *"significant contribution"* to the SCA without providing any analysis to support that statement.⁷³ In comparison, Ms O'Neill's evidence is that the loss of the King Street dwellings will not impact *"the collective and cohesive qualities*

⁷⁰ Built Heritage Assessment, Section 4.2.1.3.1.

⁷¹ Built Heritage Assessment, Section 4.2.1.5.2.

⁷² Joint Memorandum of Counsel dated 8 July 2026, Attachment 1, Condition HERc3.

⁷³ Appendix 9 – Technical Specialist Memo – Built Heritage dated 13 May 2026, Section 4.

of the streetscape and overall SCA" and the loss of the Partridge Street dwellings will not impact *"the broader values and collective and cohesive qualities of the Arch Hill SCA overall"*.⁷⁴ These conclusions are based on analysis of the particular features of the dwellings as well as their location within the streetscape and SCA. We submit that Ms O'Neill's evidence should be preferred by the Panel as she has provided a more robust analysis than the Council's expert.

85.2 The Council's expert states that the total demolition of the dwellings is inconsistent with the AUP.⁷⁵ However, the AUP acknowledges that new infrastructure may need to be located in historic heritage and special character overlays, and requires consideration of *"the economic, cultural and social benefits derived from infrastructure and the adverse effects of not providing the infrastructure"* (Policy E26.2.2(6)(a)). The AUP directs consideration of *"whether there are any practicable alternative locations, routes or designs, which would avoid, or reduce adverse effects on the values of those places"* and *"the type, scale and extent of adverse effects on the identified values of the area or feature"* (Policy E26.2.2(6)(d) and (g)). Consistent with that policy, and Ms O'Neill's expert opinion, NZTA is not proposing any mitigation given the minimal impacts and extensive benefits of the Project.

85.3 The Council has not provided any analysis of the cost associated with, or the practicability of temporarily or permanently relocating the dwellings to demonstrate that cost is not *"more onerous than necessary"*.

86 Accordingly, we submit that the Panel should reject the Council's suggested condition.

Conclusion on built heritage

87 For the reasons set out above, we submit that NZTA's Proposed Conditions will appropriately and proportionately manage the Project's effects on built heritage, and should be preferred by the Panel. In comparison, the Council's suggested conditions go well beyond what is required to manage the Project's effects, are inconsistent with the relevant AUP policy direction, and would impose unreasonable burden, and accordingly must be rejected in accordance with the *"no more onerous than necessary"* test.

Commercial properties

Foundry Group

88 The Foundry Group property will neighbour the Brigham Creek Rarawaru Station. NZTA has had discussions with Foundry Group to help inform the design of the Brigham Creek Rarawaru Station, and will continue those discussions as design of the station progresses.

⁷⁴ Built Heritage Assessment, Section 4.2.1.5.2.

⁷⁵ Appendix 9 – Technical Specialist Memo – Built Heritage dated 13 May 2026, Section 4.

89 NZTA has provided a comprehensive response to the stormwater, wastewater and noise and vibration matters raised in the Foundry Group comments.⁷⁶ In summary:

89.1 *Stormwater*: The Project has been designed to, and will, accommodate stormwater from upstream (including consented development on the Foundry Group property). Other associated impacts on consented stormwater management on the Foundry Group property will be addressed under the PWA in the normal way.

89.2 *Wastewater*: The Project will not provide for a future wastewater connection to a third party's site.

89.3 *Operational noise and vibration*: The commenter's concerns relate to potential future rezoning and development of its property. The Panel does not have jurisdiction to consider potential effects on an unknown and unconsented future environment.

89.4 *Construction noise and vibration*: NZTA's Proposed Designation Conditions 18–20 ensure noise and vibration effects will be appropriately managed and require engagement with neighbours in accordance with the process stipulated.

Woolworths

90 NZTA has continued to engage with Woolworths subsequent to NZTA's response to comments. As a result of that engagement, NZTA and Woolworths have agreed conditions to address the Project's effects on loading access for the Westgate Woolworths. The agreed conditions are presented in a joint memorandum dated 29 July 2026 and in Appendix A.

NTC

91 NZTA and NTC have agreed conditions to address the Project's effects on loading access for the Point Chevalier New World.⁷⁷ The agreed conditions are presented in Appendix A.

92 In its comments, NTC suggested the final design of Parr Road North and the Point Chevalier station access road may impact supermarket loading and "click and collect" customers that use Parr Road North. NTC also proposed a 'Transport and Access Plan – Point Chevalier Station' condition. NZTA provided a comprehensive response to NTC's comments.⁷⁸ In summary, NZTA is not proposing to stop Parr Road North, which would trigger a separate statutory process. Following construction of the Project, Council will continue to own Parr North Road as a local road. It will be for AT/Council (as road controlling authority) to decide if any alterations to the layout of Parr North Road are appropriate or necessary. Accordingly, NZTA considers the Designation will not authorise any permanent impact on Parr Road North that requires management through conditions.

⁷⁶ Combined Comments Response Table, p13-15.

⁷⁷ Commenter #39 – National Trading Company of New Zealand, Legal Submissions, paragraph 1.3.

⁷⁸ Combined Comments Response Table, Section 39.4.

- 93 NTC's comments also raised issues relating to lapse and groundwater. These issues are addressed later in these submissions.

Restaurant Brands

- 94 Restaurant Brands suggested the Project would permanently impact access to a KFC located at Point Chevalier (via Parr Road North and a service lane), and sought a site-specific condition addressing access, circulation and servicing for the KFC restaurant (although a draft condition was not provided).⁷⁹ As noted above, NZTA is not proposing to stop Parr Road North. Further, NZTA is not proposing to stop the part of the service lane that Restaurant Brands references, as the lane will be needed to continue to service shops that are not included within the Proposed Designation. Accordingly, NZTA considers the Project will not permanently impact access to the KFC restaurant and, therefore, no condition is required.
- 95 Restaurant Brands sought a site-specific condition addressing construction traffic (similar to those proposed by NZTA for Point Chevalier New World and Westgate Woolworths). NZTA considers Proposed Designation Condition 16 will appropriately manage potential impacts on access to the KFC restaurant during construction of the Project. A specific condition is not warranted given the KFC restaurant is located outside the Proposed Designation (unlike Point Chevalier New World and Westgate Woolworths).⁸⁰
- 96 Restaurant Brands raised a concern that construction noise and vibration would impact on the operation of the KFC. In its response, NZTA provided evidence from Ms Siiri Wilkening, which establishes that construction noise and vibration will not disrupt the operation of the KFC, including drive-through ordering.⁸¹
- 97 Restaurant Brands' comments also raised issues relating to lapse and groundwater. These issues are addressed later in these submissions.

Construction traffic at Westgate

- 98 Several Westgate business owners and operators have raised concerns regarding the impact of construction traffic on access to their businesses and the surrounding area. These comments largely focus on the potential impact of Project construction on private vehicle access to those businesses, and draw attention to existing traffic problems within this part of the local transport network.

The Project's overall transport effects are hugely positive

- 99 In our submission, the commenters' emphasis on short-term traffic impacts is out of proportion to the substantial, long-term transport and traffic improvements and benefits the Project will deliver for northwest Auckland, and the broader Auckland region.
- 100 As Ms Fisk explains in her statement of evidence, "*temporary [construction] effects should be viewed in the context of the significant permanent benefits the Project will deliver*" which may include "*potential to increase economic activity as customers utilise the rapid transit*". Importantly, "*the parties with concerns*

⁷⁹ Combined Comments Response Table, Section 33.1.

⁸⁰ Combined Comments Response Table, Section 33.2.

⁸¹ Combined Comments Response Table, Section 33.3.

about temporary construction-related effects will be among those receiving the permanent benefits".⁸²

101 This Project should not be considered in the same way as a private development that may have localised traffic impacts during both construction and operation. The overall transport effects of this Project are overwhelmingly positive and, as noted, temporary effects during construction will be appropriately managed through Construction Traffic Management Plan (CTMP) mechanisms.

102 In our submission, the Panel must bear in mind the significant permanent positive transport effects of the Project throughout its deliberations.

Construction traffic effects will be minor and temporary

103 Ms Bates' statement of evidence presents SIDRA modelling that was undertaken to inform her assessment of the Project's construction traffic effects at and around the Hobsonville Road Interchange (which is the key constraint for construction traffic effects at Westgate).⁸³

104 Traffic management measures associated with construction of the Project (eg narrowed lanes, barriers and reduced shoulder widths) are expected to reduce performance of the Hobsonville Road Interchange. However, as Ms Bates explains, the reduced performance does not mean traffic diverts away from the Hobsonville Road Interchange.

105 SIDRA modelling for the "construction scenario" (including the improvements noted below) shows that the level of service at the Interchange is improved during the Saturday peak hour and the AM peak period, and is slightly poorer during the PM peak period.⁸⁴ Ms Bates considers the increased delays in the PM peak result in a minor adverse construction traffic effect. In the AM peak and Saturday noon peak, Ms Bates considers there is no adverse construction traffic effect.⁸⁵

106 The "construction scenario" in the SIDRA modelling includes certain improvements to the Hobsonville off-ramp.⁸⁶ NZTA is not proposing a condition requiring those specific improvements, because Ms Bates considers "*there may be other measures that are more appropriate than the Offramp Improvements to include in the final design of the Project*".⁸⁷ Instead, NZTA's proposed CTMP condition will ensure the sequencing of Project works to mitigate impacts on adjacent arterial roads is considered when the CTMP is developed.⁸⁸

107 In addition to being minor, the Project's construction traffic effects will be temporary because they will not be lasting or permanent. As explained in Ms Bates' evidence, even for construction stages in the order of four years, the "*construction traffic effects will not be constant over that period. They will vary*

⁸² SOE Emma Fisk dated 3 June 2026, paragraphs 16-17 and 23.

⁸³ SOE Meredith Bates dated 3 June 2026, paragraphs 14-15.

⁸⁴ SOE Meredith Bates dated 3 June 2026, paragraph 23.

⁸⁵ SOE Meredith Bates dated 3 June 2026, paragraphs 28-32.

⁸⁶ SOE Meredith Bates dated 3 June 2026, paragraph 11.

⁸⁷ SOE Meredith Bates dated 3 June 2026, paragraph 39.

⁸⁸ Proposed Designation Conditions, Conditions 16(b)(x) and (xi).

*in use and duration, and will be particular to the different construction activities".*⁸⁹

Construction traffic effects will be managed through familiar and tested measures

- 108 In our submission, NZTA's Proposed Designation Condition 16 – Construction Traffic Management Plan will appropriately manage any adverse construction traffic effects by applying standard, well-understood and proven measures. NZTA and AT are both experienced managers of construction at the scale required for the Project, and employ established and proven measures to minimise disruption to the transport network. Council has agreed this condition is appropriate.
- 109 Importantly, as Ms Bates explains, the CTMP *"will be prepared once the final design and construction timeframes are known so that the CTMP is calibrated to that detail... [which will] ensure the CTMP reflects both the final design and the traffic conditions of the day, rather than anticipating those matters now".*⁹⁰

The commenters' relief sought is "more onerous than necessary"

- 110 In our submission, the specific relief sought by the commenters is not appropriate and is *"more onerous than necessary"* to address the Project's construction traffic effects for the following reasons:

*A 'zero' effects approach*⁹¹

- 110.1 The proposition that NZTA should be required to construct transport infrastructure as significant as the Project with 'zero' construction traffic effects is fanciful. As set out in Ms Bates' evidence, *"it is neither reasonable nor realistic to expect no reduction in traffic capacity or level of service ... during the construction of this or any other major project".*⁹² Similarly, Ms Dowling explains that *"[t]here will always be some level of capacity and connectivity disruption during construction works and it may at times be unable to be differentiated from congestion due to other reasons (eg cars breaking down in live lanes, accidents, etc)".*⁹³

- 110.2 There is no legal requirement or policy direction that suggests construction traffic effects should be 'zero' – under the RMA or the FTAA. To the contrary, as explained in Ms Sinclair's evidence, the AUP does not even seek to avoid long-term or lasting traffic congestion in the Metropolitan Centre zone.⁹⁴ Further, the relevant NPS-UD and AUP provisions support the delivery of infrastructure, such as the Project, and the significant overall transport benefits it will provide.

- 110.3 Nevertheless, NZTA has carefully considered the commenters' concerns, particularly in relation to potential impacts on the operational capacity

⁸⁹ SOE Meredith Bates dated 3 June 2026, paragraph 40.

⁹⁰ SOE Meredith Bates dated 3 June 2026, paragraph 45.

⁹¹ Comment #42 – Woolworths New Zealand Limited; Comment #34 – Stride Holdings Limited; Comment #28 – Costco Wholesale New Zealand Limited; Comment #26 – NZRPG Management 2017 Limited & Westgate Properties (2017) Limited; Comment #39 – National Trading Company of NZ Ltd / Foodstuffs; Comment #33 – Restaurant Brands Limited (KFC).

⁹² SOE Meredith Bates dated 3 June 2026, paragraph 42.

⁹³ SOE Ida Dowling dated 3 June 2026, paragraph 39.

⁹⁴ SOE Karyn Sinclair dated 3 June 2026, paragraph 67.

and effectiveness of Gunton Drive during construction. To address those concerns directly, NZTA has proposed an amendment to its Proposed Designation Conditions (new condition 16A) to restrict closures of Gunton Drive during daytime hours (with specific exceptions).

*No construction activities between 1 November and 7 February each year*⁹⁵

110.4 This restriction requested by certain commenters is extremely onerous (covering the bulk of the annual construction season) and may actually increase the Project's construction traffic effects overall. As explained in Ms Dowling's evidence, "[a] three-month 'no work' period, would substantially extend construction duration and cost ... stopping work for more than one quarter of each year would extend a four-year construction period to more than five years".⁹⁶

110.5 There is no evidence before the Panel that such a lengthy 'no work' period is necessary to appropriately manage construction traffic effects. To the contrary, Ms Bates' evidence demonstrates that effects will be minor and temporary, such that an onerous restriction of the nature sought by the commenters is not justifiable. NZTA's Proposed Designation Condition 16 requires consideration of the "timing of traffic movements", which will ensure this issue is addressed when the CTMP is prepared.⁹⁷

*NorthWest and Westgate CTMP conditions*⁹⁸

110.6 NZTA's Proposed Designation Condition 16 requires preparation of a comprehensive CTMP for each stage of works. That CTMP will address all matters relevant to the Westgate area. In our submission, a requirement to prepare two additional CTMPs is unlikely to result in improved effects management. As Ms Dowling explains in her statement of evidence, "three separate CTMPs over a relatively small geographic area would create an administrative burden for contractors, with no identifiable benefit. It would frustrate the ability to manage traffic effectively and efficiently across the network for the benefit of both Centre operators and the Project".⁹⁹

*A condition precedent requiring the completion of the Northside Drive interchange prior to construction*¹⁰⁰

110.7 Ms Bates' evidence establishes that the Northside Drive bridge is not required to mitigate the Project's construction traffic effects.¹⁰¹ In our submission, a condition requiring the Northside Drive bridge to be operational before construction of the Project commences would be unlawful under s108 RMA as it is not required to mitigate a Project effect.

⁹⁵ Stride Legal Statement, Appendix B, Proposed Traffic Condition G(b)(vii) and F(b)(iv).

⁹⁶ SOE Ida Dowling dated 3 June 2026, paragraph 41.

⁹⁷ SOE Ida Dowling dated 3 June 2026, paragraph 42.

⁹⁸ Comment #19 – North West Commercial (2018) Limited; Comment #36 – NZRPG Management 2017 Limited & Westgate Properties Limited, Schedule A; Comment #28 – Costco Wholesale New Zealand Limited.

⁹⁹ SOE Ida Dowling dated 3 June 2026, paragraph 35.

¹⁰⁰ Comment #36 – NZRPG Management 2017 Limited & Westgate Properties Limited, Schedule A, Proposed Condition 15A.

¹⁰¹ SOE Meredith Bates dated 3 June 2026, paragraphs 37-38.

It is a matter that is outside the scope of both the Project and the applications before the Panel.

*A condition requiring improvements to Fred Taylor Drive prior to construction*¹⁰²

110.8 Similarly, this relief relates to the commenters' frustrations with the existing transport environment, rather than a Project effect. This matter is also outside the scope of both the Project and the applications before the Panel.

Conclusion on construction traffic at Westgate

- 111 The relief sought by the commenters reflects their desire not merely for 'zero' construction traffic effects at Westgate, but for transport system improvements that are not proposed and which are wholly outside the scope of the Project and this approvals process. There is no legal requirement or policy direction that might support that approach. The commenters' suggested conditions go well beyond what is required to manage the Project's effects and would impose significant, unjustifiable burden on NZTA.
- 112 The Project's effects need to be managed appropriately – but in the least onerous manner – and bearing in mind that the Project's overall transport effects are overwhelmingly positive and will benefit the commenters directly. In our submission, NZTA's proposed designation conditions are appropriate and will manage Project effects in a proportionate manner, and the Panel should reject the relief sought by the commenters.

Cultural matters

- 113 Te Kawerau ā Maki, Ngāti Whātua Ōrākei and Te Ākitai Waiohū have been actively involved throughout the development of the Project as "Project Partners", and Ngāti Whātua o Kaipara has joined the Iwi Working Group more recently, as detailed in Part 2 of the Application.
- 114 Te Kawerau ā Maki has provided a letter in support of the Project.¹⁰³
- 115 Ngāti Whātua Ōrākei has advised NZTA that they do not consider a cultural values/impact assessment is required for the Project.¹⁰⁴ Mervyn Kerehoma spoke for Ngāti Whātua Ōrākei at the Project Overview Conference¹⁰⁵ and conveyed strong support for the approach adopted by NZTA for this Project.
- 116 Te Ākitai Waiohū provided a Cultural Values Assessment and lodged a comment on the Application. The comment acknowledged NZTA's partnership and engagement approach for the Project, but went on to raise a number of matters. NZTA has provided a detailed response to those matters in its response to comments.¹⁰⁶ In summary:

116.1 *In relation to Te Kukunga Waka (the Unitec Carrington residential development)*: The Project responds to and supports this development by

¹⁰² Comment #36 – NZRPG Management 2017 Limited & Westgate Properties Limited, Schedule A, Proposed Condition 15A.

