Before the Expert Panel
I mua i te roopu tohunga

FTAA-2606-1254

Under	The Fast-track Approvals Act 2024 ('**the Act**')
In the matter of	A substantive application for notices of requirement, resource consents, a wildlife approval, archaeological authorities, and approvals for complex freshwater fisheries activities to construct, maintain, and operate the Tauriko West – Tupenga Project
By	**New Zealand Transport Agency Waka Kotahi** Applicant

Memorandum of Counsel in Response to Minute 1 of the Expert Panel

Dated 5 November 2026

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1 Introduction

1.1 This memorandum addresses the matters set out in the Panel's Minute 1 dated 3 November 2026.

1.2 The Panel has requested the following information as it prepares to invite comments on the application:

a Plans showing all sites with existing bores within "the groundwater drawdown zone" and identification of any properties that are not already identified as 'Adjacent Landowners';

b Identification of the properties that "could experience an adverse and / or visual effect(s) from the Proposal that is minor or greater (before remediation or mitigation measures are imposed)", a plan showing those properties and identification of any properties that are not already identified as 'Adjacent Landowners'; and

c Confirmation that no properties which currently obtain access off either existing SH29 or SH29A will have their access impacted during construction of the Project.

2 Effects on bores

2.1 It is noted that there are no effects on adjacent bores for the reasons set out in the attached memorandum from Jon Williams, groundwater expert (see **Attachment A**). Because of that, he considers there is no relevant 'drawdown zone' to map.

3 Visual landscape effects

3.1 **Attachment B** contains a map showing the additional properties that could experience adverse and/or visual effects from the Proposal that are 'minor or greater' prior to any remediation or mitigation. **Attachment C** contains a table of those properties and their legal descriptions.

4 Access

4.1 NZTA has assessed whether there are any properties that are not identified as 'Landowners' or 'Adjacent Landowners' which would have their access affected by construction activities. These properties may include rear sites that have an easement over a driveway that has access onto SH29 or SH29A. **Attachment B**

contains a map that identifies the two additional properties that are affected and **Attachment C** sets out their legal descriptions.

5 Principles to be applied in relation to inviting comments from third parties

5.1 Section 53(2)(h) requires the Panel to invite comments from "the owners of land to which the substantive application relates" and "the land adjacent to that land". The Act does not provide any guidance as to how 'adjacent land' should be identified. The EPA's guidance on identifying adjacent land defines adjacency by 'proximity'. The process of identifying adjacent land is not linked to any degree of adverse effect. Therefore, the information requested by the Panel above is not relevant to its determination of 'adjacent land'.

5.2 It appears that the Panel is considering the scope of its discretion under section 53(3) of the Act to invite comments from any other person or group it considers appropriate. The Fast Track Practice and Procedure Guidance Note recommends that panels take a 'principled approach' to the exercise of this discretion. It is submitted that the Panel's discretion should be exercised in the principled manner the Guidance note identifies.

5.3 To do that effectively, we submit that the Panel should have regard to the following factors:

a The importance of timely, efficient and cost-effective decision making;

b There is no particular 'public' or 'community' interest at play;

c NZTA has engaged a team of independent experts to prepare comprehensive technical assessments and reports;

d Extensive consultation has occurred with affected parties and the wider community since 2017, including numerous public open days; and

e The relevant local authorities have been actively engaged in the application process, have reviewed the draft application documents, engaged technical experts to review the expert reports and have provided comment on and input into the proposed conditions.

5.4 Importantly, section 53(3) is not an invitation for the Panel to recreate an RMA-style notification process. Third party participation is deliberately narrower under the Act than under the RMA. The list of persons from whom comment must be sought is not linked to any degree of adverse effect. It is accepted that the degree of effect may, on very rare occasions, be relevant under section 53(3) (for

example where people are affected to such a significant extent that considerations of natural justice might warrant their comments being sought).

5.5 We therefore submit that caution must be applied and careful consideration must be given to potentially inviting additional parties to comment. Again, the justification for that approach given the purpose of the Act is very different from that applying under the RMA. The application contains an extensive independent expert assessment of visual effects **and** the mitigation proposed to address those effects. Inviting comments from additional parties would not add any additional perspective that would materially assist the Panel .

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