

under: the Fast-track Approvals Act 2024

in the matter of: applications for resource consents and archaeological authorities and notices of requirement by the New Zealand Transport Agency Waka Kotahi to develop a rapid transit link and associated infrastructure and connections between Brigham Creek and Auckland City centre, alongside State Highway 16, known as 'North West Rapid Transit'

applicant: **New Zealand Transport Agency Waka Kotahi**
Requiring Authority and Applicant

Memorandum of counsel on behalf of the New Zealand Transport Agency Waka Kotahi

Dated: 26 August 2026

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

- 1 This memorandum is filed on behalf of the New Zealand Transport Agency Waka Kotahi (NZTA) in relation to its notices of requirement (NORs) and applications for resource consents and archaeological authorities (together, *Application*) for the North West Rapid Transit Project (NWRT or *Project*).
- 2 This memorandum introduces NZTA's response to comments from other parties on the draft conditions contained in the Expert Panel's Draft Decision on the Application (dated 7 August 2026). It addresses:
 - 2.1 Draft Designation and Consent Condition 1A;
 - 2.2 Comments that are beyond the scope of the Panel's invitation to comment on its draft conditions;
 - 2.3 Comments from Auckland Council (*Council*) on Draft Designation Condition 27A (Geotechnical Management Plan) and Draft Resource Consent Condition 23 (Groundwater);
 - 2.4 Comments from Heritage New Zealand Pouhere Taonga (HNZPT); and
 - 2.5 Comments from residential landowners.
- 3 This memorandum is supported by:
 - 3.1 **Appendix A:** NZTA's detailed response to comments on the draft conditions;
 - 3.2 **Appendix B:** NZTA's updated comments on the Panel's draft designation conditions; and
 - 3.3 **Appendix C:** NZTA's updated comments on the Panel's draft resource consent conditions.

DESIGNATION AND CONSENT CONDITION 1A

- 4 NZTA and a number of parties provided comments on the Panel's draft Condition 1A.¹ There is broad agreement across the comments from NZTA, Council and NZRPG (albeit for different reasons) that Panel's draft Condition 1A would not address the Panel's stated concern and could have adverse unintended consequences. In our

¹ Comment from Auckland Council, dated 19 August 2026, Attachment 1, section 1 and Attachment 2; Comment from New Zealand Retail Property Group (NZRPG), dated 19 August 2026, paragraphs 2.1 – 2.6 and Schedule A; Comment from Department of Conservation (DOC), dated 19 August 2026, pages 2 and 3 (minor wording amendment only); Comment from National Trading Company (NTC), dated 19 August 2026, paragraphs 8(a) (supported draft Condition 1A).

submission, the fact that different parties have interpreted the Panel's draft Condition 1A in different ways underscores the potential for those consequences.

- 5 In NZTA's response to the Panel's draft conditions (19 August 2026), we explained why the Panel's draft Condition 1A is not necessary. In particular, we noted that scope is confined by the application, and the Panel can also be comfortable that the Project works are confined by:

- 5.1 the purpose of the designation(s);
- 5.2 each designation footprint and the extent of coastal permits as shown in Schedule A to the consent conditions;
- 5.3 the activities described in the consents (including the exceptions); and
- 5.4 the effects envelope described in, and the outcomes secured by, the conditions.

- 6 NZTA's response requested that the Panel clarify the nature of its concern, so that NZTA could provide a response that would best assist the Panel. The Panel's Minute 19 provides a 'restatement of the issue' noting (emphasis added):

The intention of draft condition 1A is to create a tangible link between the designation and consent conditions and the Indicative Design Drawings, so that, subject to the inbuilt flexibility of the 'effects envelope' approach, there is a real world comparison available **to ensure a connection between what was applied for and what is ultimately delivered**. To simply apply the 'effects envelope' approach within the constraints of the designation footprint could enable **an outcome very different (albeit with no greater adverse effects)** to what was commented on by stakeholders, and assessed by the Panel. Draft condition 1A is intended to strike the necessary balance between flexibility and **no material surprises**.