¹⁰³ Application, Part 4, Section 16.3.1.

¹⁰⁴ Application, Part 4, Section 16.3.2.

¹⁰⁵ Held on 22 April 2026.

¹⁰⁶ Combined Comments Response Table, Section 15.

providing bus rapid transit for future residents. The Point Chevalier station will be readily accessible for residents by walking or cycling.

116.2 *In relation to Arch Hill Scenic Reserve:* NZTA has acknowledged the significant cultural importance of this location, and has therefore sought to minimise the Project's effects on it by narrowing the Proposed Designation through this area. Proposed Designation Condition 7 (offered on an *Augier* basis) requires NZTA to engage with Te Ākitai Waiohū in relation to the detailed design of the Project "*to identify how their cultural values will be reflected in the Project*" including at Arch Hill Scenic Reserve. Proposed Consent Condition 4 requires a Cultural Monitoring Plan to be prepared in collaboration with Te Ākitai Waiohū for works to the east of the causeway; and the Proposed Archaeological Conditions provide for Te Ākitai Waiohū involvement in archaeological works.

116.3 *In relation to concerns about 'combined' or 'shared' conditions:* Based on its extensive engagement with its iwi partners, NZTA has been informed that Ngāti Whātua Ōrākei, Te Ākitai Waiohū and Ngaati Te Ata Waiohū have interests in the eastern part of the Project Area. The conditions reflect that information.

116.4 *In relation to concerns the conditions do not address adverse effects on cultural values across the Project lifecycle:* Te Ākitai Waiohū has been extensively involved in the 'pre-design phase' of the Project and NZTA's Proposed Conditions ensure Te Ākitai Waiohū will be involved in the design and construction phases.

As the Panel will be aware, while it is for iwi to identify adverse cultural effects, any claimed adverse effect must be supported by credible evidence in accordance with the 'rule of reason' approach.¹⁰⁷ The comment does not provide any details of the Project's adverse effects on cultural values that Te Ākitai Waiohū considers outstanding, nor does Te Ākitai Waiohū propose conditions to address any such effects. Accordingly, noting again that NZTA will continue to work with its iwi partners as the Project moves forward, we submit there is no evidence before the Panel that supports the imposition of additional conditions.

116.5 *In relation to the Waitītiko/Meola Creek ONF:* NZTA has amended its Proposed Designation Condition 24 to restrict piers within the ONF and minimise permanent effects.

116.6 *In relation to the request for a Corridor Integration Design Framework (CIDF) condition:* The Te Ākitai Waiohū comment does not identify any adverse environmental effect that is not already being managed, and which would require a CIDF condition. As a result of facilitated discussions with Council, NZTA now proposes design-related conditions (Conditions 15B–15D). Although those conditions are not specifically intended to address cultural matters, Condition 7 will guide the reflection of cultural values in the detailed design of the Project.

¹⁰⁷ *Tauranga Environmental Protection Society Incorporated v Tauranga City Council* [2021] NZRMA 492 at paragraphs 65–66; *Te Rūnanga o Ngāti Whātua v Auckland Council* [2024] NZHC 3794 at paragraphs 183–184; *Ngati Hokopu ki Hokowhitu v Whakatane District Council* [2002] NZEnvC 421 at paragraph 53.

- 117 In conclusion, NZTA's engagement with Te Ākitai Waiohūa has been genuine, ongoing and effective and will continue through future phases of the Project. NZTA's proposed conditions meaningfully address the matters raised by Te Ākitai Waiohūa and, in our submission, the imposition of additional conditions is not justifiable.

Design matters

- 118 As set out in the Landscape and Visual Assessment prepared by Mr Matthew Jones, the Project will be consistent with the existing character of the transport corridor, and in keeping with the evolving urban landscape of the surrounding area. The Project will have low adverse landscape character effects overall.¹⁰⁸
- 119 The Project's visual amenity impacts will largely be confined to adjacent properties. In most cases, the Project will form an additional component adjacent to the SH16 corridor and will be barely discernible or will be seen as complementary to the existing transport infrastructure. Accordingly, the Project will have low adverse visual amenity effects.¹⁰⁹ There are some bridges that will create slightly higher, but localized, visual amenity impacts. These impacts will be moderate at most.¹¹⁰
- 120 The Council comments raised issues relating to landscape and visual amenity and urban design.¹¹¹ Through facilitated discussions, NZTA and Council agreed the following approach to resolve those issues:¹¹²
- 120.1 An Urban and Landscape Design Management Plan condition is not needed;
- 120.2 The designation conditions will address landscape planting (an amended Condition 26), Crime Prevention through Environmental Design (*CPTED*), height-in-relation-to-boundary, and a Form and Landscaping Statement. The intent of the conditions was agreed but the wording of those conditions was not (except for the *CPTED* condition);
- 120.3 NZTA and Council will nevertheless continue to work together on design matters outside the consenting process.
- 121 The "explanatory note concerning design process and open space management" suggested by Council is also not agreed. As set out in NZTA's response to comments, it does not assist with the interpretation or application of the relevant conditions. The designation conditions can be read and easily understood on their face without the suggested explanatory note. It therefore serves no useful or valid purpose, and should not be included in the conditions.

¹⁰⁸ Application, Part 6, Attachment 6.17 – Landscape and Visual Assessment (*Landscape and Visual Assessment*), Section 4.2.2.1.

¹⁰⁹ Landscape and Visual Assessment, Section 4.2.2.2.

¹¹⁰ Landscape and Visual Assessment, Sections 4.3.1 and 4.4.1.

¹¹¹ See Appendix 8 – Technical Specialist Memo – Landscape Architecture dated 2 June 2026 and Appendix 7 – Technical Specialist Memo – Urban Design dated 2 June 2026.

¹¹² Joint Memorandum of Counsel dated 8 July 2026, Attachment 1, pages 20-21.

- 122 The Panel has been provided with two versions of the designation conditions referred to in paragraph 120.2 above.¹¹³ NZTA considers the Council's suggested condition drafting is not appropriate and is "*more onerous than necessary*". Instead, NZTA considers its condition drafting should be preferred for the reasons set out in its response to Council's comments.¹¹⁴

Ecology

Terrestrial fauna (avifauna, lizards and bats)

- 123 The Council's comments on terrestrial fauna were resolved in full during the facilitated discussions.¹¹⁵
- 124 DOC seeks an assessment and mitigation of potential effects on avifauna habitat.¹¹⁶ NZTA considers any such condition would be out of proportion to the Project's effects. It would be "*more onerous than necessary*" because the Project's potential effects on avifauna habitat have been assessed as low to very low, without mitigation.¹¹⁷ The DOC comment does not challenge that assessment, nor does it explain why DOC considers management of such a low level of effects would be reasonable or appropriate.
- 125 DOC seeks a condition requiring a Lizard Management Plan to address adverse effects on lizards and their habitat.¹¹⁸ NZTA considers such a condition is not proportionate to the Project's effects and would be "*more onerous than necessary*" because:

125.1 *In relation to potential effects on lizards:* Baseline lizard surveys only identified two copper skinks across the entire Project Area. Accordingly, NZTA is not seeking a wildlife permit at this time. Nevertheless, NZTA will comply with the Wildlife Act 1953 or subsequent legislation when undertaking Project works. The Assessment of Ecological Effects is clear that, if established at the time of works to be necessary, management of direct effects on protected lizards will occur through the appropriate Wildlife Act processes.¹¹⁹ Further, as the Department of Conservation administers the Wildlife Act processes, it will have oversight of conditions imposed on any Wildlife Act approval if one is required in future.

125.2 *In relation to potential effects on lizard habitat:* The Project's effects on potential lizard habitat due to vegetation removal as part of the Project have been assessed as low, without mitigation.¹²⁰ Accordingly, NZTA's expert Mr Bredin considers that no measures are required to mitigate Project effects on lizard habitat. DOC's comment does not challenge that

¹¹³ Appendix A to these closing legal submissions and Memorandum of Counsel from Auckland Council dated 8 July 2026, Annexure A.

¹¹⁴ Memorandum of Counsel dated 9 July 2026, Appendix A, page 5.

¹¹⁵ AC Consent Response Table, p2.

¹¹⁶ Comment #27 – Director-General of Conservation, paragraph 2.6.

¹¹⁷ Application, Part 6, Appendix 6.15A – Assessment of Ecological Effects (*Assessment of Ecological Effects*), Section 4.2.

¹¹⁸ Comment #27 – Director-General of Conservation, paragraph 2.5.

¹¹⁹ Assessment of Ecological Effects, Section 6.

¹²⁰ Assessment of Ecological Effects, Section 4.2.

assessment, nor does it explain why DOC considers management of such a low level of effects would be reasonable or appropriate.

125.3 The Council originally sought a Lizard Management Plan consent condition in its comments, but has since agreed that such a condition is not necessary.

126 Finally, DOC seeks additional conditions to address potential adverse effects on bats.¹²¹ NZTA considers its proposed condition relating to potential bat habitat is proportionate to the Project's potential effects given bats have not been confirmed as present within the Project Area,¹²² and the Bat Roost Protocols will nevertheless be applied in the areas where potential roost habitat has been identified.¹²³

Terrestrial vegetation

127 DOC made no comments with respect to terrestrial vegetation effects. Accordingly, the only outstanding terrestrial vegetation issues relate to the Council's suggested amendments to NZTA's Proposed Consent Condition 14 and Designation Condition 26A and the Council's suggested new Tree Removal consent condition.¹²⁴

Replanting should be limited to removal of native vegetation

128 NZTA opposes the Council's suggested deletion of "*native vegetation*" and replacement with "*any vegetation*" in NZTA's Proposed Consent Condition 14 and Designation Condition 26A.

129 Those conditions have been proposed to address the Project's effects on native vegetation. The Project's effects on any habitat values of non-native vegetation have either been addressed in other conditions (eg Proposed Consent Condition 18 relating to potential bat roosting trees) or assessed as not requiring mitigation (eg in relation to lizard habitat). NZTA's expert, Mr Blayney, considers any effects on other ecological values of non-native vegetation will be very low, and therefore replacement planting is not required.¹²⁵

130 Further:

130.1 The Council's suggested amendment to Proposed Consent Condition 14 is inconsistent with the relevant objectives and policies in Chapter E15 of the AUP which focus on managing effects on indigenous biodiversity and indigenous vegetation cover.¹²⁶

130.2 The Council's suggested amendment to Proposed Designation Condition 26A is unnecessary given there is no non-native vegetation within the

¹²¹ Comment #27 – Director-General of Conservation, paragraph 2.8.

¹²² Assessment of Ecological Effects, Section 3.3.1.

¹²³ Proposed Consent Conditions, Condition 18.

¹²⁴ Auckland Council Memorandum of Counsel dated 08 July 2026, Annexure B – Auckland Council version of proposed consent conditions (*Council's Proposed Consent Conditions*), p10-11.

¹²⁵ SOE Andrew Blayney dated 9 July 2026, paragraph 38.

¹²⁶ SOE Karyn Sinclair dated 9 July 2026, paragraphs 10-11.

Proposed Designation at Arch Hill Scenic Reserve apart from exotic grass and occasional pest plants.¹²⁷

- 131 Accordingly, we submit that the Council's suggested amendments are disproportionate to the Project's effects and are *"more onerous than necessary"*.

Replanting should be guided by ratios, not by Biodiversity Offset Accountancy Modelling

- 132 NZTA opposes the Council's suggested addition of the words *"provide a Biodiversity Accountancy Model (BOAM) and implement the outcomes of the BOAM"* in NZTA's Proposed Consent Condition 14 and Designation Condition 26A.
- 133 NZTA's proposed conditions respond in a proportionate manner to the Project's effects. As Mr Blayney explains, the 1:1 replanting ratio proposed by NZTA *"is sufficient to maintain the extent, function, and connectivity of indigenous vegetation across the Project Area over time"*.¹²⁸
- 134 In our submission, a requirement to undertake biodiversity offset modelling is *"more onerous than necessary"*. It is not mandatory to undertake such modelling. Mr Blayney does not consider any of the normal reasons for undertaking modelling (uncertainty, time lags and risk in demonstrating no net loss outcomes) apply in this case.¹²⁹ He considers NZTA's proposed conditions are appropriate given *"the low conservation importance and young age of the vegetation affected, the staging of the Project such that loss and subsequent planting will occur in a staggered manner through the corridor, and the high level of certainty that the proposed effects management measures will be effective in a relatively short period of time"*.¹³⁰
- 135 Accordingly, we submit that the Panel should reject the Council's suggested additions to NZTA's Proposed Consent Condition 14 and Designation Condition 26A.

Conditions should not refer to Te Haumanu Taiao guidelines

- 136 NZTA opposes the Council's suggested addition of the words *"in accordance with the guidelines detailed in Te Haumanu Taiao"* in NZTA's Proposed Consent Condition 14 and Designation Condition 26A. Te Haumanu Taiao has no statutory status and has not been through or tested in any independent review process. Further, the Council has not identified which guidelines within that document it considers would need to be met, or why. The Council's suggested addition is therefore uncertain and would be unlawful.

Pest animal control is not necessary to manage the Project's effects

- 137 NZTA opposes the Council's suggested addition of pest animal control in NZTA's Proposed Consent Condition 14 and Designation Condition 26A. Pest plant control is included in NZTA's proposed conditions to assist the establishment of new planting. There is no evidence before the Panel that pest animal control is necessary to assist the establishment of new planting or otherwise manage the

¹²⁷ SOE Andrew Blayney dated 9 July 2026, paragraph 37.

¹²⁸ SOE Andrew Blayney dated 9 July 2026, paragraph 33.

¹²⁹ SOE Andrew Blayney dated 9 July 2026, paragraph 28.

¹³⁰ SOE Andrew Blayney dated 9 July 2026, paragraph 27.

Project's effects. The suggested amendment to the condition is therefore "*more onerous than necessary*".

A new Tree Removal condition is duplicative and unnecessary

138 NZTA opposes the Council's suggested new condition requiring an arboricultural report to "*demonstrate that tree impacts on mature specimens are avoided, minimized and reduced through retention in the first instance, and provide for mitigation or offset planting to ensure there is no net loss of canopy coverage within the different habitats and areas*".

139 NZTA's Proposed Designation Condition 26A and Proposed Consent Condition 14 already address impacts on indigenous vegetation within SEAs, riparian margins, coastal areas and relevant areas of land zoned as open space. Those conditions apply in conjunction with any future Tree Asset owner approval required in relation to street trees and trees in parks. Accordingly, the Council's suggested new condition duplicates effects management that is already addressed in conditions and other processes. NZTA's expert, Mr Blayney, considers NZTA's proposed conditions will appropriately manage the Project's effects, and an additional obligation is not necessary.¹³¹ Accordingly, in our submission, the condition (and particularly the "*no net loss of canopy coverage*" standard) lack justification and are "*more onerous than necessary*".

Freshwater ecology

140 The key outstanding freshwater ecology issues relate to:

140.1 Council seeks a 'stream works design method statement' condition that addresses the detailed design of culverts, outfalls and bridges.¹³² This condition would, in part, replace NZTA's Proposed Consent Condition 12 addressing scour protection;

140.2 Council and DOC seek amendments to NZTA's Proposed Consent Condition 13 addressing fish passage¹³³;

140.3 NZTA's Proposed Consent Condition 15 requires riparian planting to manage the effects of bridging, culverting and stormwater outfalls. Council and DOC seek amendments to the condition requiring freshwater offsetting or compensation calculated using the Stream Ecological Valuation (SEV) and Environmental Compensation Ratio (ECR) method¹³⁴; and

140.4 NZTA's Proposed Consent Condition 17 addresses Fish Salvage and Relocation. Council and DOC seek a 'Native Fish Capture and Relocation Plan' or 'Fish Management Plan' condition instead.¹³⁵

141 For all of these issues, the Panel essentially has two options before it – NZTA's proposed condition(s) or the Council / DOC proposed condition(s). As discussed earlier in these submissions, the Panel will need to determine which option

¹³¹ SOE Andrew Blayney dated 9 July 2026, paragraph 35.

¹³² Council's Proposed Consent Conditions, p9-10.

¹³³ Council's Proposed Consent Conditions, p10.

¹³⁴ Council's Proposed Consent Conditions, p12.

¹³⁵ Council's Proposed Consent Conditions, p12-13.

appropriately manages the Project's effects in the 'least onerous' way (taking into account the need to give the "*greatest weight*" to the purpose of the FTAA).

A 'stream works design method statement' condition

- 142 NZTA's Proposed Consent Conditions 9, 12, 13 and 15 address bridge, outfall and culvert design, hydraulic performance, fish passage and other impacts from bridging and culverting respectively. NZTA considers these conditions will appropriately mitigate the Project's limited freshwater ecology effects.
- 143 NZTA opposes the Council's suggested stream works design method statement condition for the following reasons:¹³⁶
- 143.1 Paragraph (a) is unnecessary as NZTA's Proposed Consent Condition 12 sets out a clear design standard for scour protection. Paragraph (a) is also unclear as drafted as it would require the "*angle of the discharge from the outfall*" to be specified – but that angle will be dependent on the volume and velocity of water being discharged at a particular time, and we understand that angle is not the only determinant of scour from an outfall.
- 143.2 Paragraph (b) requiring NZTA to locate outfalls outside the stream bed "*where possible*" is also unclear as outfalls will generally be located in the stream bank – which is not always outside the stream bed.
- 143.3 Paragraph (c) requiring NZTA to demonstrate that the length of culverts is "*the minimum extent practicable*" is unnecessary. The extent of culverting required for the Project is minimal due to the environment through which it passes, and NZTA's Proposed Consent Condition 15 will appropriately manage the effects of the culverts.
- 143.4 Paragraph (d) requiring NZTA to provide fish passage details including "*how the provision for fish passage can be improved or retrofit [sic] where possible*" is unnecessary. NZTA's Proposed Consent Condition 13 will ensure appropriate fish passage is provided. Further, paragraph (d) would result in capacity constraints to achieve retrofitting of culverts for fish passage, which would adversely impact upstream flood plains.
- 143.5 Paragraph (e) requiring NZTA to demonstrate that erosion and scour protection "*has been designed to the minimum extent practicable*" is unclear and unnecessary. The extent of erosion and scour protection required for the Project is minimal and NZTA's Proposed Consent Condition 15 will appropriately manage any effects.
- 143.6 Paragraph (f) requiring NZTA to provide designs that demonstrate bridge structures will not be constructed within the stream or riverbed is now addressed to the extent appropriate in NZTA's Proposed Consent Condition 11 (which requires no supporting piers in the stream bed).
- 144 Accordingly, we submit the Panel should prefer NZTA's Proposed Consent Conditions and reject the Council's suggested stream works design method statement condition.

