

SUBMISSION ON SUBSTANTIVE APPLICATION FAST-TRACK APPROVALS ACT 2024

Notice of Requirement 10 – Northwest Rapid Transit Project

TO:	The Expert Consenting Panel
VIA EMAIL:	substantive@fasttrack.govt.nz
APPLICATION REFERENCE:	FTAA-2511-1146
REQUIRING AUTHORITY:	New Zealand Transport Agency (NZTA) / Waka Kotahi
SUBMITTERS:	Jason Mangan and Sarah Doney
PROPERTY AFFECTED:	██████████ Grey Lynn, Auckland 1021
TITLE REFERENCE:	██████████
LAND AREA:	253 m ² (approximately)
STATUS:	Directly Affected Landowner (Listed in Appendix 3 – NoR 10)
DATE:	21 May 2026

1. EXECUTIVE SUMMARY AND RELIEF SOUGHT

This submission is lodged pursuant to the Expert Panel's Invitation to Comment under the Fast-Track Approvals Act 2024 in respect of Notice of Requirement 10 (NoR 10), being part of the Northwest Rapid Transit Project (the Project).

The submitter is the registered owner of ██████████ Grey Lynn, Auckland 1021, a property explicitly identified as an affected land parcel within the Project schedule for NoR 10.

The submitter does not oppose the Project itself nor its public benefit objectives. However, the submitter opposes the partial acquisition footprint proposed for ██████████ on the following grounds:

- The proposed partial take will render the residual land and dwelling incapable of reasonable use, constituting an uneconomic remainder under the Public Works Act 1981.
- LINZ cadastral data confirms the residual would be the smallest detached residential parcel in the Arch Hill area, a parcel type with no existing precedent in the neighbourhood.
- The engineering works required for the transit corridor will physically sever safe practical access to the dwelling, making the property unlettable and unmarketable.

- The residual site will be materially non-compliant with Auckland Unitary Plan standards applicable to the Special Character Areas Overlay, rendering any remediation or redevelopment legally and practically impossible.
- Full acquisition is the only outcome that avoids compounding injurious affection and permanent economic blight, and it represents the most efficient and cost-effective resolution for both the submitter and NZTA.

Relief Sought: The submitter respectfully requests that the Expert Panel impose a condition on the approval of NoR 10 requiring NZTA to commission an independent engineering and planning assessment of the impacts of the proposed partial take on [REDACTED], and that, where that assessment confirms that the residual land and dwelling cannot be maintained in a safe, habitable, and code-compliant condition, NZTA is required to acquire the property in its entirety under the Public Works Act 1981.

2. PROPERTY DESCRIPTION AND CONTEXT

[REDACTED] is a freehold residential property located in Grey Lynn, Auckland, within one of the city's most established and historically significant inner suburbs. The following characteristics are relevant to this submission:

Attribute	Detail
Property Type	Residential – Workers Cottage (c.1910), renovated and extended 2014
Bedrooms / Bathrooms	2 bedrooms, 1 bathroom
Floor Area	70 m ²
Land Area	253 m ² (freehold)
Zoning	Residential – Zone 9A
Overlay	Special Character Areas Overlay – Residential (Grey Lynn / Arch Hill Sub-Area)
Council Capital Value (May 2024)	\$1,125,000
Council Land Value (May 2024)	\$960,000
Last Sold	February 2014, \$639,000
Current Status	Vacant – tenancy concluded May 2026

The property sits on a compact, historically subdivided lot characteristic of the Arch Hill and Grey Lynn valley. At 253 m², the site has no surplus land. Every square metre contributes to the essential function and amenity of the dwelling. The 2014 renovation and extension restored the cottage to a habitable, lettable standard consistent with the character of the Special Character Area.

3. UNECONOMIC REMAINDER – PUBLIC WORKS ACT 1981

This is the primary legal basis for the relief sought. The proposed partial take of approximately 40% of the land area of [REDACTED] will create an uneconomic remainder within the meaning of the Public Works Act 1981.

