

Before an Expert Consenting Panel

under: the Fast-track Approvals Act 2024

in the matter of: applications for resource consents, notices of requirement, wildlife approvals and archaeological authorities by the New Zealand Transport Agency Waka Kotahi to develop a section of a road (being SH1) and associated infrastructure between Te Hana and State Highway 15 (Port Marsden Highway).

applicant: **NZ Transport Agency**
Requiring Authority and Applicant

Memorandum of counsel on behalf of the NZ Transport Agency
Waka Kotahi

Dated: 5 June 2026

Reference: [REDACTED]
[REDACTED]

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

- 1 This memorandum is filed on behalf of the NZ Transport Agency Waka Kotahi (*NZTA*). It addresses the Panel Convener’s minute dated 21 May 2026 (*Minute*), in relation to the Brynderwyn Hills section of the Alternative to the Brynderwyn Hills project (*Project*), including the matters listed in Schedules 1 and 2.

SCHEDULE 1 – PARTICIPANTS’ ESTIMATED TIMEFRAME

- 2 NZTA proposes a decision-making timeframe (from close of comments) of 50 working days. NZTA considers that timeframe to be reasonable and appropriate, taking into account:
- 2.1 The clearly defined scope of issues to be resolved (see details below);
 - 2.2 The quality of the substantive application material, including the proposed consent conditions; and
 - 2.3 The purpose of the Fast-track Approvals Act 2024 (*FTAA*), to enable timely delivery of nationally and regionally significant infrastructure.

SCHEDULE 2 – MATTERS TO CONSIDER WHEN PREPARING FOR CONFERENCE

Approvals

- 3 NZTA’s substantive application seeks a comprehensive suite of approvals to authorise and enable construction and operation of the Project (collectively, the *Application*). The approvals sought are summarised in Volume A, Section A6 of the Application and include:
- 3.1 Under the Resource Management Act 1991:¹
 - (a) Notices of requirement for two new designations that would otherwise be lodged with Kaipara District Council and Whangārei District Council;
 - (b) All resource consents required to construct, maintain and operate the Project in accordance with sections 9(1), 9(2), 13, 14 and 15 of the Resource Management Act 1991. The overall activity status is:
 - (i) discretionary under the NES:CS² and NES-FW³; and

¹ See Volume B – RMA Approvals (*Volume B*), Sections B2 and B3.

² Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

³ Resource Management (National Environmental Standards for Freshwater) Regulations 2020.

(ii) non-complying under the Regional Plan for Northland 2026.

- 3.2 Under the Heritage New Zealand Pouhere Taonga Act 2014, four archaeological authorities covering most of land within the Proposed Designation (except for specifically excluded pā sites);⁴
- 3.3 Under the Wildlife Act 1953, wildlife approvals for the handling, salvage, transfer/relocation and release (and incidental killing) of native lizards, frogs, kauri snails and invertebrates.
- 4 The Application is accompanied by draft conditions and an appropriate mitigation package. The proposed conditions are in Volumes B, C and D of the Application documentation (*Proposed Conditions*).⁵

Issues

- 5 NZTA considers the issues most likely to arise during the fast-track process are related to:
- 5.1 Ecological mitigation of Project effects on wetlands, streams, indigenous vegetation and Hochstetter's frogs;
- 5.2 Property and / or individual specific concerns from potentially affected parties (eg. noise, landscape and visual, traffic and cultural effects); and
- 5.3 Confined matters in relation to the content and wording of the specific conditions (noting NZTA has sought to ensure these respond to environmental effects of the Project, and do not include unnecessary administrative content or duplicate matters managed through other pieces of legislation).
- 6 NZTA is continuing to discuss the content of the Application and Proposed Conditions with the Councils, the relevant administering agencies, Te Uri o Hau, Patuharakeke and Te Parawhau ki Tai and other potentially impacted parties with a view to narrowing any outstanding issues. Any remaining issues will be for the Panel to determine.

Panel membership

- 7 NZTA considers the appointment of three Panel members (including the chair) is appropriate for the Application. NZTA does not consider there are any factors that warrant the appointment of more than three Panel members.

⁴ Specifically, Q08/360, Q08/39, Q08/700, and Q08/546.

⁵ Volume B, Appendices E1, E2 and E3 – Designation, district contamination and resource consent conditions; Vol. C – Wildlife Act Approvals, Appendix C – Wildlife approval conditions; and Vol. D – HNZPT Archaeological Authorities, Appendix C – Archaeological authority conditions.

- 8 Based on the statutory requirements⁶ and the knowledge, skills and expertise NZTA considers are required to decide the Application, NZTA recommends the Panel be comprised of:
- 8.1 A senior resource management lawyer;
 - 8.2 A senior planner; and
 - 8.3 A senior civil engineer or construction expert.
- 9 NZTA does not consider this Project raises any issues that would require appointment of a panel member with technical knowledge or expertise in any particular environmental field, particularly given NZTA anticipates the Panel will engage its own experts to advise on specific matters of disagreement and key environmental effects. However, we consider it important that the Panel members be familiar with the infrastructure / construction sector and the nature and scale of the Project (as per Schedule 3, clause 7(1)(a)(i) of the FTAA).
- 10 We note that, while one member must have an appropriate understanding of te ao Māori, that may be one of the members noted above.

Procedural requirements

- 11 NZTA is willing to engage directly with the Panel as necessary to advance progress of the Application efficiently, including in relation to any procedural steps the Panel may consider proposing.
- 12 Following the Panel's appointment, NZTA intends to provide a memorandum addressing procedural steps in more detail (including the importance of a Panel overview conference, arrangements for a site visit, the timing of further information requests, the role of alternative dispute resolution, and the filing of NZTA's closing submissions) to facilitate timely and quality decision-making on the Application.
- 13 At this stage, NZTA considers a hearing is not required given the relatively straightforward nature of the Application and limited number of outstanding areas of disagreement.
- 14 Similarly, NZTA considers:
- 14.1 Any matters in respect of which the Panel requires clarification can be addressed through requests for further information; and
 - 14.2 Any matters relating to conditions can be addressed through the statutory process of providing comments on draft conditions.

⁶ FTAA, Schedule 3, Clause 7.

CONCLUSION

- 15 NZTA thanks the Panel Convener for the opportunity to attend the conference and provide comment on the above matters.

Dated 5 June 2026



Paula Brosnahan / Rebecca Tompkins / Georgia Moore
Counsel for the NZ Transport Agency Waka Kotahi

APPENDIX – SUGGESTED PROCESS AND TIMING

Indicative date/timing	Process step	Comments
22 June	Panel Commencement	
22 June – 6 July	Panel considering application RFIs and responses (as required)	
6 July	Panel request for comments	
6 July – 4 August	Comments period RFIs and responses (as required)	
4 – 11 August	Response to comments period	Decision 50WD after this point
11 – 14 August	Panel considering comments and response to comments RFIs asked (as required)	
14 August – 28 August (TBC – Indicative)	Expert conferencing (if required) RFIs asked (as required)	
28 August – 17 September (TBC – Indicative)	Responses to RFIs (as required) Closing legal submissions	
18 September (TBC – Indicative)	Draft decision and conditions released	
8 October (TBC – Indicative)	Comments on draft decision and conditions	
20 October	Final Panel decision released	50WD after response to comments closes