¹³⁶ AC Consent Response Table, Section 9.

Fish passage (Condition 13)

- 145 The Council and DOC seek an amendment to Condition 13(a)(ii) so that fish passage would need to be provided where there are existing man-made barriers to fish passage (but not where there are natural barriers).
- 146 NZTA opposes this amendment. Stream reaches that are to be affected by culvert or pipe extensions (Streams 4, 6 and 9) for the Project are highly modified, in poor macroinvertebrate condition and fragmented by existing culverts. Several streams have existing fish passage constraints - Streams 1, 4, 6, 9 and 10.¹³⁷ NZTA considers it would be inappropriate to require fish passage to be provided for in these reaches when there are existing barriers to fish passage. In our submission, providing fish passage in those circumstances would not address environmental effects from the Project and would therefore be "*more onerous than necessary*".
- 147 The Council and DOC also seek the deletion of Condition 13(b), with the consequence that fish passage would need to be provided even where it is impracticable to do so.
- 148 NZTA opposes this deletion. An example of where fish passage may be impracticable is where retrofitting fish passage into an existing culvert or incorporating fish passage into an extension of a culvert that currently does not provide for fish passage would be expected to reduce the culvert's hydraulic capacity and function, and could therefore affect flood conveyance and upstream water levels.¹³⁸ In our submission, fish passage should not be required where it would result in other adverse impacts, particularly given the poor quality of the existing environment.

Freshwater offsetting or compensation

- 149 NZTA considers its Proposed Consent Condition 15 appropriately addresses the Project's effects on freshwater ecology because:
- 149.1 The affected streams are highly modified systems with tolerant ecological communities¹³⁹; and
- 149.2 The extent of streams impacted (even in a 'worst case' scenario) is minimal, particularly in the context of the size of the Project. The Indicative Design involves approximately 78 metres of riparian disturbance and approximately 38 metres of stream bed enclosure over the entire Project length¹⁴⁰;
- 149.3 The freshwater ecology effects have been assessed as low to very low by NZTA's expert, Mr Garrett-Walker,¹⁴¹ and Council's expert agrees with that assessment.¹⁴² The Wildlands Review of Freshwater Assessment (provided by DOC) raises some concerns about the assessment approach,

¹³⁷ Application, Part 6, Appendix 6.15C – Freshwater Ecology Assessment (*Freshwater Assessment*), page 11.

¹³⁸ AC Consent Response Table, Section 9; SOE Paul May dated 03 June 2026, paragraph 14.

¹³⁹ SOE Jeremy Garrett-Walker dated 3 June 2026, paragraph 6.

¹⁴⁰ SOE Jeremy Garrett-Walker dated 3 June 2026, paragraph 6.

¹⁴¹ Freshwater Assessment, Section 5.1.

¹⁴² Appendix 17 – Technical Specialist Memo – Freshwater Ecology dated 1 April 2026, Section 2.

which are comprehensively addressed by Mr Garrett-Walker in his evidence;¹⁴³ and

149.4 Despite the very limited effects, NZTA has proposed conditions that will require riparian planting that is proportionate to the extent of streams impacted by the final Project design.¹⁴⁴ Mr Garrett-Walker considers those conditions mean the Project will maintain, and in some cases improve, freshwater ecological values.¹⁴⁵

150 NZTA considers conditions requiring freshwater offsetting or compensation (calculated using the SEV/ECR method) would be disproportionate to the Project's effects and would be "*more onerous than necessary*" because:

150.1 Application of the effects management hierarchy in the NPS-FM would require freshwater offsetting or compensation for more than minor residual effects.¹⁴⁶ As noted above, the Project's effects do not reach this trigger. Even if they did, strict application of the NPS-FM is not required or appropriate in the FTAA context (as discussed earlier in these legal submissions); and

150.2 There is no legal or other obligation (under the RMA or FTAA) to apply a particular methodology (such as the SEV/ECR) to assess effects or identify appropriate mitigation. Mr Garrett-Walker considers the SEV method should be applied where it is an appropriate tool for the scale and context of the effects being addressed. In his view, that is not the case here: "*the use of SEV in this context would introduce additional complexity and design uncertainty without materially improving ecological outcomes*".¹⁴⁷

151 Accordingly, we submit the Panel should prefer NZTA's Proposed Consent Condition 15.

A 'Native Fish Capture and Relocation Plan' or 'Fish Management Plan' condition

152 NZTA's Proposed Consent Condition 17 requires native fish capture and relocation (supervised by a SQEP) prior to dewatering, diversion or in stream works. Council and DOC seek amendments to Condition 17 to require a 'Native Fish Capture and Relocation Plan' or 'Fish Management Plan'.

153 NZTA does not consider it is necessary for the condition to require a management plan to be prepared and certified by Council, as NZTA's condition will ensure that native fish capture and relocation occur before the activities with the potential to cause effects. As Mr Garrett-Walker explains, fish salvage and relocation are "*well understood and established practices*".¹⁴⁸ Additionally, he explains that "*an outcomes-based condition allows for ... flexibility and adaptability*" which will enable an appropriate response to the site-specific

¹⁴³ SOE Jeremy Garrett-Walker dated 3 June 2026, paragraphs 19, 21-23.

¹⁴⁴ Proposed Consent Conditions, Condition 15.

¹⁴⁵ Freshwater Assessment, Section 6.

¹⁴⁶ National Policy Statement for Freshwater Management 2020, cl 3.21.

¹⁴⁷ SOE Jeremy Garrett-Walker dated 3 June 2026, paragraph 57.

¹⁴⁸ SOE Jeremy Garrett-Walker dated 3 June 2026, paragraph 60.

conditions in this constrained urban environment.¹⁴⁹ Accordingly, a requirement to prepare a management plan would be “more onerous than necessary” particularly given the suggestion that that plan would need to be certified by Council.

- 154 Accordingly, we submit the Panel should prefer NZTA’s Proposed Consent Condition 17.

Coastal ecology

- 155 The Council’s comments on coastal ecology were resolved during facilitated discussions, except in relation to potential effects of underwater noise on marine mammals.¹⁵⁰

- 156 The Council’s specialist considers “*marine mammals may be present within the creeks during construction activities*” and “*the effect on those individuals could be quite high*”. The Council has suggested a condition that requires underwater noise to be minimised during impact driving and vibratory piling.¹⁵¹

- 157 NZTA considers the Council’s suggested condition is not “*directly connected to... an adverse effect of the*” Project (contrary to s108AA RMA) because:

157.1 There is no evidence of marine mammal presence in the area in which NZTA is seeking a coastal permit. It is clear that marine mammals are highly unlikely to be present in a shallow creek environment that is some 4.5 kilometres and 6 kilometres upstream from open water at Hobsonville Marina.¹⁵²

157.2 Even if marine mammals were present in the coastal permit area, the Project works in the coastal marine area for the construction of temporary staging and permanent bridges are very limited (in both area and nature) and the potential effects would be very low without any mitigation.¹⁵³

- 158 The Council’s suggested condition also clearly fails the “*no more onerous than necessary*” test. Clauses (a) and (b) would require measures to be implemented to minimise underwater noise in the absence of any evidence of marine mammal presence in the coastal permit area. Clauses (c) and (d) would also require NZTA to engage a marine mammal spotter during all coastal works – despite the fact that the Council has provided no evidence to demonstrate that that effort, or its suggested condition generally, is proportionate to the Project’s effects.

- 159 Accordingly, in our submission, the Panel must reject the Council’s suggested condition.

¹⁴⁹ SOE Jeremy Garrett-Walker dated 3 June 2026, paragraphs 60 and 61.

¹⁵⁰ AC Consents Response table, p6.

¹⁵¹ Council’s Proposed Consent Conditions, p15.

¹⁵² AC Consents Response Table, Section 1.

¹⁵³ Assessment of Ecological Effects, Table 4-3.

Conclusion on ecology matters

160 We submit that it is important the Panel keeps in mind throughout its deliberations on the outstanding ecological issues that:

160.1 The Project will be located in a highly modified urban environment adjacent to SH16 that possesses very limited ecological values; and

160.2 The Project's impacts on those ecological values are very limited.

161 For the outstanding ecological issues, the Panel essentially has two options before it – NZTA's proposed condition(s) and the Council / DOC proposed condition(s). In our submission, NZTA's proposed condition(s) (with the updates NZTA has proposed during the consenting process) appropriately manage the effects of this Project, in a manner that is supported by expert analysis and reasoning. On the other hand, the Council and DOC proposed condition(s) are disproportionate to this Project's effects and do not pass the "*more onerous than necessary*" test. We submit that the Panel should prefer NZTA's proposed conditions.

Geotechnical matters

162 The Council's comment identified that "*in some locations such as at the Waterview interchange and in the vicinity of the Arch Hill Scenic Reserve ... there are areas of steep land above the motorway alignment which may require detailed geotechnical investigation and design*".¹⁵⁴ This matter was not resolved through facilitated discussions, and the Council seeks a condition requiring a Geotechnical Management Plan "*to review the geotechnical conditions along the alignment with respect to the detailed design proposal in order to confirm that there will be no adverse effects to land, buildings or infrastructure beyond the designation boundary*".¹⁵⁵

163 As set out in NZTA's response to the Council comments:

NZTA does not consider a condition requiring a Geotechnical Management Plan is necessary.

NZTA has significant expertise in designing and constructing major infrastructure, including roads, bridges and busways in much more complex geotechnical environments. NZTA addresses local geotechnical conditions through the detailed design of all its projects, and prepares for that design phase with extensive site and geotechnical investigations. The Project will be designed in accordance with normal engineering/geotechnical design principles and standards, in compliance with the Building Act and subject to independent external review requirements. Accordingly, existing specialist technical inputs and statutory process will ensure the Project does not result in land instability. Council oversight of the final design and construction methodology is not required and is not appropriate.

Mr Hall suggests NZTA will undertake geotechnical investigations only to ensure its infrastructure will not be affected, but will not consider the potential for damage to adjacent property. That is a false assumption. It is not lawful for NZTA (or anyone) to

¹⁵⁴ Appendix 5 – Technical Specialist Memo – Regulatory Engineering dated 2 June 2026, paragraph 4.6.

¹⁵⁵ Memorandum of Counsel from Auckland Council dated 8 July 2026, Annexure A – Auckland Council version of proposed designation conditions (*Council's Proposed Designation Conditions*), Condition ENGc2.

have an adverse impact on another property under property law. NZTA will consider potential impacts on adjacent properties as part of its normal detailed design process as set out above.

164 NZTA considers the Council's suggested condition drafting is not appropriate and would be "*more onerous than necessary*". It is not required to manage adverse environmental effects (including because it is not limited to areas of steep land, but would apply to the whole alignment) and it would duplicate existing engineering/geotechnical and statutory (ie Building Act) processes

165 NZTA has established, independent external review requirements to ensure geotechnical matters are robustly addressed as part of its normal detailed design process. Accordingly, to the extent there is a resource management issue, it is one that is managed through engineering design and the Building Act, not conditions on planning approvals, particularly in the case of an experienced Crown delivery agency

Groundwater

166 The comments from NTC, Restaurant Brands and the Council raised issues concerning groundwater effects.

167 The Groundwater Assessment assessed potential groundwater drawdown and settlement based on a conservative scenario (ie assuming unrestricted groundwater seepage to excavations).¹⁵⁶ Even taking that conservative approach, the potential groundwater drawdown and settlement effects were assessed as less than minor to negligible.¹⁵⁷

168 NZTA's groundwater expert, Mr Sheppard, provided further assessment of a less conservative "leaky" secant piling scenario in response to the NTC, Restaurant Brands and Council comments.

169 Mr Sheppard's evidence confirms the Indicative Design will have no adverse groundwater drawdown and settlement effects on the NTC and Restaurant Brands sites. If the final design requires deeper or excavation closer to those sites, then Mr Sheppard considers standard groundwater cut-off or containment measures will appropriately limit potential groundwater drawdown and consolidation settlement.¹⁵⁸

170 Similarly, in response to the Council's comments, Mr Sheppard's evidence confirms the Indicative Design will not result in groundwater drawdown and consolidation settlement at Point Chevalier, and a deeper final design would simply require standard groundwater cut-off or containment measures. At Fred Taylor Drive, the Project is unlikely to encounter groundwater, but even if it did, standard measures would effectively mitigate against groundwater drawdown and settlement.¹⁵⁹

171 Overall, Mr Sheppard considers "*the Project is of low risk to groundwater and that groundwater effects beyond the Proposed Designation will typically be*

¹⁵⁶ Second SOE Gregory Sheppard dated 9 July 2026, paragraph 6.

¹⁵⁷ Application, Part 6, Attachment 6.16 – Assessment of Groundwater and Settlement Effects (*Groundwater Assessment*), Section 5.1.3.2.

¹⁵⁸ SOE Gregory Sheppard dated 3 June 2026, paragraphs 11 and 21.

¹⁵⁹ Second SOE Gregory Sheppard dated 9 July 2026, paragraphs 6-14.

minor or less, even for the 'unmitigated scenario'. However, ground support would be used for deeper excavations as a matter of standard engineering practice".¹⁶⁰

172 The Council's concerns were not resolved through facilitated discussions, and Council indicated it would seek conditions requiring (among other things) a Ground Settlement Monitoring and Contingency Plan. However, it has not provided condition drafting for NZTA to respond to.¹⁶¹

173 Nevertheless, NZTA has proposed a new condition that addresses the general concern, and which will ensure potential groundwater effects are appropriately confined. It will:

173.1 Apply to excavation or installation of structures below the seasonal low water table;

173.2 Require the final design to ensure the Project does not result in:

(a) Total settlement at a building or services beyond the Designation of more than 10 mm; or

(b) Total differential settlement at a building or services beyond the Designation of more than 1:500;

173.3 Require a technical note and accompanying analytical or numerical modelling to be submitted to Council for information to demonstrate that the final design meets the above requirements.

174 In our submission, any additional obligations (eg requiring a management plan or ongoing monitoring) would be "*more onerous than necessary*" given there is a very low risk of groundwater effects arising from the Project based on the NZTA's conservative assessment approach. NZTA's proposed condition is not merely proportionate to the Project's potential effects, it goes beyond what its expert considers necessary, and should be preferred by the Panel accordingly.

Infrastructure providers

Transpower

175 NZTA considers the Project's effects on Transpower's assets will be appropriately managed through NZTA's ongoing engagement with Transpower in conjunction with existing legislative measures and associated mechanisms that sit outside the consenting process.¹⁶²

176 NZTA has engaged with Transpower throughout the development of the Indicative Design and will continue to engage with Transpower during development of the detailed design. NZTA is continuing to work towards a Project agreement with Transpower.

¹⁶⁰ Second SOE Gregory Sheppard dated 9 July 2026, paragraph 25.

¹⁶¹ Council's Proposed Consent Conditions, page 15.

¹⁶² Combined Comments Response Table, Section 35.

Watercare

- 177 The Council comments suggested a Water and Wastewater Management Plan condition (WWMPc1) to co-ordinate interactions between NZTA and Watercare in relation to the Project.¹⁶³
- 178 NZTA considers interactions between NZTA and Watercare are already effectively managed through existing statutory processes and the National Code of Practice for Utility Operators Access to Transport Corridors. Watercare acknowledges these processes in its own letter, and has not identified any gap in them that would properly be filled by a condition.¹⁶⁴
- 179 Watercare has also not identified or quantified any adverse environmental effects that would be managed by its proposed condition. Accordingly, in light of s108AA of the RMA, NZTA considers there is no lawful scope for the Panel to impose a Water and Wastewater Management Plan condition.

Residential properties

- 180 As noted earlier in these submissions, although several thousand directly affected and adjacent landowners and occupiers were invited to comment, only a very small number (39) lodged a comment. We submit this low number reflects a general comfort within the community concerning the Project.
- 181 NZTA has provided a comprehensive response to the comments from residential landowners,¹⁶⁵ and these submissions provide a summary of its response to key themes. Comments relating to alternatives are addressed later in these legal submissions. We do not address concerns relating to property acquisition¹⁶⁶, or funding of the Project¹⁶⁷, as those matters are not relevant to the Panel's decision-making role.

Construction noise and vibration

- 182 Construction noise and vibration is a normal part of a growing and developing city, is temporary in nature, and will be effectively managed using established and well-tested measures.
- 183 NZTA's Proposed Designation Conditions 17–20 set construction noise and vibration criteria, and require a CNVMP to be prepared before works commence. Schedules to the CNVMP will be prepared where compliance with the noise and/or vibration criteria cannot practicably be achieved. The CNVMP will include procedures for communication and engagement with nearby residents and stakeholders.¹⁶⁸
- 184 In our submission, these conditions reflect best practice measures that are consistently used to manage construction noise and vibration for large construction projects. They will appropriately manage the Project's construction

¹⁶³ Council's Proposed Designation Conditions, page 25.

¹⁶⁴ Auckland Council comments, Appendix 3, paragraph 18.

¹⁶⁵ Memorandum of counsel dated 3 June 2026, Appendix B.

¹⁶⁶ Comments #13 – Shiree Taylor (Stout), #14 – Mike & Dorothy Booth, #17 – Kelly Cross & Peter Roach, #30 – Jason Mangan and Sarah Doney and #31 – Paul Dragicevich.

¹⁶⁷ Comment #21 – Lily Li & Thomas Antunes, Comment #29 – Margaret McKinney, Comment #31 – Jason Mangan and Sarah Doney.

¹⁶⁸ Proposed Designation Condition 19(c)(vii).

noise and vibration effects, including for residential landowners. These conditions have been agreed with the Council.