3.1 Legal Framework

The Public Works Act 1981 provides that where land is taken or acquired and the remainder is rendered incapable of reasonable use or is rendered uneconomic, the owner is entitled to require that the whole of the land be acquired. The relevant considerations include:

- Whether the remaining land is capable of independent, reasonable use as a residential property.
- Whether the remaining land retains marketable value as a standalone asset.
- Whether the cost to the owner of a partial take, in terms of reduced amenity, non-compliance, and loss of value, is proportionate or whether full acquisition is the equitable outcome.

3.2 Application to [REDACTED]

A partial take of approximately 40% of a 253 m² section will reduce the residual site to approximately 152 m². The submitter contends that a 152 m² residual with a 70 m² dwelling is not capable of reasonable residential use or independent sale for the following reasons:

- At 253 m², the existing site is already among the smallest residential lots in Grey Lynn. A 152 m² residual falls below any threshold at which a freehold residential section in this location is marketable.
- The dwelling footprint at 70 m² on a 253 m² site already represents a building coverage of approximately 28%. On a 152 m² residual the existing structure alone represents approximately 46% coverage – before retaining walls, access paths, or any other structures required by the designation works are factored in.
- No reasonable buyer would acquire the residual at anything approaching its current unaffected value. Recent comparable sales in this precinct (referred to in Section 6 below) confirm that intact small-footprint character properties transact in the order of \$1.5m to \$1.65m. A residual that cannot be sold, remediated, or redeveloped has no meaningful independent market value.
- The cost to NZTA of compensating the submitter for total loss of utility on the residual – on top of the partial land payment – materially exceeds the cost of full acquisition now, particularly given the vacant possession currently available.

3.3 Cadastral Evidence – Smallest Detached Residential Parcel in Arch Hill

The most compelling and objective evidence that the residual constitutes an uneconomic remainder is found in the LINZ cadastral record itself. Analysis of NZ Primary Parcels data published by Toitū Te Whenua Land Information New Zealand for the Arch Hill area confirms the following:

There is no individually titled parcel in Arch Hill of 153 m² or smaller on which a detached residential dwelling currently sits. While attached townhouse and unit-title developments exist on small individual parcel footprints – a built form specifically designed for minimal land area with shared walls and no inter-unit setbacks – no detached dwelling in Arch Hill occupies a parcel of comparable size to the proposed residual.

The proposed partial take would therefore create an entirely unprecedented land parcel type within the Arch Hill area: a detached dwelling on a residual of approximately 153 m², smaller than any existing detached residential parcel in the neighbourhood. This is not a matter of planning opinion or valuation judgement. It is an objective fact derived from the authoritative national cadastre, and it is the clearest possible illustration of a remainder that is incapable of reasonable use within the meaning of the Public Works Act 1981.