- 7 In our submission, the scope of the application (as outlined at paragraph 5 above) means there can be "*no material surprises*" in terms of the "*outcome*" delivered by the Project. For example, it would not be 'within scope' for NZTA to construct a railway line. We return to this point later in this memorandum.
- 8 Nevertheless, our reading of the Panel's draft decision and its 'restatement of the issue' is that the Panel's outstanding concern is related to potential fundamental changes to the nature and layout of the Project (despite the limits created by the components outlined in paragraph 5 above).
- 9 NZTA appreciates the opportunity provided by the Panel to provide comments on the Panel's 'restatement of the issue' alongside NZTA's

response to comments from other parties on Condition 1A.² Accordingly, the matters addressed in this memorandum address both.

Condition 1A is inappropriate and *ultra vires* as it does not concern effects management

- 10 The Panel acknowledges in its draft decision and in its 'restatement of the issue' that the concern it seeks to address with Condition 1A is not related to effects management.³ Instead, it is about ensuring there are "*no material surprises*" in relation to the "*outcome*" to be delivered by the Project.
- 11 In our submission, it is not appropriate for the Panel to condition project outcomes. Conditions addressing environmental outcomes are valid, but addressing project outcomes through conditions is beyond the Panel's jurisdiction.
- 12 As recorded in NZTA's legal submissions dated 15 December 2025:

107 The Panel may impose any condition on a resource consent that it considers "*appropriate*", provided those conditions are "*directly connected to... an adverse effect of the activity on the environment*" or "*an applicable district or regional rule*".

108 Case law also establishes that conditions must be for a resource management purpose (not an ulterior one), fairly and reasonably relate to the approved development, and be reasonable. Conditions must also be certain, enforceable, not delegate decision-making powers, and not rely on third parties.

- 13 In our submission, the Panel's draft Condition 1A does not satisfy those legal requirements:

13.1 *Conditions must be "directly connected to... an adverse effect of the activity on the environment" (s108AA(b)(i)):*

The Environment Court has noted that:

"under section 108AA(1)(b)(i) the condition must be directly connected to adverse effects of a proposed activity not to the activity itself" (emphasis added).

In this case, the Panel has expressly stated that its draft Condition 1A is not required for effects management

² Minute 19 dated 20 August 2026, paragraph 5.

³ Draft Decision, paragraph 686 and Minute 19 dated 20 August 2026, paragraph 5.

purposes.⁴ Therefore, it is not “*directly connected*” to an adverse effect.⁵

Instead, the Panel seeks to prevent any “*material surprises*” in relation to the “*outcome*” which, contrary to caselaw principles, appears to link Condition 1A to the activity itself.

With respect to the balance of s108AA, draft Condition 1A is also not directly connected to “*an applicable district or regional rule*” nor does it “*relat[e] to administrative matters*”.

13.2 *Conditions must be certain and enforceable:* The comments on the Panel’s draft decision from NZTA, Council and NZRPG demonstrate that Condition 1A can be interpreted in different ways even by those involved in the current process (who have the benefit of the Panel’s draft decision). As noted in NZTA’s response to the Panel’s draft conditions (19 August 2026), the consequence of draft Condition 1A would be that NZTA “*would have no certainty as to what fits within the scope of the designations and consents, and what would require an alteration or variation. The significant benefits of flexibility would therefore be undermined*”.⁶ In reality, if imposed, draft Condition 1A is likely to result in alterations/variations being sought out of an abundance of caution – despite confirmation in the Panel’s decision that it agrees with the flexibility that NZTA has sought. In our submission, for those reasons, draft Condition 1A is therefore so uncertain as to be invalid.

14 In our submission, the Panel’s draft Condition 1A also does not satisfy the FTAA legal tests. The FTAA specifies additional tests for when conditions may be imposed:

14.1 The FTAA legal tests also anticipate that conditions will be set to manage adverse effects, and they introduce additional limitations. As stated in our 29 July legal submissions, the “*no more onerous than necessary*” test⁷ is clearly directed at minimising the burden of conditions in a way that is

⁴ Minute 19 dated 20 August 2026, paragraph 5.

⁵ Section 108AA was introduced to provide “*a tighter restriction on the scope of conditions*” compared to the “*logical connection*” test in case law (*Waitakere City Council v Estate Homes* [2006] NZSC 112) by requiring a “*direct causal link between the effects of the activity and the conditions*”: Departmental Report Addendum on the Resource Legislation Amendment Bill 2015 No.2. Although the RMA and FTAA do not specifically apply Section 108AA to designations, we submit that same requirements for conditions should similarly apply. The Environment Court has determined (albeit prior to s108AA) that the powers to impose (and limits on imposing) conditions on consents and designations are effectively the same: *Tauranga City Council v Minister of Education* [2019] NZEnvC 32, paragraph 99-105.