Construction traffic

- 185 Similarly, the Project's construction traffic effects will be temporary, typical for large infrastructure projects and expected in a growing and evolving urban environment. NZTA is an experienced and sophisticated manager of its state highway network and will liaise closely with AT (or successor) to minimise disruption from the construction works on local roads.
- 186 NZTA will prepare a CTMP to appropriately manage any adverse traffic safety and efficiency impacts of the Project on other road users. Among other things, the CTMP will include "[m]easures to maintain access to and within properties and/or private roads where practicable, or to provide alternative arrangements when it will not be, including details of how access is managed for loading and unloading of goods, rubbish collection, and mail/courier deliveries".¹⁶⁹ The CTMP will also identify how NZTA will communicate traffic management measures to affected road users, including adjacent landowners.¹⁷⁰
- 187 In our submission, this condition reflects best practice measures typically used to manage construction traffic for large construction projects. It will appropriately manage the Project's construction traffic effects, including for residential landowners. This condition has also been agreed with the Council.

Dust

- 188 NZTA will manage dust so that it does not have an offensive or objectionable effect at or beyond the Designation boundary. NZTA and its contractors are experienced in managing dust during construction activities by applying standard measures (such as progressive stabilisation of earthworks, using water carts, hoses or misting systems during dry or windy conditions, and covering trucks carrying loose material).
- 189 In our submission, no conditions are needed to require NZTA to manage dust (except for the erosion and sediment control conditions proposed). Standard construction management measures and other legal requirements will ensure there are no material adverse effects on neighbouring residential landowners.

Operational noise and vibration

- 190 SH16 is the dominant noise source along the Proposed Designation, and any noise generated by the busway does not add to the existing SH16 traffic noise. The removal of some buildings that currently shield SH16 noise means that noise levels may increase for some adjacent residents. NZTA's Proposed Designation Conditions 28–37 require any noise level increases to be managed through the installation of the 'best practicable option' structural mitigation (ie noise barriers) and building modification mitigation in some cases. In our submission, those conditions will appropriately manage the Project's operational noise effects (and, in fact, will improve the existing noise environment for some residents).

¹⁶⁹ Proposed Designation Condition 16(b)(vii).

¹⁷⁰ Proposed Designation Condition 16(b)(ix).

- 191 The Project will not result in any operational vibration within 2 metres of the busway edge, and therefore will have no vibration impacts on nearby residents.

Operational amenity

- 192 The amenity matters raised by residential landowners related to:

192.1 Landscaping, fencing and visual screening;

192.2 Neighbourhood security and safety; and

192.3 Lighting.

Landscaping, fencing and visual screening

- 193 Subsequent to lodging its response to the residential landowner comments, NZTA has proposed two new conditions that directly address comments relating to landscaping, fencing and visual screening. New Condition 15C will restrict the 'height in relation to boundary' of retaining wall and bridge structures adjacent to residential zoned land. New Condition 15D complements the existing Outline Plan of Works requirement, and will address the height, shape and bulk of major structures, the Project's interface with adjacent land use and landscaping (among other things).

Neighbourhood security and safety

- 194 NZTA has proposed a new Condition 15B, which requires the Project to be designed "to provide for personal safety by taking into account the *National Guidelines for Crime Prevention through Environmental Design in New Zealand (November 2005)*". This new condition directly addresses the neighbourhood security and safety concerns raised by residential landowners.

Lighting

- 195 Lighting for the Project will be similar to that used on other public transport corridors, such as the Northern Busway. Lighting will support safety, security and driver visibility – suitable for public transport systems in accordance with NZTA, Australia and New Zealand lighting standards.

NZTA has demonstrated that the 'effects envelope' approach is appropriate, and a traditional Condition 1 should not be imposed

- 196 The Project is expected to be delivered in stages over 20 years, with construction starting at Brigham Creek Rarawaru Station in 2027. The final design for each stage will be completed closer to construction and may differ from the Indicative Design. For that reason, NZTA seeks approvals that allow flexibility during detailed design – by not including a 'traditional Condition 1' that requires a project to be undertaken "in general accordance" with listed application documentation. Instead, outcomes-based conditions are proposed to ensure any adverse effects stay within the consented effects envelope.
- 197 This 'effects envelope' approach draws on lessons from past NZTA projects. Prior to the advent of this approach, major projects often required a large number of alterations and/or variations after approvals had been confirmed. The 'effects envelope' approach was first adopted by NZTA for the Ara Tūhono–Pūhoi to Warkworth motorway project to minimise that administrative burden without compromising environmental outcomes. It has since also been successfully adopted for a number of other NZTA projects, including Ara Tūhono – Warkworth to Te Hana and Cambridge to Piarere.

198 The Panel has indicated, and NZTA has agreed, that to establish the appropriateness of the 'effects envelope' approach, NZTA needs to demonstrate that *"outcomes-based effects management that will appropriately mitigate the Project's effects regardless of design amendments and without the need to refer to specific supporting Application documents"*.¹⁷¹

199 NZTA's response to RFI#1 provides a detailed analysis table, which demonstrates:¹⁷²

199.1 How assessment of each potential effect of the Project supports the proposed approach; and

199.2 How NZTA's proposed designation and consent conditions secure the 'envelope of effects' that has been assessed, and how the recommended management measures for each potential effect respond appropriately to those effects.

Appendix C to these submissions provides an updated analysis table that reflects the amendments to NZTA's proposed designation and consent conditions proposed throughout this consenting process (with material updates to the analysis shown in blue text).

200 Since NZTA's response to RFI#1, Council has confirmed that it considers the 'effects envelope' approach is appropriate for the designations. For the resource consents, the Council says *"provided the outstanding issues with the detailed resource consent conditions can be resolved, such an approach is potentially acceptable"*.¹⁷³ The Council does not identify the circumstance(s) in which the 'effects envelope' approach would not be acceptable even if the consent conditions were resolved, and does not explain why it would not be acceptable.

201 NZTA has proposed amended or additional conditions to further secure the envelope of effects that has been assessed for the Application and to ensure appropriate mitigation outcomes regardless of the final design. NZTA does not consider further conditions are required to address the topics that have not been resolved with Council for the reasons set out in NZTA's response to the Council comments¹⁷⁴ and reflected in Appendix C.

202 In our submission, having regard to the limited effects the Project may have, and the suite of conditions that manage those effects, imposing a Condition 1 (on either the designations or resource consents) would plainly be *"more onerous than necessary"*. NZTA has provided detailed analysis to demonstrate that its proposed conditions contain proven and effective measures to ensure the effects will remain within the 'envelope' that has been assessed. Neither commenters nor the Panel¹⁷⁵ have identified any specific concerns with that

¹⁷¹ Minute 3 of the Expert Panel dated 5 May 2026, paragraph 5, referring to NZTA's legal submissions at [124]. Memorandum of counsel dated 19 May 2026, paragraph 10.

¹⁷² Memorandum of counsel dated 19 May 2026, Appendix A.

¹⁷³ Council's Proposed Consent Conditions, Comment on Condition 1.

¹⁷⁴ Memorandum of Counsel dated 9 July 2026, paragraph 16.

¹⁷⁵ NZTA's response to RFI #1 said *"if the Panel has any specific concerns about NZTA's analysis in Appendix A, we encourage the Panel to invite NZTA to address those concerns, rather than defaulting to a traditional Condition 1 or proposing some form of hybrid approach"* at paragraph 28.

analysis. If the Panel was minded to impose a Condition 1, there would be a number of implications for the condition set that would need to be addressed.

- 203 In conclusion, the 'envelope of effects' approach has significant advantages and has been successfully applied previously. It will allow the final design and construction methodology for the Project to respond appropriately to the environment that exists at the time of construction and to adopt advances in technology and construction techniques. It will also provide opportunity for innovation and cost savings for the Crown, while ensuring effects management outcomes are achieved as intended. Accordingly, in our submission, the approach aligns with the purpose of the FTAA by enabling the Project benefits.

OTHER OUTSTANDING ISSUES

Lapse

- 204 As noted earlier, the Project is expected to be delivered in stages over a 20-year period. For this reason, NZTA seeks a 25-year lapse period for the designations and resource consents. NZTA seeks a 35-year duration for the resource consents required under sections 12-15 of the RMA and a 25-year duration for the archaeological approvals.¹⁷⁶
- 205 The lapse date was queried by the Panel in RFI#2 and a small number of commenters: Restaurant Brands, NTC, Stride Holdings Limited (*Stride*) and NZRPG Management 2017 Limited (*NZRPG*).¹⁷⁷
- 206 Council initially suggested that conditions be imposed in relation to the extended lapse period.¹⁷⁸ During the facilitated discussions held in June 2026, Council confirmed that it agreed with the 25-year lapse period, and no longer considered conditions related to that lapse period to be necessary.¹⁷⁹

A 25-year lapse period is necessary to enable staged construction of the Project

- 207 NZTA's response to the Panel's RFI#2 set out the reasons for the 25-year lapse period sought for all of the designations and consents:¹⁸⁰

207.1 It is presently anticipated that the Project will be constructed over an approximately 20-year period.

207.2 Indicative construction staging for the Project has been provided in the Application. However, the staging of the Project is not fixed, and needs to be flexible to accommodate changes in priority, funding and a range of other matters.

¹⁷⁶ Application, Part 2, Section 5 – Lapse period and expiry sought and rationale. Application, Part 5, Section 1.

¹⁷⁷ Restaurant Brands seek generally shorter lapse periods (Comment #30, paragraph 8.19); NTC seeks a five-year lapse period on the regional consents (Comment #39, paragraph 6.5); Stride and NZRPG seek a 15 year lapse period for NOR2 (Comment #34, Appendix A; Comment #36, paragraph 5.2).

¹⁷⁸ Comment #43 – Auckland Council; Memorandum of Planning Matters for Auckland Council, paragraph 112 and 170.

¹⁷⁹ Joint memorandum of counsel dated 8 July 2026, Attachment 1, p1.

¹⁸⁰ Memorandum of counsel dated 21 May 2026; SOE Helen Hicks dated 21 May 2026.

207.3 A lapse period shorter than 25 years would risk one or more of the approvals lapsing prior to being implemented, which would lead to additional, unnecessary approval processes, which would be an inefficient use of time, resources and public funds. It would also subject affected landowners/occupiers (and the wider community) to additional processes – increasing their efforts and their uncertainty.

A 25-year lapse period is reasonable and consistent with the relevant policy and law

208 In our submission, the 25-year lapse period is supported by the following facts:

208.1 Staged construction of the Project will allow its benefits to be delivered incrementally as funding becomes available to deliver stages of the Project. In our submission, it would be inconsistent with the purpose of the FTAA for lapse periods to be imposed that undermine that approach.

208.2 The 25-year lapse period reflects the realistic time within which the Project is likely to be constructed. It will safeguard the chosen alignment until construction, and provide certainty for affected landowners, the local community and NZTA.¹⁸¹

208.3 The 25-year lapse period is consistent with the NPS-I. The lapse period will help to “*ensure infrastructure is delivered in a timely and efficient manner*” consistent with the NPS-I objective. It would also be inefficient and could potentially delay project delivery (inconsistent with Policy 4 of the NPS-I) to require repeat approval processes for different parts of the Project.

208.4 The 25-year lapse period is consistent with the purpose of the FTAA “*to facilitate the delivery of infrastructure ... projects*”. The FTAA does not require projects to be delivered immediately following approvals being granted, although in this case NZTA does intend to deliver part of the Project immediately following the grant of approvals (assuming they are granted). The proposed lapse period will allow NZTA to implement the approvals for the Project flexibly, and thus facilitates delivery as funding becomes available.

A 25-year lapse period does not create adverse environmental effects, and none that require management

209 NZTA does not consider any conditions are necessary to manage ‘uncertainty’ during the 25-year lapse period:

209.1 As noted above, the designations will provide certainty for affected landowners, including in relation to future site planning and development (as raised by Stride and NZRPG). A shorter lapse period that does not reflect the indicative construction timeframe could be misleading by suggesting that parts of the Project will be progressed sooner than is likely. A shorter lapse period also risks approvals lapsing and either an extension or fresh process, which will not assist the landowner’s desire for certainty.

¹⁸¹ See *Beda Family Trust v Transit New Zealand* EnvC A139/2004, 10 November 2004 at [117] for the factors that support a longer lapse period.

209.2 In RFI#2, the Panel pointed to conditions on the SGA NORs that were intended to address 'uncertainty' associated with the long lapse periods for those projects. However, as explained in detail in NZTA's response to RFI#2, the SGA projects had a different factual, policy and legal context.¹⁸² For those reasons, we submit the Panel should be cautious when making comparisons between the SGA approach and this Project.

209.3 For the Project designations, the OPW process (including the management plans that will be included in the OPW) will address matters of detail closer to the time of construction. The Council has oversight of that process.

209.4 Ms Hicks' evidence in support of NZTA's response to RFI #2 acknowledges that a longer lapse period means that landowners with properties subject to a designation may be uncomfortable with the lack of certainty about the timing of project implementation. However, she does not consider that discomfort to be an effect.¹⁸³

209.5 NZTA already has processes set up to ensure communication and sharing of information with those impacted by the Project (via a project-specific website, with contact details available for inquiries, and enabling people to subscribe to receive updates via email).

210 Separately, the NTC comment suggests that a shorter lapse period is needed for the resource consents to provide a 'check' to confirm the Project's effects and associated management measures.¹⁸⁴ With respect, that is a strange suggestion. A shorter lapse period would not provide a 'check', but would require NZTA to seek new consents (unless the consents are given effect to or an extension granted on the basis of substantial progress or effort). NZTA considers the proper approach is to set clear outcomes-based conditions that secure the Project's effects now, and this approach is reflected in the conditions it has proposed (and adjusted as this process has progressed). Accordingly, we submit there is no need to impose a shorter lapse period to manage the Project's effects.

Alternatives

211 A small number of commenters¹⁸⁵ questioned the adequacy of NZTA's assessment of alternatives. One commenter, Stride, seeks that the Proposed Designation is modified to preclude NZTA's preferred option and enable an alternative option.¹⁸⁶

¹⁸² More detail on this matter is provided in the Memorandum of Counsel dated 21 May 2026, paragraphs 5 – 7.

¹⁸³ SOE Helen Hicks dated 21 May 2026, paragraph 26.

¹⁸⁴ Evidence of Mark Nicholas Arbuthnot on behalf of the National Trading Company of New Zealand Limited dated 26 May 2026, paragraph 2.12.

¹⁸⁵ Residential landowners' comments (Comments #12 – Ban and Lana Niu, #13 – Shiree Taylor (Stout), #16 – Rob & Katrina Reinsfield, #21 – Lily Li & Thomas Antunes, #29 – Margaret McKinney, #31 – Paul Dragicevich); Comment #11 – Selkprop Investments Limited; Comment #28 – Costco Wholesale New Zealand Limited; Comment #34 – Stride Holdings Ltd; #36 – Westgate Properties (2017) Limited and NZRPG Management 2017 Limited.

¹⁸⁶ Comment #34 – Stride Holdings Ltd, Legal Statement, paragraphs 62–63.

212 The adequacy of NZTA's assessment of alternatives is addressed in its response to RFI#3.¹⁸⁷ For completeness, we repeat key aspects of that response in these closing submissions.

The Panel cannot decline or modify the Proposed Designation based on alternatives

213 Under s171(1)(b) of the RMA it is necessary for a decision-maker to have particular regard to "*whether adequate consideration has been given to alternative sites, routes or methods for undertaking the work*" when considering a notice of requirement.

214 The key RMA principles relevant to the inquiry under s171(1)(b) are:¹⁸⁸

214.1 The decision-maker does not hold the policy function of deciding the most suitable route. The Requiring Authority has that responsibility.

214.2 The focus is on the process, not the outcome. This focus considers the sufficiency of the requiring authority's investigations into alternatives, which should be more than cursory and not arbitrary.

214.3 The word 'adequate' means sufficient or satisfactory and does not require an exhaustive process. There is no requirement to eliminate speculative or suppositious options.

214.4 There is no requirement to select the 'best' alternative. There may be other alternatives considered by some (including commenters) to be more suitable.

214.5 The consideration of alternatives needs to be more careful where there is a greater impact on private land, although that is very much circumstances dependent.¹⁸⁹

214.6 Part 2 RMA matters should be infused into the assessment of alternatives.

215 For completeness, we note that the legal submissions for Stride suggest that a more careful consideration of alternatives is required where adverse effects are significant.¹⁹⁰ Stride has not established that the Project will have significant adverse effects, and (even if it had) the Stride legal submissions reflect old case law on s171(1)(b) RMA. However, s171(1)(b) RMA was amended in August 2025 so that the alternatives test only applies if the requiring authority does not have an interest in the land sufficient for undertaking the work, and not when the work will have a significant adverse environmental impact. Accordingly, we submit that the prior case law is no longer relevant. Even if the Panel were to hold a contrary view on the case law, the evidence and assessment material within the Application demonstrate that NZTA's alternatives process has been

¹⁸⁷ NZTA's legal submissions dated 3 June 2026; SOE Karyn Sinclair dated 3 June 2026.

¹⁸⁸ Legal submissions on behalf of NZTA dated 15 December 2025, paragraph 91. See also *Pukekohe East Community Society Incorporated v Auckland Council* [2017] NZEnvC 27, at [21] and [22].

¹⁸⁹ *Queenstown Airport Corporation Ltd v Queenstown Lakes District Council* [2013] NZHC 2347 ("Queenstown Airport") at [121]; *New Zealand Transport Agency v Architectural Centre Inc and Ors* [2015] NZHC 1991 ("Basin Bridge") at [142].

¹⁹⁰ Comment #34 – Stride Holdings Ltd, paragraph 45.

sophisticated and robust. It has had appropriate regard to all relevant categories of effect, and the nature and extent of each of them.

216 In addition, Policy 4(2) of the NPS-I provides that decision-makers must:

(a) recognise it is the role of the infrastructure provider to identify the preferred location for the infrastructure activity; and

(b) have regard to existing information and assessments undertaken by the infrastructure provider, including, but not limited to, information prepared using the Better Business Cases methodology developed by The Treasury New Zealand...