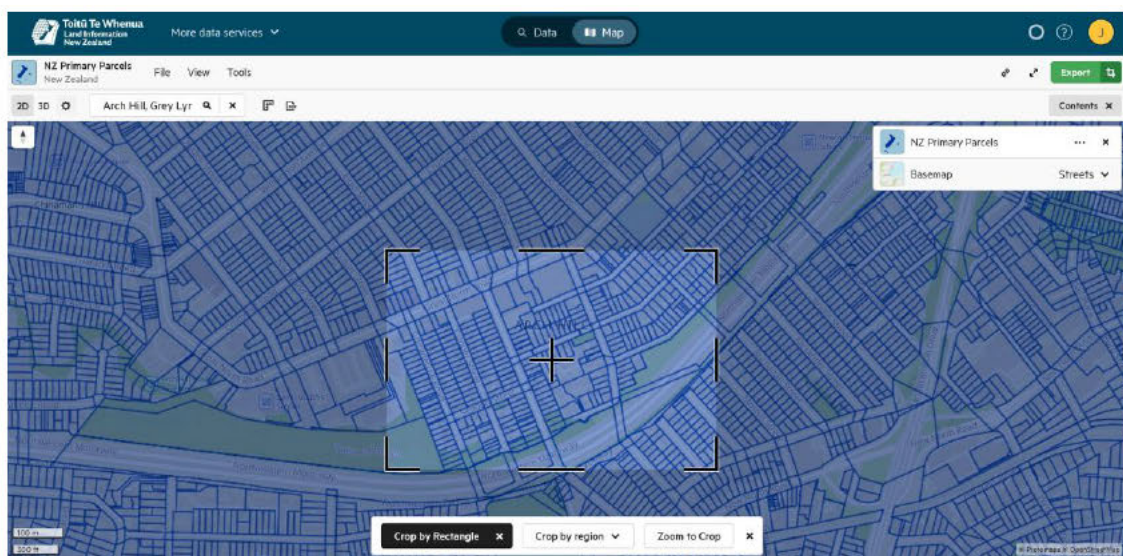


Figure 1: NZ Primary Parcels – Arch Hill area. Source: Toitū Te Whenua Land Information New Zealand (LINZ).

The following table sets out the smallest detached residential parcels in the Arch Hill area as recorded in the LINZ cadastre, demonstrating that the proposed residual falls materially below the existing minimum. The smallest existing detached residential parcel in the area is 202 m² – some 49 m², or approximately 24%, larger than the proposed 153 m² residual:

Address	Parcel Area (m ²)	Dwelling Type
41 Cooper Street	220	Detached
39 Cooper Street	202	Detached
25a King Street	202	Detached
██████████ (proposed residual)	153 (approx.)	Detached

The submitter will provide the full LINZ parcel dataset and methodology for the Arch Hill search area on request, or at any hearing convened by the Panel.

4. LOSS OF SAFE PHYSICAL ACCESS

4.1 Existing Topography

The subject site at [REDACTED] experiences a notable gradient from the dwelling toward Niger Street. The proposed NoR 10 engineering alignment requires excavation and cutting along the frontage of Niger Street to accommodate the rapid transit corridor. The designation slice intercepts the transition zone between the dwelling's front access and the street boundary.

4.2 Retaining Structure Requirement

To preserve the soil profile supporting the existing cottage following the partial take, an engineered retaining structure will be required at or near the new designation boundary. The spatial constraints of the residual 152 m² site make it extremely unlikely that sufficient setback distance exists to allow a compliant and practically functional access arrangement to be threaded between the retaining structure and the dwelling.

4.3 Practical Access Implications

The submitter notes the following practical access concerns, which the requested independent engineering assessment should specifically address:

- Whether the gradient created by the designation works permits construction of a practical pedestrian access path between the street boundary and the dwelling entrance.
- Whether any access arrangement that is geometrically achievable on the residual site meets reasonable standards of safety and functionality for residential occupiers.
- Whether the visual and physical impact of a near-boundary retaining structure permanently and materially diminishes the amenity and character of the dwelling.

The submitter acknowledges that mandatory accessible design standards under D1/AS1 of the New Zealand Building Code apply primarily to public and commercial buildings rather than private residential dwellings. However, the practical inability to provide safe, usable access to a residential property renders it unlettable in practice, and therefore uneconomic, regardless of whether a specific code standard is technically engaged.

4.4 Reduction in Occupant Suitability

The current frontage, while not formally compliant with accessible design standards, presents a relatively gentle gradient that permits assisted access to the dwelling. A wheelchair or pram can presently be moved up the existing incline with assistance, and the existing steps are minor. The introduction of an engineered retaining structure along the new boundary would, in all likelihood, replace this manageable gradient with a steep or stepped access arrangement usable only by able-bodied occupants.