⁶ NZTA’s Memorandum of Counsel in response to draft conditions dated 19 August 2026, paragraph 19.2

⁷ FTAA, s83.

proportionate to the effect that those conditions will manage.⁸ That expectation is reflected in the Panel's power to decline approvals where "*adverse impacts are sufficiently significant to be out of proportion to the project's regional or national benefits ... even after taking into account... any conditions that the panel may set in relation to those adverse impacts*".⁹ Again, the Panel has clearly stated that draft Condition 1A is not related to adverse impacts. Its imposition would therefore be "more onerous than necessary" to manage effects, and also has the potential to impose unduly onerous restrictions on NZTA by undermining the benefits of flexibility.

14.2 The FTAA legal tests anticipate that conditions might be set for purposes relating to Treaty settlements and recognised customary rights,¹⁰ infrastructure to support the project¹¹ and freshwater fisheries activities¹². However, the Panel's draft Condition 1A does not fit into any of those categories either.

15 Accordingly, in light of the Panel's confirmation that draft Condition 1A is not related to effects management, in our submission the condition is unlawful, and cannot be imposed by the Panel.

A Condition 1A equivalent has not been found necessary on other NZTA projects

16 We note that the Panel's concern about the "*outcome*" to be delivered by the Project appears to have its origin in the Board of Inquiry decision¹³ on the Ara Tūhono – Pūhoi to Wellsford Road of National Significance: Pūhoi to Warkworth Section project (*Pūhoi to Warkworth project*). The Board of Inquiry in that case identified the issue in this way: "[w]hether parties who had been notified... would be prejudiced by the proposed construction methodology being qualitatively or conceptually different",¹⁴ and went on to determine that it was not a barrier to adopting the no Condition 1 approach.

17 As it recorded, the Board saw "*little difficulty*" adopting the no Condition 1 approach for the designation, noting "*it is common practice for NoRs to be issued over an indicative alignment for a motorway, with details of the work to be undertaken to be provided to the territorial authority later via an OPW ... There can be no*

⁸ NZTA's Memorandum of Counsel dated 29 July 2026, paragraph 45.

⁹ FTAA, s85(3)(b).

¹⁰ FTAA, s84.

¹¹ FTAA, s84A.

¹² FTAA, Schedule 5, clause 19.

¹³ Final Report and Decision of the Board of Inquiry into the Ara Tūhono – Pūhoi to Wellsford Road of National Significance: Pūhoi to Warkworth Section, dated 2 December 2014 (*P2W decision*).

¹⁴ Paragraph 685 of the Panel's draft decision almost exactly mirrors paragraph 266 of the P2W Decision.

contest over that approach".¹⁵ The Board went on to consider whether the effects of that project would be appropriately controlled in the absence of a traditional Condition 1, and concluded that they would be.¹⁶

- 18 In our submission, the Board's decision directly supports the point that the Panel should not, and logically cannot, be concerned with changes to the Project design, given its finding that the balance of the conditions provide an envelope that will enable flexibility in design while appropriately managing environmental effects.
- 19 As the Panel will be aware, construction of the Pūhoi to Warkworth project has been completed. We are advised that no issues arose from the lack of a traditional Condition 1 during construction and, in fact, compliance officers have suggested the approach helped to simplify monitoring. From NZTA's perspective, the absence of a traditional Condition 1 proved to be highly beneficial for the timely and cost-efficient delivery of that project.
- 20 The 'envelope of effects' approach has also been approved by decision-makers for other NZTA projects, including Warkworth to Wellsford¹⁷ and Cambridge to Piarere¹⁸. For those projects, the decision-makers were concerned with whether the approach would adequately manage environmental effects. In each case, they found any effects would be managed by the 'envelope of effects' and therefore, a traditional Condition 1 was not required.

Response to comments on Condition 1A

Auckland Council

- 21 The Council's comments query whether the Panel's draft Condition 1A "*operates as the Panel intends*".¹⁹ NZTA agrees that the draft condition does not address the Panel's stated concern.
- 22 The Council suggests two alternative options:

22.1 Amend the Panel's draft Condition 1A to:

- (a) *Refer to the Project being "generally" consistent with the Indicative Design (to allow "a little wriggle room"):* NZTA opposes this approach. Such an amendment would be equivalent to a 'traditional Condition 1' that requires works to be carried out "in general accordance with" identified application documents. It would provide little to no real flexibility (an onerous outcome for NZTA)

¹⁵ P2W decision, paragraph 267.