We consider this policy reinforces the legal principle that NZTA as the requiring authority is responsible for identifying its preferred option for the Project and that a decision-maker cannot replace its view on the preferred option.

217 In summary, it is submitted that the adequacy of an alternatives assessment is not a legal threshold that must be met in order for a NOR to be confirmed under the RMA. The adequacy of an assessment is a matter to have particular regard to along with other s171 considerations.¹⁹¹

218 Under the FTAA, the adequacy of an alternatives assessment remains a relevant consideration. However:

218.1 The Panel has very limited scope to decline a notice of requirement;¹⁹² and

218.2 The Panel is required to give “*greater weight*” to the purpose of the FTAA while also taking into account “*the provisions of Part 8 of the RMA*” (including s171(1)(b) RMA).¹⁹³

219 Accordingly, we submit there is no scope for the Panel to decline the Application or to modify the Proposed Designation in a way that would exchange NZTA’s preferred option for another alternative.

NZTA’s assessment of alternatives was (more than) adequate

220 The following application materials and evidence address NZTA’s assessment of alternatives:

220.1 Section 3.3.1 of Part 4 – RMA 1991 Approvals of the Application; and

220.2 The evidence of Ms Karyn Sinclair dated 3 June 2026.

221 In our submission, that material demonstrates that NZTA undertook a comprehensive and iterative process of option development, evaluation and

¹⁹¹ The requirement to ‘have particular regard’ to a matter requires the careful consideration of that matter separately from other relevant considerations but does not set an absolute requirement or standard. See *NZ Fishing Industry Association Inc v Ministry of Agriculture and Fisheries* [1988] 1 NZLR 544 (CA) at 551 and *Donnithorne v Christchurch CC* [1994] NZRMA 97 (PT).

¹⁹² FTAA, s85(1) and (3).

¹⁹³ FTAA, sch 5 cl24(1)(a). The legal submissions lodged with the Application dated 15 December 2025 also address the FTAA decision-making framework at paragraphs 30-40. We do not repeat that content here.

refinement over a number of years. Extensive consideration of alternative modes, corridors, alignments and station sites has occurred since the Project's inception through to lodgement of the Application.

- 222 As noted above, Stride suggests that NZTA's assessment of alternatives was inadequate – essentially because, Stride says, NZTA's preferred option has construction traffic and property effects on Stride that are greater than an alternative option which it prefers.
- 223 As noted above, NZTA (as the requiring authority) is responsible for identifying its preferred option for the Project and a decision-maker cannot substitute its view on the preferred option. The fact that a commenter, Stride, prefers an alternative option is not relevant to the Panel's decision-making process.
- 224 Further, in our submission, Stride's evidence does not support its position that NZTA's assessment of alternatives was inadequate, as follows:
- 224.1 NZTA took into account construction traffic and property impacts during its alternatives assessment process.¹⁹⁴
- 224.2 Those impacts are just one consideration in the alternatives assessment process, and should not be given greater weight than other considerations. Stride's evidence is limited to the considerations that are of interest to it, and do not reflect the breadth of matters considered in a comprehensive alternatives assessment process.
- 224.3 The opinions of Stride's traffic and engineering experts are not relevant to the adequacy of NZTA's alternatives assessment. The fact that those experts may now attribute different scores for certain factors or alternatives than the subject matter experts who were involved in NZTA's process is irrelevant. NZTA's process was robust, transparent, and replicable.
- 224.4 In our submission, the Panel should give no or limited weight to the opinions of Stride's traffic and engineering experts for the following reasons:
- (a) Mr Rankin states that he was engaged by Stride to review NZTA's options, in order to identify one that would "*reduce or remove the impact on the Stride property*".¹⁹⁵ His review therefore started from a point of bias. Further, Mr Rankin is a civil engineer and says he has been instructed to comment on the Project "*from an engineering perspective*".¹⁹⁶ He does not limit his comment to civil engineering matters, however, and goes on to review NZTA's alternatives assessment process. His statement does not identify any expertise in property or transport matters or in alternatives assessment processes. It is therefore not clear that he has relevant expertise to offer the opinions set out in his evidence. In our submission, Mr Rankin's evidence should be disregarded, and

¹⁹⁴ SOE Karyn Sinclair dated 3 June 2026, paragraphs 10 and 61.

¹⁹⁵ SOE Steven Rankin dated 26 May 2026, paragraph 9.

¹⁹⁶ SOE Steven Rankin dated 26 May 2026, paragraph 4.

at a minimum not given the weight normally accorded to expert evidence, by the Panel.

- (b) Mr McKenzie is a traffic engineer – yet he too has offered his opinion on property impacts.¹⁹⁷ In our submission, those comments are plainly outside his expertise and should be disregarded by the Panel.

225 Although it is not relevant to the Panel’s decision-making role (which is limited to considering the adequacy of the process), for completeness we briefly address the merits of the alternative option preferred by Stride. NZTA is aware that alternative option would have less property impact on Stride. However, as Ms Dowling explains in her evidence, the Indicative Design will have much less significant construction traffic disruption and have much less transport network effects than Stride’s preferred option.¹⁹⁸ Accordingly, in our submission, Stride’s view that its preferred option “*provides the best overall balance – delivering the least property impact, the highest utilisation of the existing transport corridor, and reduced construction disruption*”¹⁹⁹ is not credible.

226 In conclusion, we submit there is not a legal or an evidentiary basis for the Panel to modify the Proposed Designation in a way that would preclude NZTA’s preferred option and substitute Stride’s preferred option.

The work and designation are “reasonably necessary” for achieving NZTA’s objectives

227 The Panel must have regard to “*whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought.*” It is well settled that the Panel cannot pass judgement on the merits of the Project objectives.²⁰⁰

228 Under the FTAA, ‘reasonable necessity’ remains a relevant consideration. However, as noted above, the Panel has very limited scope to decline a notice of requirement²⁰¹ and is required to give “*greater weight*” to the purpose of the FTAA while also taking into account the ‘reasonable necessity’ consideration in s171(1)(c) RMA.²⁰² Accordingly, we submit there is no scope for the Panel to decline the Application and it may only modify the Proposed Designation based on the ‘reasonable necessity’ consideration if doing so would be consistent with the purpose of the FTAA.

229 As per the legal submissions filed with the Application, we submit that both the ‘work’ (being the Project) and the ‘designation’ (being the planning tool) are reasonably necessary for achieving NZTA’s objective for the Project, being the provision of “*bus rapid transit facilities alongside SH16 between the*

¹⁹⁷ Traffic Statement Don McKenzie dated 26 May 2026, paras 51, 55-56

¹⁹⁸ SOE Ida Dowling dated 3 June 2026, paragraph 19.

¹⁹⁹ SOE Steve Rankin dated 26 May 2026, paragraph 39.

²⁰⁰ Final Report and Decision of the Board of Inquiry into the Upper North Island Grid Upgrade Project, Ministry for the Environment, Board of Inquiry, 4 September 2009 at [199(d)] and [203].

²⁰¹ FTAA, s85(1) and (3).

²⁰² FTAA, sch 5 cl 24(1)(a). The legal submissions lodged with the Application dated 15 December 2025 also address the FTAA decision-making framework at paragraphs 30-40. We do not repeat that content here.

SH16/Brigham Creek Road intersection and Ian McKinnon Drive, including stations that integrate with the surrounding transport network”.

- 230 A designation is preferable to land use consents as a means of authorising construction, operation, maintenance and improvement of the Project, because, among other reasons, it will be shown in the AUP and therefore provide planning certainty. It will protect against other persons doing anything that would prevent or hinder the Project, and it is the appropriate planning tool for linear infrastructure that crosses multiple zones.²⁰³
- 231 The Proposed Designation is broader in some locations than the Indicative Design. In a number of these locations, the Crown already owns the land subject to the Proposed Designation so the “reasonably necessary” test does not apply. Elsewhere, the width is reasonably necessary to provide NZTA with some flexibility to complete detailed design of the Project at a later time and to provide for the operational, maintenance and improvement requirements of the Project. However, given the highly constrained urban built environment, the Proposed Designation provides relatively limited flexibility for horizontal changes to the Indicative Design.
- 232 The ‘reasonable necessity’ consideration was raised in the Stride comments, which asserted that:²⁰⁴

[t]he Panel cannot determine the NWRT Project on the basis of the information before it, specifically for NoR 2, because ... NZTA has not satisfied that the boundaries of NoR 2 are reasonably necessary for achieving the objective of the NWRT Project, when Option 3 for NoR 2 equally achieves the objectives and requires substantially less private land.

- 233 Ms Dowling’s evidence addresses the differences between those two options, and explains that the Indicative Design will result in much less construction traffic disruption and wider transport network effects (including for the ongoing operation of Gunton Drive and SH16 during construction).²⁰⁵ In our submission, the Proposed Designation therefore satisfies the “reasonably necessary” test in this location.
- 234 In summary, both the ‘work’ (being the Project) and the ‘designation’ (being the planning tool) are reasonably necessary for achieving the NZTA’s objective for the Project.

Property acquisition is not relevant to the Panel’s decision-making

- 235 A number of comments on the Application concern the taking of private property for the Project.²⁰⁶

²⁰³ Resource Management Act 1991, s176.

²⁰⁴ Comment #34 – Stride Holdings Ltd, Legal Statement, paragraph 57(b).

²⁰⁵ SOE Ida Dowling dated 3 June 2026, paragraphs 19-32.

²⁰⁶ Comment #9 – Harvey Commercial Holdings Limited; Comment #11 – Selkprop Investments Limited; Comment #13 – Shiree Taylor (Stout); Comment #14 – Mike & Dorothy Booth; Comment #17 – Kelly Cross & Peter Roach; Comment #19 – North West Commercial (2018) Limited; Comment #23 – Tāmaki Health Group; Comment #30 – Jason Mangan and Sarah Doney; Comment #31 – Paul Dragicevich, Comment #32 – Cabra Industrial Limited, Cabra Fred Taylor Limited and Foundry Industrial Limited; Comment #34 – Stride Holdings Ltd;

- 236 As noted in the legal submissions filed with the Application, matters relating to property acquisition are not environmental effects. Those matters will be dealt with under the PWA and are not relevant to the FTAA consenting process.²⁰⁷
- 237 Stride's comments suggest that NZTA has incorrectly relied on *Poutama Kaitiaki Charitable Trust v Taranaki Regional Council* in the legal submissions filed with the Application.²⁰⁸ We disagree. The High Court explicitly says in that decision that "[t]he separate processes under the Public Works Act for the acquisition of the Pascoes' land and compensation sit outside the Resource Management Act. They are independent and separate".²⁰⁹
- 238 Stride's comments also suggest that NZTA's approach is that "adverse effects of the proposed land take or construction effects on landowners or business operations are irrelevant considerations".²¹⁰ That statement is a mischaracterisation of NZTA's position, and its approach. NZTA has devoted considerable time, resource and effort to understanding and addressing environmental effects. As noted, however, the economic impacts of land acquisition are addressed and compensated for under the PWA - they are not relevant to this approvals process.
- 239 The comments from Stride and NZRPG raise concerns about the impact of the Project on their consented developments.²¹¹ As the Panel will be aware, one of the key reasons for obtaining, and one of the principal functions of a designation is to protect land from development that would prevent or hinder the planned infrastructure project or work. Accordingly, to the extent that NZRPG's consented development is not able to proceed, the relevant designation will perform its intended function. NZTA acknowledges that there are certain consequences for NZRPG's plans, but those consequences will be compensated for under the PWA, and are not an environmental effect under the RMA.
- 240 Accordingly, we submit that the Panel must disregard property acquisition concerns raised by commenters in making its decision on the Application.

CONCLUSION

- 241 It is clear the Project will have significant national and regional benefits, and will achieve the purpose of the FTAA. Further, during the consenting process, no one has suggested the Application should be declined in its entirety. Instead, the focus has been on the terms on which the approvals should be granted, particularly conditions. In relation to the key outstanding matters that concern

Comment #36 – Westgate Properties (2017) Limited and NZRPG Management 2017 Limited;
Comment #42 – Woolworths New Zealand Limited.

²⁰⁷ NWRT Substantive Application Legal Submissions, paragraph 40.1.

²⁰⁸ Comment #34 – Stride Holdings Ltd, Stride Legal Statement, paragraphs 28 – 30.

²⁰⁹ *D & T Pascoe v Taranaki Regional Council* [2020] NZHC 3159 at [82]–[86].

²¹⁰ Comment #34 – Stride Holdings Ltd, Stride Legal Statement, paragraph 28.

²¹¹ Comment #34 – Stride Holdings Ltd, Stride Corporate Statement, paragraphs 30, 33-34, 49 and Stride Legal Statement, paragraphs 18-21. Comment #36, paragraphs 4.10 - 4.14. NZRPG also raises a concern about the impact of the Project on a future development: Comment #36 – Westgate Properties (2017) Limited and NZRPG Management 2017 Limited, paragraphs 4.10 - 4.14. However, as NZRPG does not have a resource consent for that development it does not form part of the existing environment and is not relevant to the Panel's decision-making.

environmental effects, we submit the Panel should prefer NZTA's approach because:

- 241.1 *Built heritage*: Council's proposed conditions cannot be complied with (based on current information), are inconsistent with the AUP, and are disproportionate to the Project's effects (including because they would require enhancement measures regardless of the effects).
- 241.2 *Construction traffic at Westgate*: The commenters seek conditions to achieve 'zero' construction traffic effects, and transport system improvements outside the scope of the Project. Such conditions therefore go well beyond what is required to manage the Project's effects – they would be more onerous than necessary, and in some cases are beyond the Panel's lawful jurisdiction. NZTA's conditions will ensure construction traffic effects are managed through established and proven measures. Further, the overall transport effects of the Project are overwhelmingly positive.
- 241.3 *Cultural matters*: NZTA's proposed conditions meaningfully address the matters raised by Te Ākitai Waiohū and, in our submission, the imposition of additional conditions is not justifiable.
- 241.4 *Design matters*: NZTA and the Council agreed the intent of conditions to address design-related matters, but the detail of the drafting was not resolved. NZTA considers its drafting should be preferred for the reasons set out in its response to Council's comments. NZTA opposes the Council's suggestion that there be an 'explanatory note' (whether in the terms Council seeks or otherwise) because it has no legal or practical basis.
- 241.5 *Ecology*: The existing environment within the Project Area has very limited ecological values, and the Project's effects are generally low. Nevertheless, NZTA has proposed conditions that are proportionate to the Project's potential effects on bats, birds, terrestrial vegetation, freshwater ecology and coastal ecology.
- 241.6 *Geotechnical matters*: A condition requiring a Geotechnical Management Plan is not required to manage adverse environmental effects and it would duplicate existing engineering/geotechnical and statutory processes.
- 241.7 *Groundwater*: NZTA has proposed a condition that will ensure potential groundwater effects are appropriately confined, without imposing complexity that is administratively unnecessary and which would have no relationship with a potential effect on the environment.
- 241.8 *Infrastructure providers (Transpower and Watercare)*: The interface between the Project and Transpower and Watercare assets will be appropriately managed through existing statutory processes, in conjunction with NZTA's ongoing engagement with those parties.
- 241.9 *Residential properties*: A very small number of comments were received from residential landowners. All relevant concerns will be addressed through NZTA's proposed conditions, standard construction measures and, where they are relevant, separate statutory processes.

241.10 *The 'envelope of effects' approach*: NZTA has provided updated analysis in these legal submissions to demonstrate that an 'envelope of effects' has been assessed and NZTA's proposed conditions secure that envelope.

242 In conclusion, we submit the Panel should approve the Application subject to NZTA's Proposed Conditions at Appendices A to B and the archaeological authority conditions that will be lodged shortly. They are proportionate to the effects they address, no more than onerous than necessary and consistent with the FTAA purpose.

Paula Brosnahan / Nicola de Wit

Counsel for the New Zealand Transport Agency Waka Kotahi
29 July 2026

APPENDIX A – DESIGNATION CONDITIONS

APPENDIX B – RESOURCE CONSENT CONDITIONS

APPENDIX C: UPDATED ANALYSIS OF EFFECTS ASSESSMENT AND PROPOSED CONDITIONS TO SUPPORT NZTA’s ‘EFFECTS ENVELOPE’ APPROACH

The following table was first filed with NZTA’s memorandum of counsel dated 19 May 2026 (NZTA’s response to the Panel’s first request for further information). It has been updated to reflect subsequent developments, including to reflect agreements with Auckland Council and to reflect NZTA’s updated conditions lodged on 29 July 2026. This table supersedes the previous version. To assist the Panel, material updates are shown in blue text.

The table sets out:

- *Column 1:* how assessment of each potential effect of the Project supports the ‘effects envelope’ approach. The assessment addressed:
 - The effects of the Indicative Design;
 - The effects of potential changes to the Indicative Design within the Project Area (ie sensitivity testing); and
- *Column 2:* how NZTA’s proposed designation and consent conditions secure the ‘envelope of effects’ that has been assessed, and how the recommended management measures for each potential effect respond appropriately to those effects; and
- *Column 3:* any further relevant analysis to support NZTA’s approach.

NZTA’s responses to comments explain why additional management measures are not required to mitigate the Project’s effects and are not repeated in the table.

In addition to the ‘effects envelope’ approach, NZTA’s proposed conditions have been informed by the legal principles addressed in [Part 1 – Legal Submissions](#), including the requirements in the Fast-track Approvals Act 2024 (FTAA) to ensure conditions are “no more onerous than necessary to address the reason for which those conditions are set” and take into account and give the “greatest weight” to the purpose of the FTAA.¹

Capitalised terms within this document are as defined in [Part 4 – RMA 1991 Approvals](#).