This represents a material reduction in the practical usability of the dwelling and a narrowing of the range of occupants it can suit – including older people, those with mobility limitations, and families with young children. That reduction both diminishes the property's utility to the

submitter and narrows its potential buyer pool, compounding the injurious affection caused by the take.

5. SPECIAL CHARACTER AREAS OVERLAY – AUCKLAND UNITARY PLAN

██████████ is located within the Special Character Areas Overlay – Residential (Grey Lynn / Arch Hill Sub-Area) under the Auckland Unitary Plan (AUP). This overlay applies additional planning controls over and above the underlying Residential Zone 9A rules, and its objectives are to retain and enhance the special character values of the area, including built form, architectural values, streetscape qualities, and historical subdivision patterns.

5.1 Impact of Partial Take on Overlay Compliance

A partial take reducing the site to approximately 152 m² will create the following planning compliance issues:

- Yard setback requirements under both the Special Character Areas Overlay and the underlying Residential Zone 9A will be materially affected. The Special Character overlay uses contextual setback assessment based on the average of adjacent dwellings. A truncated boundary will alter the relationship between the dwelling and the street in a manner inconsistent with the historical subdivision pattern.
- Building coverage on the residual site will significantly exceed permissible thresholds given the existing 70 m² floor area relative to a 152 m² site, before any required retaining or access structures are included.
- The submitter notes that Environment Court decisions have established that both the Special Character overlay rules and the underlying zone rules must be applied simultaneously. This dual-compliance requirement makes the residual site more constrained, not less, as both sets of standards must be satisfied for any future works or consents.
- Demolition of any part of the existing dwelling within a Special Character overlay requires resource consent assessed against the overlay's criteria. A structurally compromised or access-deficient building that cannot practically be modified within these constraints will require consent that is unlikely to be granted in a manner preserving meaningful use.

The submitter requests that the Panel seek advice from Auckland Council's planning officers on whether a 152 m² residual on this site can achieve dual compliance with the Special Character overlay and the underlying Residential Zone 9A standards.

6. ECONOMIC IMPACT AND INJURIOUS AFFECTION

The submitter notes that detailed valuation evidence is a matter for the compensation process under the Public Works Act 1981 and is not before the Panel. The following is provided only as context relevant to the merits of the partial take and the uneconomic-remainder argument set out above.

6.1 Scale of Value Affected

Intact small-footprint character properties in this precinct transact in the order of \$1.5 million to \$1.65 million, based on recent comparable sales in the immediate Grey Lynn area. The proposed partial take destroys the marketable value of the property as a whole: the residual cannot be sold, remediated, or redeveloped, and accordingly has no meaningful independent market value. The effect of the partial take is therefore the loss of substantially the entire value of the property, not merely the value of the land strip taken.

The submitter further notes that the property's current Council Valuation appears low relative to comparable properties in the area, consistent with project-related value suppression having influenced the valuation. The submitter reserves all rights in respect of unaffected market value, which will be addressed by independent registered valuation in the compensation process and is not the subject of this submission.

6.2 Injurious Affection

The installation of a retaining structure at the front boundary of this historic cottage will cause severe and permanent injurious affection to the property. The visual and physical character of a 1910 workers cottage with a near-vertical engineered wall at its street frontage is fundamentally incompatible with the values that make this precinct desirable, and which the Special Character Areas Overlay exists to protect. Where injurious affection effectively destroys marketability, the distinction between a partial and a full take becomes one of form rather than substance, and full acquisition is the only equitable remedy.