¹⁶ P2W decision, paragraph 271.

¹⁷ Ara Tūhono - Warkworth to Wellsford project.

¹⁸ SH1 Cambridge to Piarere Long Term Improvements Project.

¹⁹ Comment from Council dated 19 August 2026, Attachment 1, section 1.

and would not reflect the Panel's decision on the 'effects envelope' approach.

- (b) *Remove reference to an outline plan being "approved":* NZTA agrees the replacement of "approved" with "completed ... or waived" properly reflects the outline plan process set out in s176A RMA.

22.2 *As an alternative, require NZTA to, as part of the outline plan process, identify "any material departure from the Indicative Design drawings" and explain "how the effects of that departure remain within the envelope of effects":* The purpose of the outline plan process is not to demonstrate that the final design complies with the conditions nor is it to "explain" the final design – it is simply to "show" the design. In any event, this alternative approach does not address the Panel's stated concern given it would allow "material surprises" provided they comply with the balance of the conditions.

- 23 NZTA has consulted with Council in preparing this response to comments on the draft conditions.

NZRPG

- 24 NZRPG's comments say that the Panel's draft Condition 1A "sets a test with no objective benchmark, restates obligations already binding NZTA, and leaves the Panel's stated concern unaddressed".²⁰ NZTA agrees with those comments.

- 25 NZRPG then proposes alternative wording that would prevent "a material change in the nature, scale, location, or effects of the Project as described [in the Indicative Design drawings]" and sets out a (non-exhaustive) list of material changes. It also proposes a secondary (*ultra vires*) approval process requiring that any outline plan address whether there is any material change and, if so, a block on that outline plan being "approved" unless the territorial authority is satisfied that the effects are the same as those assessed or appropriate mitigation is provided.

- 26 NZTA opposes NZRPG's approach as:

26.1 It is more restrictive than a traditional Condition 1; and

26.2 The proposed outline plan 'approval' process is unlawful as it would require delegation of decision-making power by allowing for future assessment and approval of "appropriate mitigation".

²⁰ NZRPG comments, paragraph 2.4.

NZTA's alternative Condition 1A to address the Panel's concern

- 27 The Panel's 'restatement of the issue' says the intent of draft Condition 1A is to "*ensure a connection between what was applied for and what is ultimately delivered*". Throughout the consenting process, NZTA has been clear that it seeks approvals for the Project on the basis of design flexibility, informed by an Indicative Design and the balance of the Application. Such flexibility provides for design innovation and developments in technology – ultimately saving taxpayer dollars, whilst the conditions ensure appropriate environmental outcomes. The Indicative Design was used in the application to illustrate key Project elements, and to provide an appropriate basis for the assessment of the Project's effects.
- 28 NZTA was clear within the substantive application and has been clear throughout this statutory process, that the final design of the Project will:
- 28.1 be different to the Indicative Design;
 - 28.2 be within the 'envelope of effects' created by the approvals;
and
 - 28.3 in particular, meet the parameters / outcomes for effects management that are stipulated in the conditions.
- 29 To describe it in a different way, NZTA did not apply for consents and designations *for* the Indicative Design. As such, the Indicative Design drawings should not and cannot properly be conditioned and used as a comparison to "*ensure a connection between what was applied for and what is ultimately delivered*" (emphasis added).
- 30 Accordingly, we submit it would not be legitimate for the Panel to impose a condition that requires compliance with the Indicative Design drawings. Any condition that refers to the Indicative Design would directly conflict with the explicit scope of the substantive application. It would also conflict with the Panel's determination that "*a degree of flexibility in the overall design is warranted*" and "*the 'envelope of effects' technique will deliver a generally satisfactory level of control*".²¹
- 31 If the Panel concludes that, contrary to the submissions above, such a condition is lawful, then to assist the Panel, NZTA has drafted an amended Condition 1A. The amended condition would record in the conditions the elements of the application outlined at paragraph 5 above. The amended condition would also address the certainty and enforceability issues with the Panel's draft Condition 1A identified at paragraph 13.2 above.