Assessment of effects	Conditions	Further relevant analysis
Archaeology		
The Assessment of Archaeological Effects (<i>Archaeology Assessment</i>) addresses the actual and potential archaeological effects arising from the Indicative Design, as well as potential amendments to the Indicative Design within the Project Area.² The Archaeology Assessment is based on a 'worst case' scenario as it assumes that all known and unknown archaeological sites within public and Crown land within the Project Area will be destroyed (meaning it does not assume that impacts will be limited to the Indicative Design).³ Overall, the Archaeology Assessment concludes that, with the recommended mitigation and management measures, the Project will likely have less than minor effects on archaeological values.⁴	The 'envelope of effects' assessed and the recommended management measures set out in the Archaeology Assessment are secured by: • The scope of the archaeological authorities, which is limited to public and Crown land;⁵ • The Proposed Designation boundary, particularly because the Proposed Designation was modified to exclude two known archaeological sites;⁶ and • The Proposed Archaeological Authority Conditions, in particular:⁷ ○ Condition 2: requires preparation and implementation of an Archaeological Management Plan that, among other things, will include archaeological monitoring areas where there is a material risk of encountering an archaeological site and archaeological mitigation measures to apply in the event an archaeological site is encountered; ○ Condition 7: requires any archaeological site encountered to be investigated, recorded and analysed in accordance with the certified Archaeological Management Plan; and ○ Conditions 8, 10 and 11: requiring annual reporting as well as interim and final reports to be provided to Heritage New Zealand Pouhere Taonga following the completion of any on-site archaeological work.	NZTA considers the 'envelope of effects' approach is appropriate for the archaeological authorities because: • There is no risk that changes to the Indicative Design would result in effects that are different in nature, or greater in scale, than the effects of the 'worst case' scenario assessed in the Archaeology Assessment; and • The management approach set out in the Proposed Archaeological Authority Conditions will appropriately mitigate the Project's effects regardless of design amendments. There is only one matter outstanding between NZTA and Heritage New Zealand Pouhere Taonga in relation to the archaeological authority conditions, and the parties will provide an update to the Panel shortly. Heritage New Zealand Pouhere Taonga's s51(2)(d) FTAA report recommends that the archaeological authorities are granted subject to only minor amendments to NZTA's proposed conditions (which NZTA intends to address in its response to comments).

Assessment of effects	Conditions	Further relevant analysis
Built Heritage		
The Assessment of Built Heritage Effects (<i>Built Heritage Assessment</i>) addresses the actual and potential built heritage effects arising from the Indicative Design, as well as potential amendments to the Indicative Design within the Proposed Designation.⁸ It identifies all built heritage within and in proximity to the Proposed Designation boundary.⁹ The Built Heritage Assessment is based on a 'worst case' scenario as it assumes demolition of all buildings within the Proposed Designation.¹⁰ Based on that scenario, the Built Heritage Assessment concludes that the unmitigated effects of the Project will range from negligible to significant (for the Point Chevalier town centre). While the Built Heritage expert has identified that the buildings adjacent to the scheduled Ambassador Theatre collectively have built heritage value in the Point Chevalier town centre, importantly, the demolition of these adjacent buildings is a permitted activity under the Auckland Unitary Plan (<i>AUP</i>). The Built Heritage Assessment provides sensitivity testing of the Indicative Design.¹¹ It states that vertical changes to the Indicative Design would not increase the assessed historic heritage effects. A horizontal change to the Indicative Design that avoids the demolition of heritage buildings would substantially reduce the effects on built heritage from the Project. For example, if the Ambassador Theatre and adjacent buildings of heritage value at Point Chevalier town centre were retained in whole or part, the Project's effects would reduce from significant to low.¹²	The 'envelope of effects' assessed and the recommended management measures set out in the Built Heritage Assessment are secured by: - The Proposed Designation boundary (which intentionally does not include the following items scheduled in the AUP: - the former ASB building at Point Chevalier; and - the "gateway" at Western Springs Gardens near the former Chamberlain Park Clubhouse); and - The following Proposed Designation Conditions: - Condition 21: establishes a hierarchy of mitigation measures by first requiring the original building footprint of the Ambassador Theatre and adjacent heritage buildings at Point Chevalier town centre to be retained if practicable. If that is not practicable, building surveys are to be undertaken to identify what parts of the buildings are reasonably practicable to retain. If the buildings cannot practicably be retained in full or in part, archival documentation and recording will be undertaken before demolition and interpretative material will be installed at the NWRT Point Chevalier Station. The Outline Plan will demonstrate how this hierarchy has been applied; - Condition 22: establishes a hierarchy of mitigation measures by first requiring the original building footprint of the former Chamberlain Park Clubhouse to be retained to the extent practicable. If this is not practicable, archival documentation and recording will occur and interpretive material will be installed at the NWRT Western Springs Station. The Outline Plan will demonstrate how this hierarchy has been applied;	NZTA considers the 'envelope of effects' approach is appropriate in relation to built heritage effects because: - There is no risk that changes to the Indicative Design would result in effects that are different in nature, or greater in scale, than the effects of the 'worst case' scenario assessed in the Built Heritage Assessment; - While Proposed Designation Conditions 21 and 22 do not secure a particular outcome for the relevant heritage buildings (for the practical reasons set out Section 5.1.2 of Part 4 – RMA 1991 Approvals and in NZTA's response to the Council's comments), those conditions ensure the final outcome will have the same, or more likely less, effects than the 'worst case' scenario assessed in the Built Heritage Assessment; and - The management approach set out in Conditions 18, 19(c)(xii) and 23 will appropriately mitigate the Project's other effects on built heritage regardless of design amendments.

Assessment of effects	Conditions	Further relevant analysis
	- Conditions 18 and 19(c)(xii): apply more stringent vibration standards to buildings identified as Particularly Vibration Sensitive (defined as the former ASB Building and the Ambassador Theatre (if retained)); and - Condition 23: a Built Heritage Construction Management Plan will be prepared and implemented to protect retained heritage buildings from damage during construction.	
Community¹³		
<i>Parks, open spaces and community facilities</i>		
Section 7.2 of Part 4 – RMA 1991 Approvals assesses the actual and potential effects of the Indicative Design on parks, open spaces and community facilities. This assessment is not based on a 'worst case' scenario in all cases, and is instead based on the Indicative Design and realistic design changes in some cases, as follows: - For stormwater reserves that are fully located within the Proposed Designation,¹⁴ the assessment assumes that majority of works within the reserve will be for construction and operation of stormwater management only; - For the Mānutewhau walkway reserve, the assessment assumes that works will be limited to reconstruction or shifting of the pedestrian footpath; - For some reserves,¹⁵ the assessment assumes there will be effects during construction works, but no operational effects; - For the esplanade reserves on each side of Wai-o-Pareira/Henderson Creek, the assessment assumes a bridge structure will be constructed;	The 'envelope of effects' assessed in Section 7.2 of Part 4 – RMA 1991 Approvals is secured by: - The Proposed Designation boundary: - For example, in many locations the Proposed Designation 'bulges out' to accommodate specific ancillary activities such as stormwater management, construction areas or active mode works. Due to the geometric requirements for the busway, it will not (for example) be able to run through the middle of these reserves (see example below of the Stormwater Basin Reserve at 26 Westgate Drive). The Proposed Designation boundary does not provide for such shifts in the alignment to permanently impact a greater extent of these reserves; 	NZTA considers the 'envelope of effects' approach is appropriate in relation to community effects because: - There is no risk that changes to the Indicative Design would result in effects that are different, or greater in scale, than the 'envelope of effects' assessed in Section 7 of Part 4 – RMA 1991 Approvals; - The Proposed Designation Condition 16B and the landowner approval process with Auckland Council will ensure temporary effects of construction works in parks and open spaces will be appropriately mitigated regardless of design amendments; and - Any permanent effects will be minimal given the 'envelope of effects' that has been secured.

Assessment of effects	Conditions	Further relevant analysis
- For McCormick Green reserve, the assessment is based on a 'worst case' scenario being permanent, total loss of the reserve; - For Ōrangihina reserve, the assessment is based on a 'worst case' scenario being permanent works on the outer edge and in the small part of the reserve within the Proposed Designation immediately adjacent to the SH16 on ramp; - For Western Springs Gardens, the assessment is based on a 'worst case' scenario being permanent loss of the two community halls and a portion of the reserve being required for the permanent occupation of the busway; and - For Arch Hill Scenic Reserve, the assessment is based on the balance of designated land being returned to a park like state following construction. However, the author of Section 7.2, Ms Helen Hicks, has advised that the assessment of a 'worst case' scenario (being of permanent works within the entirety of the part of Arch Hill Scenic Reserve in the Proposed Designation) would not change the conclusions.	- The Proposed Designation at Arch Hill Scenic Reserve also does not provide for a significant shift in the busway alignment. The Proposed Designation has been carefully considered in this location in consultation with NZTA's Iwi Project partners (in particular Te Ākitai Waiohū and Ngāti Whātua Ōrakei). In any event, NZTA is intrinsically motivated to position the busway as close as possible to SH16 (and minimise intrusion into the Arch Hill Scenic Reserve) as a wider gap between the two assets will increase maintenance burden; and - Proposed Consent Condition 21 (agreed with Council): requires a bridge to be constructed at Wai-o-Pareira/Henderson Creek. With one exception, NZTA is not proposing conditions to address the effects of the Project on parks, open spaces and community facilities as they are either not needed or will be appropriately managed through other mechanisms: - Temporary effects: NZTA will require landowner approval from Auckland Council in order to undertake construction works in parks and open spaces. This process will enable Council to impose requirements relating to management of access during construction and remediation of the park/open space following construction. There is no reasonable basis for conditions to duplicate that existing process (which is entirely subject to the Council's discretion). - Permanent effects: NZTA considers the potential effects of the Indicative Design and any realistic design changes will be minimal, and that the 'envelope of effects' is secured as set out above. Council will be compensated for any land acquired permanently in accordance with the PWA, and is free to apply the funds from those acquisitions to community facilities at its discretion. NZTA and Council have agreed a new condition (16B) that requires NZTA to maintain safe and clearly identifiable	

Assessment of effects	Conditions	Further relevant analysis
	public access (walking and cycling) through affected open space that is available for use during construction, as far as practicable.	
Northwest Shared Path		
Section 7.5.1 of Part 4 – RMA 1991 Approvals assesses the effects of the Project on the Northwest Shared Path. It assumes: - There will necessarily be some temporary diversions to the Northwest Shared Path during construction works; and - The Northwest Shared Path will be relocated in some sections, but will not otherwise be permanently affected.	The 'envelope of effects' assessed in Section 7.5.1 of Part 4 – RMA 1991 Approvals is secured by: - The Project scope, which includes relocation of the Northwest Shared Path (a NZTA asset) where required; and - Proposed Designation Conditions 16(b)(vi) (agreed with Council): requires the CTMP to include "[m]easures to maintain the function of the existing North-Western Shared User Path to a reasonable level of service, to the extent that is reasonably practicable, and where this is not practicable, provide safe detour routes that provide a reasonable level of service".	As above.
Navigation of the Huruhuru and Henderson Creeks		
Section 7.6 of Part 4 – RMA 1991 Approvals assesses the effects of the Project on navigation of the Huruhuru and Henderson Creeks in the Coastal Marine Area. It does not provide sensitivity testing.	The 'envelope of effects' assessed in Section 7.6 of Part 4 – RMA 1991 Approvals is secured by: - Proposed Consent Condition 20 (agreed with Council): requires a Coastal Construction Management Plan to be prepared and implemented, which will (among other things) include methods to ensure a safe navigation channel where practicable past the works site, and to communicate periods when navigation will be restricted; and - Proposed Consent Condition 21 (agreed with Council): requires the bridges at Wai-o-Pareira / Henderson Creek and Huruhuru Creek to be constructed to a height equivalent to the adjacent SH16 bridges to maintain safe navigation.	As above.

Assessment of effects	Conditions	Further relevant analysis
Contaminated Land		
The Contaminated Land Preliminary Site Investigation (PSI) assesses whether soils within and adjacent to the Proposed Designation have been subject to contaminating or potentially contaminating activities, identifies contaminants of concern and the risks those contaminants may pose to human health and the environment during construction of the Project.¹⁶ The PSI is based on a 'worst case' scenario as it considers the potential for contaminated soils within, and within 50 metres of the Proposed Designation, and is not limited to areas impacted by the Indicative Design.¹⁷ The PSI identifies that there is the potential for contaminated soils to be encountered during construction of the Project. Nevertheless, it concludes (based on the types of contaminants that might be encountered) that any contaminated land effects on human health and the environment can be managed through standard management measures.¹⁸	The 'envelope of effects' assessed and recommended management measures set out in the PSI are secured by: • The Proposed Designation boundary (because the PSI has considered the potential for contaminated soils within and near the Proposed Designation); • The following Proposed Consent Conditions (agreed with Council): ◦ Condition 7: requires a Detailed Site Investigation to be undertaken to confirm the likely presence of contaminated soils and provided to Council for information; and ◦ Conditions 7A – 7B: require standard contaminated soils management measures to be implemented in areas where contaminated soils are likely to be present. The Contaminated Soils Management Plan, and including if required Remedial Action Plan remediation goals and methodology, will need to be certified by Council (Condition 3). ◦ Condition 7C: requires a Site Validation Report to be provided to Council for information, if remediation is required.	NZTA considers the 'envelope of effects' approach is appropriate in relation to contaminated land effects because: • There is no risk that changes to the Indicative Design would result in effects that are different in nature, or greater in scale, than the 'envelope of effects' assessed in the PSI; • The Proposed Consent Conditions s will ensure standard management measures will be implemented, and those measures will appropriately mitigate potential effects regardless of the final design.
Cultural values		
As identified in Section 16 of Part 4 – RMA 1991 Approvals, only iwi/hapū can speak to the impact that the Project may have on their cultural values, heritage and aspirations. Te Kawerau ā Maki, Ngāti Whātua Ōrākei and Te Ākitai Waiohū are Iwi Project Partners and have been involved throughout the development of the Project as described in Part 2 – The Project. Representatives from the Iwi Project Partners formed the Project's Iwi Working Group (IWG), and in September 2025 Ngāti Whātua o Kaipara joined the IWG hui. Engagement with the Iwi Project Partners will continue through to the Project's implementation. The presentation of Mervyn Kerehoma of Ngāti Whātua Ōrākei at the Project Overview Conference demonstrated that NZTA's engagement with iwi/hapū has been genuine, ongoing and effective. To reflect this engagement, NZTA has proposed designation, consent and archaeological authority conditions that provide for the ongoing involvement of iwi during the Project design and construction (designation conditions 5 – 7, consent condition 4, and archaeological authority conditions 7 and 10-13).		

Assessment of effects	Conditions	Further relevant analysis
Other conditions also address matters raised in hui, including designation conditions 24 and 25 (addressing outstanding natural features), designation condition 26 (addressing the retention of mature, native vegetation where practicable and use of eco-sourced native vegetation for landscape planting) and consent condition 8 (addressing treatment of stormwater from impervious surfaces). NZTA's response to the comments from Te Ākitai Waiohū explains why additional management measures are not required to mitigate cultural effects.		
Ecology		
Streams		
The Freshwater Ecology Assessment¹⁹ assesses the actual and potential effects of the Project on freshwater ecological values based on the following 'envelope of effects': - It assesses effects on all ten perennial and intermittent watercourses that are intersected by the Proposed Designation, and is not limited to the seven streams that are intersected by the Indicative Design;²⁰ - It assesses effects on streams that might arise from bridging, culverting and pipe extensions, loss of riparian vegetation, short-term water quality effects, temporary disturbance from machinery and access, stormwater discharge effects, and changes in hydrology and flow regime;²¹ - It does not assess reclamation or permanent diversion of streams, as no such works are proposed; and - It assumes bridges will have no instream piers or structures within the wetted channel of the streams.²² The Freshwater Ecology Assessment provides sensitivity testing.²³ It concludes that shifting the locations of bridges and culverts/pipe extensions would not introduce new freshwater ecology effects or increase their significance (including if a design change resulted in works being undertaken in the streams not intersected by the Indicative Design). It also concludes that the freshwater ecology effects of the Project can be managed	The 'envelope of effects' assessed in the Freshwater Ecology Assessment is secured by: - The Proposed Designation boundary; - The scope of the resource consents sought: NZTA intends to update The exceptions noted at the front of the Proposed Consent Conditions to make it clear that the consents do not authorise permanent diversion, drainage or reclamation of any perennial or intermittent watercourse. With that change, Condition 11 relating to Totara Creek will be deleted as it will be obsolete. This amendment will be contained in the updated consent conditions that NZTA will lodge with its response to comments; and The typical span of a bridge is 30–35m. Therefore, given the very small width of the streams within the Proposed Designation, it will not be necessary for the bridges to have any piers in the stream beds. The recommended management measures set out in the Freshwater Ecology Assessment are secured by: - The following Proposed Consent Conditions: - Conditions 5 – 5F: requires standard erosion and sediment control measures; Condition 11: ensures bridges will not have piers in streams and the extent of scour protection will be minimised;	NZTA considers the 'envelope of effects' approach is appropriate in relation to freshwater ecology effects because: - There is no risk that changes to the Indicative Design would result in effects that are different in nature, or greater in scale, than the 'envelope of effects' assessed in the Freshwater Ecology Assessment; and - The Proposed Consent Conditions require management measures to be implemented in a manner that will appropriately mitigate potential effects regardless of the final design.

