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**MINUTE 9 OF THE EXPERT PANEL**

Procedural requests and appointment of advisors

North West Rapid Transit [FTAA-2511-1146]

22 May 2026

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[1] This minute records the Panel's response to matters raised in a memorandum provided by the Applicant, a request from Auckland Council to be provided more time to provide comment on the application, and the appointment of two technical advisors.

**Memorandum of Counsel from the applicant**

[2] By way of memorandum dated 20 May 2026, the Applicant responded to matters raised in Minutes 6 and 8 of the Panel, including addressing the following:

- (a) Timeframe for additional parties to comment;
- (b) Publication of the Applicant's response to comments; and
- (c) Whether the Minister of Defence be invited to comment.

**Timeframe for additional parties to comment**

[3] The Applicant notes that the additional parties invited to comment on the application in Minute 6 have been given 12 working days to prepare and submit comments, whilst the FTAA sets a 20-working day timeframe for invited parties to provide comments. The Applicant therefore requests the

Panel extend the timeframe for the parties invited in Minute 6 to 20 working days.

[4] The Panel agrees to the proposed adjustment of the timeframe set out in Minute 6. The adjusted deadline for comments to be received is 15 June 2026.

#### Publication of NZTA's response to comments

[5] The Applicant notes that three groups have been invited to comment on the application, with the first group's comments due by 26 May and Applicant's response due by 3 June, which would be made publicly available on the fast-track website shortly after filing. However, with the Panel granting the Applicant's earlier request extending time for the third group (now 15 June), their comments would be due after the Applicant's initial response on 3 June. Citing procedural fairness and avoiding advantaging or disadvantaging any party, the Applicant requests that its first response be provided to the Panel but not be published on the Fast-track website until the third group's timeframe has expired, while still allowing the Panel's decision-making process to proceed without delay.

[6] The Panel recognises the requirement to ensure natural justice. However, given that the final group of comments are now not due until 15 June, delaying the publication of the Applicant's response until after that time is not efficient. The Panel does not consider that the availability of the Applicant's response to the first group of comments creates any material advantage or disadvantage to any party. Those parties who are able to comment by 15 June will have access to that response, but the Panel considers that no material prejudice or disadvantage to the Applicant arises,

particularly given the Applicant retains its right to respond to those comments. Overall, the Panel prefers the timely and transparent handling of all materials forming part of the evidential record. Withholding information known to the Panel for any extended period of time is equally susceptible to natural justice complaints. Accordingly, it will not be delaying the publication of the Applicant's response.

#### Minister of Defence

[7] In response to Minute 8, the Applicant requests that the Panel invite the Minister of Defence to comment on the application as part of the third group of commenters, advising that while it will provide further information on any potential interface between the project and Designation 4311 with its response to comments, this should not delay issuing the additional invitation to comment.

[8] The Panel grants the Applicant's request, and has directed the EPA to invite the Minister of Defence to comment on the application, with those comments to be provided by 22 June 2026.

#### **Request from Auckland Council**

[9] On 28 April 2026, Auckland Council was invited to provide comment on the application pursuant to section 53(2)(a) of the FTAA, with a deadline of 26 May 2026 for the submission of its comments.

[10] On 20 May 2026, the Panel received a request from Auckland Council (via the EPA) seeking additional time to prepare and submit its comments, on the basis that information subsequently provided by the Applicant in response to the Panel's requests for information may necessitate

amendments to those comments.

[11] Given the overall timeframe for providing comments to the final group has now been set at 22 June, the Panel is satisfied that a short extension causes no procedural delay. An extension of 5 working days, to 2 June 2026 is granted.


### **Appointment of Advisors**

[12] As outlined in clause 10 of Schedule 3 of the Act, the Panel may appoint special/technical advisors to assist with a substantive application in relation to any matters the Panel may determine.

[13] In order to ensure that its timely consideration of the application is carried out in an efficient manner, the Panel has determined that it is necessary to use these powers to appoint the following advisors:

- (a) Shaye Thomas, barrister employed by Panel Chair (Decision Writer); and
- (b) Phillip Maw, independent barrister (Legal advisor to Panel on legal issues arising)

[14] Any report(s) arising from these appointments will be published on the Fast Track website, and the applicant will be provided with an opportunity to respond or file material in reply.



Lachlan Muldowney

North West Rapid Transit Expert Panel Chair