²¹ Draft Decision, paragraph 686.

32 This amended Condition 1A is:

1A. This designation authorises the Project, being the construction, operation, maintenance and improvement of a rapid transit corridor and ancillary structures, works, facilities and activities, within the boundary shown in [Schedule X]*, including the following works:

- a) A busway;
- b) Bus stations, including facilities for the convenience of passengers;
- c) With respect to designations [designation numbers for NOR1 and NOR4], a Park and Ride;
- d) Ancillary structures, works, facilities and activities, including:
 - a. bridges, underpasses, embankments, retaining walls;
 - b. lighting, signs, gantries, acoustic barriers, landscaping;
 - c. stormwater management, culverts, outfalls;
- e) Realignment of, and connections to, the Northwestern Shared User Path;
- f) Changes and connections to local roads to enable connectivity to bus stations;
- g) Protection and relocation of existing utilities; and
- h) All construction activities for the Project.

If there is any inconsistency between the above description of the Project and the conditions, then the conditions prevail.

* Except if there is any inconsistency between [Schedule X] and the boundary shown in the Auckland Unitary Plan, then the Auckland Unitary Plan will prevail.

33 Schedule X has a similar level of detail as the concept plans included in the designations for Stage 2 of the SH1 Papakura to Bombay project. The alterations to designations for that project recently proceeded through the standard 'two step' RMA process and have recently been inserted into the AUP.²² In our submission, any condition imposed on this Project should not be more onerous, given the FTAA context, than conditions imposed on projects under the RMA.

²² Designations 6700, 6701, 6706, 6784 and 6790.

- 34 We note that Schedule X has placeholders²³ for designation numbers (for each NOR) that will need to be inserted into Schedule X by Council following the Panel's final decision and prior to insertion into the AUP. The Panel may wish to provide a direction to Council in its decision to carry out this task.
- 35 In our view, if the Panel was to impose a Condition 1A, it would not be appropriate to apply it to the resource consents (which generally deal with discharges, works in watercourses and limited coastal works). The designation authorises the Project's district land use activities (including bulk and location), therefore the designation is the core approval that is most connected with the "outcome" to be delivered by the Project. In saying that, the designation is already subject to the outline plan process, which will show the final outcome.
- 36 NZTA neither agrees to nor offers the amended Condition 1A set out at paragraph 32 above. Nevertheless, the Panel's Minute 19 indicated that it will *"be giving careful consideration to ... proposed edits to condition 1A"*. Accordingly, if the Panel considers a Condition 1A to be *vires*, then NZTA requests that the Panel consider and prefer its amended Condition 1A.

Conclusion regarding draft Condition 1A

- 37 In summary, in relation to the Panel's draft Condition 1A, NZTA's position is:
- 37.1 Draft Condition 1A does not meet the legal requirements for lawful conditions. The Panel has confirmed that it is not necessary to manage the Project's effects on the environment;
- 37.2 If the Panel concludes that such a condition is lawful, NZTA requests the Panel carefully consider and prefer the alternative Condition 1A drafted by NZTA as set out at paragraph 32 above; and
- 37.3 If the Panel decides to impose its draft Condition 1A (or similar), and therefore use the Indicative Design drawings for a purpose that they were never intended to be used for, NZTA considers they must be stamped with *"All information shown is indicative and may change through detailed design"*, to maintain consistency with the applications as lodged.

²³ The underlying busway designations are labelled in the legend and the overlapping stations designations are labelled on the plan.

COMMENTS BEYOND THE SCOPE OF PANEL'S INVITATION TO COMMENT ON CONDITIONS

38 As recorded in the Panel's Minute 18:

[3] Section 70 of the FTAA requires the Panel to direct the EPA to provide a copy of the draft conditions and draft decision to the Applicant, everyone who provided comments under s 53 and all relevant local authorities or 2 statutory bodies. The Panel directs accordingly. The Panel notes that under s 70, parties are only invited to comment on draft conditions, not the draft decision.

39 Some of NZTA's comments (dated 19 August 2026) reiterated its position before going on to comment on the Panel's draft conditions. That approach makes it clear that the comments on the draft conditions are not and should not be read as a change in NZTA's position on each matter. NZTA acknowledges that some parties have taken a similar approach to their comments.