Assessment of effects	Conditions	Further relevant analysis
in a scalable way, so the management measures will remain proportionate to the effects regardless of the final design. It does not identify any streams or works that should be avoided to appropriately manage the freshwater effects of the Project. <i>Note:</i> The Henderson and Huruhuru Creeks are located in the Coastal Marine Area and therefore not assessed in the Freshwater Ecology Assessment. Please refer to the marine ecology topic below.	○ Condition 12: requires outfalls and culverts to be designed in accordance with specified technical standards; ○ Condition 13: requires fish passage in all new and extended culverts unless unnecessary or impracticable; ○ Condition 15(a) and (b): requires riparian vegetation to be replaced (at a 1:1 ratio); ○ Condition 15(c) and (d): requires riparian planting to be undertaken (at a 1:1.5 ratio, by length) to address the impacts of culverting and stormwater outfalls; ○ Condition 17: requires fish and kākahi salvage and relocation prior to dewatering or diversion works and supervised by a SQEP; and • Standard construction protocols will ensure fuels, oils and hazardous substances are stored and handled safely and wet concrete is contained.²⁴	
Wetlands		
As identified in Section 1.2 of Part 4 – RMA Approvals 1991, NZTA is not seeking consents under regulation 45 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-FW). Accordingly, the Project before the Panel will have no impacts on wetlands. If the detailed design for the Project necessitates works that would require consent under regulation 45, the necessary consents would be sought at that time. NZTA has amended will be proposing an amendment to its Proposed Consent Conditions to ensure it is clear the scope of the consents granted do not include consents for works within or in the vicinity of wetlands under regulation 45 of the NES-F. This amendment will be contained in the updated consent conditions that NZTA will lodge with its response to comments.		
Terrestrial vegetation		
The Terrestrial Vegetation Ecology Assessment²⁵ (<i>Terrestrial Vegetation Assessment</i>) assesses the actual and potential effects of the Project on terrestrial indigenous vegetation within the scope²⁶ of the assessment. In the first instance, the assessment is based on the likely extent of vegetation loss associated with the Indicative	The 'envelope of effects' assessed and the recommended management measures set out in the Terrestrial Vegetation Assessment are secured by: • The Proposed Designation boundary; and • The following conditions: ○ Proposed Consent Condition 14: requires replacement planting for vegetation removed for	NZTA considers the 'envelope of effects' approach is appropriate in relation to terrestrial vegetation ecology effects because: • There is no risk that changes to the Indicative Design would result in effects that are different in nature than

Assessment of effects	Conditions	Further relevant analysis
Design.²⁷ The assessment then provides sensitivity testing for changes in design that result in:²⁸ • <i>Indigenous vegetation removal in other locations within the Proposed Designation:</i> The assessment concludes that the effects would remain similar as there are no areas of higher value indigenous vegetation within the Proposed Designation; and • <i>Increased scale of indigenous vegetation removal:</i> The assessment concludes the effects could move up or down. However, a larger scale of loss would be appropriately managed through the recommended scalable effects management approach.	temporary construction and permanent works from significant ecological areas, a coastal margin or riparian margin; and ○ Proposed Designation Condition 26A: requires replacement planting for vegetation removed for temporary construction and permanent works from Arch Hill Scenic Reserve.	those effects assessed in the Terrestrial Vegetation Ecology Assessment; and • Even if the scale of indigenous vegetation removal increased, the Proposed Consent Conditions and Proposed Designation Conditions require scalable management measures to be implemented so that potential effects will be mitigated in a proportionate manner regardless of the final design.
Marine		
The Assessment of Ecological Effects (<i>Ecology Assessment</i>)²⁹ assesses the actual and potential effects of the Project on marine ecological values based on the following 'envelope of effects': • It assesses effects on both marine locations where works are proposed: Huruhuru Creek and Henderson Creek;³⁰ • It assesses construction and operational effects on the marine environment that might result from bridging. It assumes the Henderson Creek bridge will have piles in the channel;³¹ and • It does not assess reclamation of the coastal marine area, as no such works are proposed. The Ecology Assessment does not recommend any specific mitigation as all potential effects of the Project are assessed as Very Low.	For marine ecology, the 'envelope of effects' assessed in the Ecology Assessment are secured by: • The extent of area for the coastal permits shown in Schedule A to the Proposed Consent Conditions, which is highly confined and (along with the adjacent Proposed Designation) does not allow for material changes in the busway alignment; and • The following Proposed Consent Conditions (agreed with Council): ○ Condition 20: requires a Coastal Construction Management Plan addressing, among other things, mangrove removal; and ○ Condition 21: requires permanent bridge crossings of Wai-o-Pareira/Henderson Creek and Huruhuru Creek.	NZTA considers the 'envelope of effects' approach is appropriate in relation to marine ecology effects because there is no risk that changes to the Indicative Design would result in effects that are different in nature, or greater in scale, than the 'envelope of effects' assessed in the Ecology Assessment.

Assessment of effects	Conditions	Further relevant analysis
Bats		
The Ecology Assessment addresses the actual and potential ecological effects on long-tailed bats arising from the Indicative Design.³² The assessment in relation to long-tailed bats is limited to the part of the Project Area in the vicinity of the Tōtara Creek/Brigham Creek station where there was considered to be potential for bats to be present based on previous records (noting site investigations for the Project did not record any bats).³³ The Indicative Design will impact a stand of mature pine trees within the areas identified as 'suitable bat habitat' along the riparian margins of Tōtara Creek. Without mitigation, the removal of potential roosts would result in moderate effects.³⁴ The Ecology Assessment recommends the implementation of Bat Roost Protocols for removal of any potential roosting trees.³⁵ The Ecology Assessment provides sensitivity testing of the Indicative Design. It states that additional impacts on the 'suitable bat habitat areas' along the riparian margins of Tōtara Creek may require further management measures.³⁶	The 'envelope of effects' assessed and the recommended management measures set out in the Ecology Assessment for long-tailed bats are secured by: Proposed Consent Condition 18 (agreed with Council): requires the Bat Roost Protocols to be applied prior to the removal of trees that may be used as bat roosts within the area shown in Schedule E.	NZTA considers the 'envelope of effects' approach is appropriate in relation to long-tailed bat ecology effects because: - Although there is potential for long-tailed bats to be present in the vicinity of the Tōtara Creek/Brigham Creek station, their presence has not been confirmed; - If long-tailed bats are present, the effects of the removal of potential roosts due to vegetation removal have been assessed as moderate without mitigation; - Regardless, Proposed Consent Condition 18 requires the Bat Roost Protocols to be applied within the area shown in Schedule E; and - In light of the above, NZTA does not consider any additional mitigation measures are necessary (including in the event that additional trees are removed from the 'suitable bat habitat areas' along the riparian margins of Tōtara Creek).
Native Birds		
The Ecology Assessment addresses the actual and potential ecological effects on native birds arising from the Indicative Design. The key potential effect of the Project is the killing or injuring of individuals, or the disturbance of their nests during vegetation removal. However, such	The 'envelope of effects' assessed and the recommended management measures set out in the Ecology Assessment in relation to native birds are secured by: Proposed Consent Condition 16 (agreed with Council): applies if vegetation clearance is undertaken during the native bird nesting season, and requires native bird	NZTA considers the 'envelope of effects' approach is appropriate in relation to native bird ecology effects because: There is no risk that changes to the Indicative Design would result in effects that are different in nature than

Assessment of effects	Conditions	Further relevant analysis
effects are prohibited under the Wildlife Act 1953 without a wildlife permit. To avoid impacts on nesting birds, the Ecology Assessment recommends avoiding vegetation removal during nesting season, or otherwise undertaking pre-clearance nest checks in relative locations.³⁷ The Ecology Assessment provides sensitivity testing of the Indicative Design. It does not identify any changes to the Indicative Design that have the potential to change or increase effects on native birds.³⁸	nesting surveys and, if active nests are found, defined setbacks to be established.	those effects assessed in the Ecology Assessment; and The Proposed Consent Conditions s require management measures to be implemented in a manner that will appropriately mitigate potential effects regardless of the final design.
Erosion and sediment control		
The Assessment of Construction Stormwater Effects (Construction Stormwater Assessment)³⁹ addresses the potential effects of earthworks, stream works and coastal works. The assessment is based on the nature of the works required for the Indicative Design.⁴⁰ However, the assessment addresses the risk of elevated sediment yield across the whole of the Project Area.⁴¹ The assessment concludes that the Project and scale of earthworks proposed do not present a significant risk or challenge in terms of managing sediment-related effects, and standard controls will appropriately manage effects.⁴² The assessment also concludes that a winter works restriction is not necessary given the Project's low risk nature.⁴³ The assessment then provides sensitivity testing for changes to the Indicative Design. It says that changes to the location (within the Proposed Designation), design of or construction methodology for the Project will not fundamentally change the assessment of sediment-related effects. It notes that the relatively narrow Proposed Designation does not allow for a significant expansion of the area that could be exposed to erosion. It concludes that the recommended erosion and sediment control measures are applicable to all likely construction works for the Project within the Project Area.⁴⁴	The 'envelope of effects' assessed and the recommended management measures set out in the Construction Stormwater Assessment are secured by: - The Proposed Designation boundary and the extent of area for the coastal permits shown in Schedule A to the Proposed Consent Conditions; and - The following conditions (agreed with Council): - Conditions 5A – 5F: requires s standard erosion and sediment control measures. The recommendations relating to a Chemical Treatment Management Plan and a Pumping Management Plan are addressed in Condition 5(c)(ix) and (x); - Condition 6: requires progressive stabilisation; and - Condition 20 (for works in the coastal marine area): requires a final construction methodology and methodology for removing temporary platforms and piles and addresses mangrove removal methods and site management.	NZTA considers the 'envelope of effects' approach is appropriate in relation to construction stormwater effects because: - There is no risk that changes to the Indicative Design would result in effects that are different in nature than those effects assessed in the Construction Stormwater Assessment; and - The Proposed Consent Conditions s require standard management measures to be implemented that will appropriately mitigate potential effects regardless of the scale of earthworks required for the final design. No 'upper limit' on the extent of earthworks is therefore required to manage effects. Further, NZTA is intrinsically motivated to minimise earthworks given the significant cost implications of such works, so the final design will look to minimise the import of fill and removal of spoil regardless of conditions.

Assessment of effects	Conditions	Further relevant analysis
Groundwater		
The Groundwater and Settlement Effects Assessment (<i>Groundwater Assessment</i>) addresses the actual and potential groundwater effects arising from the Indicative Design, as well as potential changes to the Indicative Design within the Proposed Designation.⁴⁵ There are no groundwater users or surface water bodies in close proximity to areas where substantial excavations could be required for the Project,⁴⁶ so the focus of the Groundwater Assessment is on potential settlement effects. The majority of the Project will be at existing ground level (and NZTA is intrinsically motivated to minimise above-ground structures and below-ground cuts given cost implications). The Indicative Design has only six locations where cuts may interact with groundwater.⁴⁷ The Groundwater Assessment is based on a conservative scenario in which groundwater seepage to excavations is not inhibited.⁴⁸ In that scenario, potential settlement effects resulting from the Indicative Design were assessed as less than minor to negligible and therefore no mitigation was recommended. In reality, any larger cuts are likely to incorporate pre-installed secant pile walls or diaphragm walls that will restrict groundwater seepage and drawdown, and therefore potential settlement effects.⁴⁹ The Groundwater Assessment provides sensitivity testing for potential changes to the Indicative Design. It concludes that horizontal or vertical shifts to the Indicative Design within the Proposed Designation are unlikely to result in more than minor groundwater effects. Even if the final design included deeper cuts or cuts located closer to the Proposed Designation boundary, secant piling or similar would restrict groundwater seepage and drawdown, and therefore potential settlement effects.⁵⁰	The 'envelope of effects' assessed in the Groundwater Assessment is secured through <u>by</u>: • <u>The Proposed Designation boundary;</u> • <u>Proposed Resource Consent Conditions 23 and 24: requires NZTA to design Major Cuts so that settlement beyond the designation boundary is confined within set limits.</u>	<u>NZTA considers the 'envelope of effects' approach is appropriate in relation to groundwater effects because:</u> • <u>There is no risk that changes to the Indicative Design would result in effects that are different in nature than those effects assessed in the Groundwater Assessment; and</u> • <u>The Proposed Consent Conditions will ensure that any groundwater effects are within the envelope of effects that have been assessed.</u> NZTA considers imposing a Condition 1 is not necessary to ensure that groundwater effects are minimal regardless of the final design. NZTA does not consider it is necessary or appropriate to impose consent conditions addressing the construction methodology for cuts that have the potential to intercept groundwater (ie to ensure pre-installed secant pile walls or diaphragm walls are incorporated where necessary). The Project will be designed in accordance with normal engineering design principles and standards and subject to independent external review requirements. Accordingly, existing industry processes will ensure the Project does not result in groundwater seepage and drawdown that has the potential to generate settlement effects.

Assessment of effects	Conditions	Further relevant analysis
Landscape and visual effects		
The Landscape and Visual Assessment (LVA)⁵¹ assesses the actual and potential effects of the Indicative Design on landscape character, visual amenity and natural character. Across the Project Area, the construction effects are assessed as low-moderate⁵² and the operational effects are assessed as low.⁵³ The LVA also assesses the landscape character and visual amenity effects of Project components, with the underpasses having very low to low effects, bridges having low to moderate effects, and stations having low effects.⁵⁴ The LVA recommends:⁵⁵ • Normal construction practices, including fencing and screening and confining any lighting to highly localised areas; • The trees that front Great North Road (particularly the pōhutakawa) are retained where practicable; and • The Project implements landscaping as normally carried out as part of major transport infrastructure works. To that end, it recommends a condition requiring NZTA to prepare a landscape plan for each stage of the Project. The LVA provides sensitivity testing for potential changes to the Indicative Design. It acknowledges the Proposed Designation does not allow for large horizontal shifts of the Indicative Design (for example, the stations cannot move from their discrete locations given the width of the Proposed Designation). It focuses on the potential for greater impacts resulting from changes to the vertical alignment (including changing underpasses to bridges/elevated viaducts and raising 'at grade' portions of the alignment). In some limited locations, such changes to the vertical alignment could result in moderate-high adverse effects (at worst). The LVA does not identify any particularly sensitive locations where elevated structures should be avoided. Overall, the LVA	The 'envelope of effects' assessed in the LVA is secured through the Proposed Designation boundary. NZTA does not consider any conditions are required to prevent changes to the vertical alignment (with the exception of the height in relation to boundary condition that it has proposed for structures adjacent to residential zoned land). Elevated structures could result in moderate-high adverse effects (at worst). NZTA is intrinsically motivated to minimise elevated structures given the significant cost implications, so the final design will only include elevated structures that are necessary to achieve Project outcomes. Further, there are no management measures that can meaningfully reduce the visibility of elevated structures, and therefore mitigate landscape character or visual amenity effects (with the possible exception of retaining mature trees). In accordance with the LVA recommendation, Proposed Designation Condition 27 requires NZTA to prepare and implement a tree protection methodology for the pōhutakawa that front Great North Road (and some other trees). In relation to the LVA recommendation concerning fencing/screening and lighting, NZTA does not consider conditions are necessary to secure normal construction practices. They will occur without Council regulatory oversight. In relation to the LVA recommendation concerning normal transport infrastructure landscaping, Proposed Designation Condition 26 requires NZTA to (where practicable) retain existing mature native vegetation and undertake landscape planting at stations and batter slopes. NZTA does not consider it necessary or appropriate for conditions to be imposed that require NZTA to consider its own guidance documents. That will occur without Council regulatory oversight.	NZTA considers the 'envelope of effects' approach is appropriate in relation to landscape and visual effects because: • There is no risk that changes to the Indicative Design would result in effects that are different in nature than those effects assessed in the LVA; and • The Project will have unavoidable adverse effects regardless of the final design, and there are very limited measures to meaningfully mitigate those effects. Even if the final design has greater visual amenity effects in localised areas compared to the Indicative Design, those effects will be necessary to enable the significant benefits of the Project. In NZTA's view, imposing conditions in this context would be "<i>more onerous than necessary</i>" and contrary to the purpose of the FTAA.

Assessment of effects	Conditions	Further relevant analysis
concludes that sensitivity testing does not alter the recommendations provided or materially affect the overall conclusions. ⁵⁶	<u>Following facilitated discussions with Council, NZTA has proposed additional conditions 15B – 15D, which provide:</u> <u>The Project must be designed to provide for personal safety, by taking into account the Crime Prevention through Environmental Design (CPTED) or any subsequent version;</u> <u>A 3-metre height-in-relation-to-boundary control applies to retaining walls and/or bridge structures adjoining a residential zone, except where the designation is to the south of land zoned residential; and</u> <u>A Form and Landscaping Statement must be submitted with the relevant outline plan(s) for each stage of work.</u> <u>NZTA and Council agreed that an Urban and Landscape Design Management Plan is not required.</u>	
Construction noise and vibration effects		
The <u>Assessment of Construction Noise and Vibration Effects</u> (CNV Assessment) assesses the actual and potential construction noise and vibration effects of the Project using a standard methodology based on construction noise and vibration criteria.⁵⁷ The CNV Assessment considers the effects arising from the Indicative Design, as well as sensitivity testing of both vertical and horizontal movements of the Indicative Design.⁵⁸ It concludes that construction noise and vibration effects will be similar to those assessed for the Indicative Design should the final design have a different horizontal or vertical alignment. Regardless of any changes to the Indicative Alignment, the recommended management approach would remain the same. Construction noise and vibration effects will be managed through a Construction Noise and Vibration Management Plan (CNVMP) and, where there is a risk of the construction noise or vibration criteria being	The 'envelope of effects' assessed in the CNV Assessment is secured through the Proposed Designation boundary. The recommended management measures set out in the CNV Assessment are secured by the following Proposed Designation Conditions <u>(agreed with Council)</u>: - Conditions 17 and 18: set standard construction noise and vibration criteria to be complied with as far as practicable; - Condition 19: requires a CNVMP to prepared to identify how the construction noise and vibration criteria will be achieved or otherwise identify the best practicable option to managing construction noise and vibration effects to be implemented; and - Condition 20: requires a Schedule to the CNVMP to be prepared when the construction noise and vibration criteria are predicted or measured to be exceeded. The Schedule will set out additional measures to manage	NZTA considers the 'envelope of effects' approach is appropriate in relation to construction noise and vibration effects because: - There is no risk that changes to the Indicative Design would result in effects that are materially different in nature than those effects assessed in the CNV Assessment; and - The Proposed Designation Conditions require standard management measures to be implemented that will appropriately mitigate potential effects regardless of the final design.