7. PROJECT EFFICIENCY AND VACANT POSSESSION

The submitter notes the following practical circumstances that support full acquisition as the most efficient outcome for the Project:

- The property is currently vacant, with the tenancy having concluded in May 2026. NZTA can obtain immediate, unencumbered vacant possession if a full acquisition agreement is reached promptly.
- Acquiring the property now removes a known affected parcel from the NoR 10 corridor at the earliest opportunity, providing NZTA with immediate certainty over the alignment at this location and eliminating a future acquisition obligation from its programme. There is no advantage to NZTA in deferring acquisition of an affected property it will ultimately be required to acquire.
- Leaving a vacant residential property in legal limbo for an extended period behind a partial designation creates urban blight, neighbourhood amenity concerns, and ongoing management obligations for the owner that are disproportionate to the benefit of a partial take.
- A voluntary Section 17 agreement under the Public Works Act for full acquisition now avoids the cost and delay of contested compensation proceedings, Environment Court applications, and independent engineering disputes about the adequacy of the residual site – all of which are the likely alternative if a partial take proceeds.
- The overall cost to NZTA of full acquisition at unaffected market value (estimated \$1.2m to \$1.4m) plus the applicable recognition and incentive payments under the

critical infrastructure provisions is materially less than the combined cost of partial land payment, residual compensation for injurious affection, legal and engineering disputes, and potential Environment Court proceedings.

8. SPECIFIC RELIEF REQUESTED

The submitter respectfully requests that the Expert Panel impose the following condition on the approval of Notice of Requirement 10. The condition is deliberately framed so that the assessment and any resulting acquisition are tied to confirmation of the designation rather than to the commencement of construction, which may be many years away. Deferring resolution of an affected property until construction would prolong uncertainty and blight for no corresponding benefit to the Project.

"Within 40 working days of confirmation of NoR 10, the Requiring Authority shall commission an independent engineering and planning assessment of the impacts of the proposed partial acquisition on the land at [REDACTED], Grey Lynn (the Subject Land). The assessment shall be completed within three months of confirmation of NoR 10, and shall specifically address: (a) whether safe and practical pedestrian access to the dwelling can be maintained on the residual site following the designation works; (b) whether the residual site can achieve compliance with the Auckland Unitary Plan Special Character Areas Overlay and the underlying Residential Zone standards; and (c) whether the residual site constitutes an uneconomic remainder within the meaning of the Public Works Act 1981. Where the assessment concludes, on any one of the above grounds, that the residual site cannot be maintained in safe, habitable, compliant, and marketable condition, the Requiring Authority shall, within six months of the date of the assessment, acquire the Subject Land in its entirety under the Public Works Act 1981. For the avoidance of doubt, the timing of this obligation is tied to confirmation of NoR 10 and not to the commencement of any construction works."

9. FURTHER EVIDENCE

The submitter advises the Panel that the following supporting evidence is available and can be provided on request or at any hearing convened by the Panel:

- REINZ comparable sales data for the immediate vicinity, September 2024 to September 2025.
- Auckland Council street report data for Niger Street and surrounding streets confirming CV and land value comparatives.
- LINZ NZ Primary Parcels data and methodology for the Arch Hill area confirming that the proposed residual would be the smallest detached residential parcel in the neighbourhood.
- Independent registered valuation confirming unaffected market value (to be commissioned).
- Topographical survey confirming existing gradients and the geometric implications of the proposed designation works for the access arrangements of the residual site (to be commissioned).

- Planning opinion from a registered planner confirming the dual-compliance requirements under the Special Character overlay and Residential Zone 9A, and the non-compliance consequences of the partial take (to be commissioned).

10. CONCLUSION

The proposed partial acquisition of [REDACTED] is not a viable outcome. It will leave behind a 152 m² residual that cannot be safely accessed, cannot achieve planning compliance, cannot be sold, and cannot be remediated within the constraints of the Special Character overlay. The effect of the partial take is a total functional loss of the property disguised in the form of a partial one.

Full acquisition under the Public Works Act is the correct, lawful, and efficient outcome. It is available now, with vacant possession, at a cost that compares favourably with the compounding consequences of a contested partial take. The submitter urges the Panel to impose the condition requested in Section 8 of this submission.

Dated: 21 May 2026

Signed:



Jason Mangan and Sarah Doney
Submitters and Registered Owners
[REDACTED] Grey Lynn, Auckland 1021
