

---

## **MINUTE 7 OF THE EXPERT PANEL**

Request for further information

North West Rapid Transit [FTAA-2511-1146]

19 May 2026

---

### **Introduction**

[1] This minute addresses the issue of the adequacy of the Applicant's alternatives assessment. It seeks further information from the Applicant on this issue, including an explanation of its approach to that question in the context of approvals sought under the FTAA.

### **Background**

[2] Under s 40 of the FTAA, if a substantive application seeks an approval under the FTAA, the process under the FTAA for obtaining the approval applies instead of the process for obtaining any corresponding approval under a specified Act. In this case, those approvals are resource consents and designations under the RMA. This minute is concerned only with the designations sought.

[3] Sections 81(1) and 81(2) of the FTAA require that the Panel must decide whether to grant (subject to conditions) or decline the approval, and for that purpose must apply the applicable clauses set out in s 81(3) of the FTAA. For an approval for a designation, s 81(3)(e) identifies clauses 24 and 25 of

Schedule 5 of the FTAA.

[4] Clause 24(1) provides that when considering an NoR for a designation, that the Panel take into account the provisions of Part 8 of the RMA that direct decision making on a designation. Clause 24(1) requires that the Panel also take into account, and give the greatest weight, to the purpose of the FTAA. This is a matter to which the Panel will return at a later stage. But for now, this minute is focussed on the requirement to take account of Part 8 of the RMA, and more specifically within it, s 171 of the RMA which sets out the decision making criteria.

[5] Of particular relevance is s 171(1)(b) of the RMA which provides:

1. When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to—
  - b. if the requiring authority does not have an interest in the land sufficient for undertaking the work,—
    - i. whether adequate consideration has been given to any alternative sites, routes, or methods of undertaking the work.

[6] The issue of how to approach the question of adequacy has been the subject of case law. The Panel refers to the High Court decisions in *Queenstown Airport Corporation Ltd v Queenstown Lakes District Council* [2013] NZHC 2347 and *New Zealand Transport Agency v Architectural Centre Inc and Ors* [2015] NZHC 1991 ('*Basin Bridge*') which each deal with this question, albeit under a different version of s 171 of the RMA. The Panel is

particularly interested in the passages from the *Basin Bridge* decision at paragraphs [129] – [159] and at [131] where the Court cites (later with apparent approval at paragraph [140]) the following section from the *Queenstown Airport* decision:

[121] The section presupposes that where private land will be affected by a designation, adequate consideration of alternative sites not involving private land must be undertaken by the requiring authority. Furthermore, the measure of adequacy will depend on the extent of the land affected by the designation. The greater the impact on private land, the more careful the assessment of alternative sites not affecting private land will need to be.

### **The Issue**

[7] The project will require the compulsory acquisition and subsequent destruction or modification of a very large number of private dwellings, commercial or industrial buildings, structures, and public spaces. Loss of this existing environment, and the social, economic and cultural values associated with it, will potentially give rise to significant adverse effects or impacts even after Public Works Act 1981 compensation is provided.

[8] The application does not appear to have squarely addressed this issue, or made any attempt to quantify the extent of the impact on private land, and then address how that might influence the assessment of alternatives in light of the tests set out above.

[9] In the Panel's decision-making task, it must take into account these

matters, as considerations under s 171 of the RMA. The Panel refers to section 3.3.1 of part 4 of the Application materials (Resource Management Act 1991 Approvals) which sets out the Applicant's consideration of alternatives in response to the requirements of clause 12((h) of Schedule 5 to the FTAA (any consideration of alternative sites, routes, or methods of undertaking the project or work). The material provided addresses the information requirement in clause 12, but does not address adequacy, nor the relationship between the impacts on private land and the extent of the alternatives assessment. The Panel notes that the alignment option discussion at 3.3.1.10 does not mention property acquisition as a consideration. It may be a consideration referred to in the 'Investment Case - NZTA (2025) Northwest Rapid Transit Investment Case Options Assessment Report' referred to in section 3.3.1.1, but that is unclear to the Panel as it is not included in the application documents.

### **Information Request**

[10] The Panel seeks the Applicant's position on:

- a. The relevance of the test for adequacy of the alternatives assessment under the FTAA, and how it is to be applied in the context of the FTAA; and
- b. In the FTAA context, what relevance, if any, does the impact on private land have upon that test of adequacy, in light of *Basin Bridge* and *Queenstown Airport*;
- c. What parts of the application materials and in particular evidence does the Applicant rely on to address these considerations so that the Panel can be satisfied the consideration of alternatives was, in the circumstances, adequate.

[11] The Panel requires that the Applicant provide any response to this minute by 3 June 2026.

A handwritten signature in black ink, appearing to read 'Lachlan Muldowney', written over a light blue horizontal line.

Lachlan Muldowney

North West Rapid Transit Expert Panel Chair