Assessment of effects	Conditions	Further relevant analysis
exceeded, Schedules to the CNVMP will ensure collaborative management of residual construction noise and vibration effects for specific activities and receiver locations. ⁵⁹ This management approach is successfully applied for most, if not all, major infrastructure projects in New Zealand.	noise and vibration effects, and must be prepared in consultation with affected landowners and occupiers.	
Operational noise and vibration effects		
The Assessment of Operational Noise and Vibration Effects (ONV Assessment) assesses the actual and potential noise and vibration effects arising from the operation of the Project. The Project is unique in that traffic noise from the busway and station noise will not add to the noise levels currently experienced by receivers (because busway and station noise is more than 10 decibels lower than baseline SH16 traffic noise).⁶⁰ Further, the Project will not generate any traffic vibration that could be perceived by receivers.⁶¹ As a result, the ONV Assessment is focused on the change in noise levels that might result from implementation of the Project (eg changes resulting from the demolition of some houses).⁶² The ONV Assessment first assesses the Indicative Alignment. In most locations, the noise levels will be the same or similar, and no mitigation will be required. In some locations, implementation of the Project will increase noise levels, so that mitigation (eg relocated or higher noise barriers) will be needed to achieve a noise environment similar to existing at certain receivers. There are a small number of dwellings that will receive noticeable noise level increases (eg due to the removal of houses that currently act as noise barriers) and noise barriers will not be effective. For those dwellings, the ONV Assessment recommends investigating building modification.⁶³ The ONV Assessment then provides sensitivity testing of the Indicative Design. Horizontal or vertical alignment changes to the busway within the Proposed Designation	The 'envelope of effects' assessed in the ONV Assessment is secured through the Proposed Designation boundary. The recommended management measures set out in the ONV Assessment are secured by the following Proposed Designation Conditions (agreed with Council): • Condition 28: requires a low noise road surface to be used throughout the Project; • Condition 29: requires a SQEP to determine the BPO for mitigating noise effects on PPFs, including consideration of the retention or alteration of existing noise barriers; • Condition 36: requires noise barriers to be installed prior to the opening of the Project; • Condition 37: requires those noise barriers to be maintained; and • Conditions 30 – 35: require building modification to be investigated for receivers that experience traffic noise above 67 dB LAeq(24h) and where the Project will increase their noise levels by 1 dB or more.	NZTA considers the 'envelope of effects' approach is appropriate in relation to operational noise and vibration effects because: • There is no risk that changes to the Indicative Design would result in effects that are materially different in nature than those effects assessed in the ONV Assessment; and • The Proposed Designation Conditions require standard management measures to be implemented that will appropriately mitigate potential effects regardless of the final design.

Assessment of effects	Conditions	Further relevant analysis
would not result in noticeable noise level changes for receivers. If a change to the Indicative Design required other existing noise barriers to be removed, then alternative barriers may need to be investigated at the time of detailed design. ⁶⁴		
Outstanding Natural Features		
Section 15 of Part 4 – RMA 1991 Approvals assesses the actual and potential effects of the Indicative Design on Outstanding Natural Features (ONFs). This assessment is based on the following envelope of effects: <i>Harbour View Pleistocene terraces:</i> The Proposed Designation includes approximately 8900m² of this 770,000m² ONF. The assessment is based on Project works occurring across that small area (eg part of the busway, a fill embankment, etc). The effects are assessed as minor given the limited area impacted.⁶⁵ <i>Waititiko/Meola Creek:</i> The Proposed Designation includes approximately 1300m² of this 92,180m² ONF. The assessment is based on the ONF being bridged to retain the geological feature, with only one set of piles/piers in the ONF. The effects are assessed as low.⁶⁶ <i>North-west motorway lava flow:</i> The assessment is based on the Project not impacting the visible cuttings of the basalt features. The effects are assessed as negligible.⁶⁷	The 'envelope of effects' assessed in relation to ONFs is secured through: - The Proposed Designation boundary; and - The following Proposed Designation Conditions (agreed with Council): - Condition 24: requires a bridge structure to cross the Waititiko/Meola Creek ONF. It does not restricts piers within the ONF and requires permanent effects to be minimised; and - Condition 25: requires the Project design to minimise permanent impacts on the exposed face of the North-west motorway lava flow ONF.	NZTA considers the 'envelope of effects' approach is appropriate in relation to outstanding natural features because: - There is minimal risk that changes to the Indicative Design would result in effects that are materially different in nature than those effects assessed in Part 4 – RMA 1991 Approvals; and - The Proposed Designation Conditions require management measures to be implemented that will mitigate potential effects regardless of the final design.
Stormwater and flooding effects		
The Assessment of Stormwater and Flooding Effects (<i>Stormwater and Flooding Assessment</i>)⁶⁸ assesses the effects of the Project in relation to flooding, water quality and stream erosion. The Stormwater and Flooding Assessment adopted a methodology that assessed both effects arising from the	The 'envelope of effects' assessed in the Stormwater and Flooding Assessment is secured by: - The Proposed Designation boundary; - Proposed Designation Conditions 8 – 9 (agreed with Council, except in relation to an advice note): which apply the same flood assessment criteria used in the	NZTA considers the 'envelope of effects' approach is appropriate in relation to stormwater and flooding effects because: There is no risk that changes to the Indicative Design would result in effects that are materially different in nature or greater in scale than those

Assessment of effects	Conditions	Further relevant analysis
Indicative Design, and potential changes to the Indicative Design within the Project Area: - For flooding, the assessment considered locations where the Indicative Design would change flood depths by more than 10mm and change the "danger rating."⁶⁹ Based on that information, it set criteria for assessing flooding effects as 'positive' through to 'high adverse'.⁷⁰ The assessment shows that the Project would reduce flood depths in some locations, with negligible or minor flooding effects in some localised areas.⁷¹ Sensitivity analysis was undertaken during the development of the Indicative Design, as well as site-specific sensitivity assessment for the Henderson Catchment.⁷² - For water quality, the assessment was based on the range of potential treatment devices that could be included in the final design and a range of alternative stormwater discharge locations.⁷³ Sensitivity analysis was also undertaken.⁷⁴ Accordingly, the assessment was not based on the Indicative Design, but a range of reasonable design outcomes. The assessment showed that either not treating stormwater or treating it with any of the options assessed results in effects that range from positive to low.⁷⁵ - For stream erosion, the assessment was based on a range of indicative discharge locations. Accordingly, the assessment was not based on the Indicative Design, but a range of reasonable design outcomes. Sensitivity analysis was also undertaken.⁷⁶ The assessment showed the stream channel erosion effects (based on set criteria⁷⁷) would be negligible in all but one location without hydrology mitigation.⁷⁸	assessment for the Indicative Design to the final design. Importantly, the conditions prevent any increase in Danger Rating, which ensures no buildings will be subject to new floor level flooding as a result of the Project. Within a Danger Rating, any increase in flooding must be minimal (maximum 50mm or 100mm); and Proposed Consent Condition 9 (agreed with Council): which ensures Project stormwater discharges do not increase downstream stream velocity by more than the set criteria used in the assessment. The recommended management measures set out in the Stormwater and Flooding Assessment⁷⁹ are secured by Proposed Consent Condition 12 which requires scour protection at stormwater outfalls and culvert inlets and outlets. Although the Stormwater and Flooding Assessment does not recommend any particular water quality treatment options,⁸⁰ NZTA has offered Proposed Consent Conditions 8 which requires all stormwater from the Project's impervious surfaces to be treated by a system designed to achieve a minimum of 75% total suspended solids removal.	effects assessed in the Stormwater and Flooding Assessment; - The Proposed Designation Conditions and Proposed Consent Conditions contain outcomes-based standards that will be appropriate regardless of the final design; and - NZTA has offered a condition that secures stormwater treatment to a higher level than is necessary to appropriately manage the water quality effects of the Project.

Assessment of effects	Conditions	Further relevant analysis
Transport effects		
The Assessment of Transport Effects (<i>Transport Assessment</i>) concludes that the Project will generate significant positive operational transport effects,⁸¹ so this analysis is focused on the Project's potential construction traffic effects. The Transport Assessment assesses construction traffic effects of the Indicative Design and indicative construction methodology.⁸² The construction of the Project will result in temporary disruption for road users (including active modes, local roads and SH16).⁸³ Standard management measures (to be set out in Construction Traffic Management Plans (<i>CTMP</i>) prepared for each stage of works) will appropriately mitigate those effects, as is common practice for large construction programmes in New Zealand.⁸⁴ The Transport Assessment provides sensitivity testing for alternative designs and construction methodologies that have the potential to increase the assessed transport effects of the Indicative Design.⁸⁵ It concludes that changing certain underpasses to overpasses would not materially change the assessment of construction transport effects.⁸⁶ Alternative construction sequencing could generate adverse construction transport effects. Accordingly, the Transport Assessment recommends that CTMPs to consider construction sequencing within individual work packages and in coordination with other work packages in the Project and with other concurrent projects in the area.⁸⁷	The 'envelope of effects' assessed in the Transport Assessment is secured by the Project description and Proposed Designation boundary. The recommended management measures set out in the Transport Assessment are secured by: - Proposed Designation Condition 16 (agreed with Council), which requires a CTMP to be prepared prior to the start of construction works and address (among other things): (vi) Measures to maintain the function of the existing North-Western Shared User Path; (vii) Measures to maintain access to and from properties where practicable or provide alternative arrangements; (x) How sequencing of Project works to mitigate effects on adjacent arterial roads has been considered; (xi) How programming of Project works in relation to known concurrent infrastructure projects has been considered; and (xii) Minimum network performance parameters NZTA will be proposing an amendment to its condition to ensure it explicitly requires the CTMP to address construction sequencing of the Project and any concurrent construction of infrastructure projects within SH16 or adjacent arterial roads. NZTA has also proposed new condition 16A restricting full closures of Gunton Drive (with specific exceptions) to address comments from Westgate business commenters.	NZTA considers the 'envelope of effects' approach is appropriate in relation to transport effects because: - There is no risk that changes to the Indicative Design would result in effects that are materially different in nature than those effects assessed in the Transport Assessment; and - The Proposed Designation Conditions require standard management measures to be implemented that will appropriately mitigate potential effects regardless of the final design.

Assessment of effects	Conditions	Further relevant analysis
Trees		
The Arboricultural Management of Pōhutakawa and Notable Trees report is not an assessment of effects. It was prepared to confirm whether it is practicable to retain certain pōhutakawa trees, including the pōhutakawa at Great North Road that the LVA recommends be retained if practicable. Based on the report, Proposed Designation Condition 27 requires NZTA to prepare and implement a tree protection methodology for the pōhutakawa trees that are practicable to retain (identified in Schedule E), which includes two notable trees outside of the Proposed Designation that may require works within their rootzone or dripline, and specific pōhutakawa at St Francis School in Point Chevalier. The Project will require the removal of other mature trees within the Proposed Designation. The removal of any other trees within open space-zoned land and street trees will require tree asset owner approval from Auckland Council. Any tree replacement will be addressed through that process. NZTA's response to the Council comments explains why additional management measures are not required to mitigate the Project's effects.		

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- ¹ Application, Part 1 – Legal submissions on behalf of the New Zealand Transport Agency Waka Kotahi, paragraphs 106-110.
- ² Application, Part 5 – HNZPT Archaeological Authorities, Appendix A – Assessment of Archaeological Effects (*Archaeology Assessment*), Section 2.
- ³ Archaeology Assessment, Section 6.1.5.
- ⁴ Archaeology Assessment, Section 8.
- ⁵ Archaeology Assessment, Appendix B.1 and Appendix B.2.
- ⁶ Archaeology Assessment, Section 7.1.1.
- ⁷ Archaeology Assessment, Appendices D.1 and E.1.
- ⁸ Application, Part 6 – Drawings and Attachments, Attachment 6.11 – Assessment of Built Heritage Effects, dated 15 December 2025 (*Built Heritage Assessment*), Section 2.
- ⁹ Built Heritage Assessment, Section 3.
- ¹⁰ Built Heritage Assessment, Section 4.
- ¹¹ Built Heritage Assessment, Section 4.2.3.
- ¹² Built Heritage Assessment, Sections 5.1.1.1.1 and 5.1.1.1.2.
- ¹³ The potential impacts on schools addressed in Section 7.3 of Part 4 – RMA 1991 Approvals relate to noise and vibration, construction traffic and trees, which are addressed elsewhere in this table.
- ¹⁴ 26 Westgate Drive and 48 Westgate Drive.
- ¹⁵ 3 Chloe Place – Reserve and stormwater pond; Esplanade reserve 340 Triangle Road; Suffolk Reserve.
- ¹⁶ Application, Part 6 – Drawings and Attachments, Attachment 6.21 – Contaminated Land Preliminary Site Investigation, dated 15 December 2025 (*PSI*), section 1.2.
- ¹⁷ PSI, section 1.4.
- ¹⁸ PSI, section 6.
- ¹⁹ Application, Part 6 – Drawings and Attachments, Attachment 6.15C – Freshwater Ecology Assessment, dated 26 April 2026 (*Freshwater Ecology Assessment*).
- ²⁰ Freshwater Ecology Assessment, Section 3.1. As Mr Garrett-Walker has not visited the three streams that are not intersected by the Indicative Design, he has exercised caution when determining their potential value and sensitivity to potential effects.
- ²¹ Freshwater Ecology Assessment, Section 4.2.
- ²² Freshwater Ecology Assessment, Section 4.4.1.1.
- ²³ Freshwater Ecology Assessment, Section 4.6.
- ²⁴ Part 4 – RMA 1991 Approvals, page 57.
- ²⁵ Application, Part 6 – Drawings and Attachments, Attachment 6.15B – Terrestrial Vegetation Ecology Assessment, dated 24 April 2026 (*Terrestrial Vegetation Assessment*).
- ²⁶ The assessment focuses on indigenous terrestrial vegetation in locations where removal is not permitted or otherwise authorised: Terrestrial Vegetation Assessment, Section 1.1.
- ²⁷ Terrestrial Vegetation Assessment, Section 4.1.
- ²⁸ Terrestrial Vegetation Assessment, Section 4.1.1.
- ²⁹ Attachment 6.15A – Assessment of Ecological Effects, dated 15 December 2025 (redacted version) (*Ecology Assessment*).
- ³⁰ Ecology Assessment, p40-41.
- ³¹ Ecology Assessment, p40-41.
- ³² Ecology Assessment, p35.
- ³³ Ecology Assessment, Section 3.3.1.

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- 34 Ecology Assessment, p35.
- 35 Ecology Assessment, p35.
- 36 Ecology Assessment, section 4.4.
- 37 Ecology Assessment, p36.
- 38 Ecology Assessment, section 4.4.
- 39 Attachment 6.14 – Assessment of Construction Stormwater Effects, dated 15 December 2025 (*Construction Stormwater Assessment*).
- 40 Construction Stormwater Assessment, Sections 4.2 and 4.3.
- 41 Construction Stormwater Assessment, Sections 3 and 5.1.
- 42 Construction Stormwater Assessment, Sections 5.1 and 5.2.
- 43 Construction Stormwater Assessment, Section 6.1.
- 44 Construction Stormwater Assessment, Section 5.3.
- 45 Application, Part 6 – Drawings and Attachments, Attachment 6.16 – Assessment of Groundwater and Settlement Effects, dated 15 December 2025 (*Groundwater Assessment*), section 2.
- 46 Groundwater Assessment, Sections 5.1.1 and 5.1.2.
- 47 Groundwater Assessment, Section 4.1.
- 48 Groundwater Assessment, Section 4.2.1.
- 49 Groundwater Assessment, Section 5.1.3.2.
- 50 Groundwater Assessment, Section 5.2.
- 51 Application, Part – Drawings and Attachments, Attachment 6.17 – Landscape and Visual Assessment, dated 15 December 2025 (*LVA*).
- 52 LVA, Section 4.2.1.
- 53 LVA, Section 4.2.2.
- 54 LVA, Section 4.3 and 4.4.
- 55 LVA, Section 5.
- 56 LVA, Section 4.4.2.
- 57 Application, Part 6 – Drawings and Attachments, Attachment 6.13 – Assessment of Construction Noise and Vibration Effects, dated 15 December 2025 (*CNV Assessment*), Section 3.1.
- 58 CNV Assessment, Section 4, and in particular Sections 4.2.4 and 4.3.3.
- 59 CNV Assessment, Section 6.
- 60 Application, Part 6 – Drawings and Attachments, Attachment 6.18 – Assessment of Operational Noise and Vibration Effects, dated 15 December 2025 (*ONV Assessment*), Sections 1.2.1 – 1.2.3.
- 61 ONV Assessment, section 1.3.4.
- 62 ONV Assessment, section 1.2.2.
- 63 ONV Assessment, sections 3.2.1 and 3.3.1.
- 64 ONV Assessment, sections 3.2.7 and 3.3.4.
- 65 Application, Part 4 – RMA 1991 Approvals, section 15.2.1.
- 66 Application, Part 4 – RMA 1991 Approvals, section 15.2.2.
- 67 Application, Part 4 – RMA 1991 Approvals, section 15.2.3.
- 68 Application, Part 6 – Drawings and Attachments, Attachment 6.19 – Assessment of Stormwater and Flooding Effects, dated 15 December 2025 (*Stormwater and Flooding Assessment*).
- 69 Stormwater and Flooding Assessment, Section 2.4.4.
- 70 Stormwater and Flooding Assessment, Table 2-1.
- 71 Stormwater and Flooding Assessment, Section 5.3.7.

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- ⁷² Stormwater and Flooding Assessment, Section 5.4.3.
- ⁷³ Stormwater and Flooding Assessment, Section 2.2.
- ⁷⁴ Stormwater and Flooding Assessment, Section 5.4.1.
- ⁷⁵ Stormwater and Flooding Assessment, Section 5.1.2.
- ⁷⁶ Stormwater and Flooding Assessment, Section 5.4.2.
- ⁷⁷ Stormwater and Flooding Assessment, Section 2.3.
- ⁷⁸ Stormwater and Flooding Assessment, Section 5.2.2.
- ⁷⁹ Stormwater and Flooding Assessment, Section 6.3.
- ⁸⁰ Stormwater and Flooding Assessment, Section 6.1.
- ⁸¹ Application, Part 6 – Drawings and Attachments, Attachment 6.20 – Assessment of Transport Effects, dated 15 December 2025 (*Transport Assessment*), Section 4.
- ⁸² Transport Assessment, Section 3.1.
- ⁸³ Transport Assessment, Sections 3.2 – 3.4.
- ⁸⁴ Transport Assessment, Section 3.6.
- ⁸⁵ Transport Assessment, Section 3.5.
- ⁸⁶ Transport Assessment, Section 3.5.1 – 3.5.3.
- ⁸⁷ Transport Assessment, Section 3.5.4.