40 However, in some cases, parties have sought to relitigate matters that have been determined by the Panel and are not relevant to a comment on the draft conditions. We submit that such comments are outside the scope of this process and cannot be taken into account by the Panel. These comments have been identified in **Appendix A** and below, as relevant.

COMMENTS ON GEOTECHNICAL AND GROUNDWATER CONDITIONS

Draft Designation Condition 27A (Geotechnical Management)

41 NZTA continues to oppose any condition addressing geotechnical management for the reasons set out in its legal submissions dated 29 July 2026. However, in light of the Panel's draft decision determining that geotechnical matters should be addressed in conditions, NZTA has commented on the following aspects of the Panel's draft condition and Council's comments:

41.1 *Geographical scope:* Council's comments on the Panel's draft condition sought to widen its scope to the entire designation (rather than the two areas identified in the Council's comments). NZTA opposes the broad application of the Panel's draft condition, particularly given Council has inappropriately sought to introduce new information at this final stage, and NZTA has not had reasonable opportunity to prepare responding evidence.

41.2 *Substantive requirement:* Council's comments on the Panel's draft condition accept that requiring a Geotechnical Management Plan (*GMP*) for the entire Project may be more onerous than necessary. Instead, Council proposes a "geotechnical risk review". We submit that NZTA's proposed approach of providing a copy of its Geotechnical Design

Statement to Council achieves the intended outcome of the Panel's draft condition (ie confirming that the Project will not result in adverse effects beyond the designation boundary arising from geotechnical conditions). The benefit of NZTA's proposed approach is that it does not create a process that duplicates the Building Act 2004 process²⁴ and normal engineering / geotechnical design process requirements, which are already subject to independent technical review requirements. In our submission, NZTA's proposed approach is therefore the "least onerous" approach and should be preferred by the Panel.

- 41.3 *Process requirement:* NZTA supported the Panel's draft decision recording that the GMP would not be subject to the Outline Plan or certification processes.²⁵ Council's comments on the Panel's draft condition suggest that the information needs to be provided as part of the Outline Plan process. NZTA considers it is sufficient to provide a copy of its Geotechnical Design Statement to Council for information purposes as the Council's regulatory team (compared to the Council's building consent team) will not be commenting on the content under s176A.

Draft Resource Consent Condition 23 (Groundwater)

- 42 Council has, at this late stage of the process, proposed 2.5 pages of groundwater conditions that it suggests should apply in addition to NZTA's proposed Condition 23. Council is seeking to introduce new material and relitigate a matter that has already been determined by the Panel.²⁶
- 43 The majority of the additional groundwater conditions proposed by Council are unnecessary, as NZTA's proposed Condition 24 sets out clear parameters to be achieved that will avoid damage outside the designation boundary. NZTA also notes that a management plan certification process is unnecessary because NZTA's proposed Condition 24 requires a summary technical note to be provided to Council to confirm those parameters will be achieved. Council's normal enforcement powers will apply if that condition is not satisfied. We also agree with the Panel that the fact that "*the Project is being delivered by an experienced Crown agency*"²⁷ is a relevant consideration. Because of that consideration, we submit that further oversight by Council through a management plan certification process would be "more onerous than necessary".

²⁴ Building consents are required for all Project retaining walls and structures (including bridges and major culverts), and the structural designs involved in the final design of the Project are required to and will comply with the Building Code.

²⁵ Draft Decision, paragraph 247.

²⁶ Draft Decision, paragraph 251

²⁷ Draft Decision, paragraph 251.

COMMENTS FROM HNZPT – ARCHAEOLOGICAL AUTHORITIES

- 44 NZTA supports the comments from HNZPT on the archaeological authorities, which provide a correction to the archaeological sites that are the subject of the authorities.

COMMENTS FROM RESIDENTIAL LANDOWNERS

Kim Weston

- 45 The comments from Kim Weston address the Application, and not the Panel's draft conditions. Those comments query how various construction effects will be managed. These matters were addressed in NZTA's response to comments from residential landowners.²⁸ Accordingly, NZTA respectfully refers Kim Weston to that response for clarification, and considers that comments which seek to relitigate matters should not be considered by the Panel.

Pauline Skeates

- 46 A number of the comments from Pauline Skeates relate to the Application (eg reconsideration of the designation footprint) and not draft conditions, or relate to matters outside this Fast-track Approvals Act process (eg property acquisition).
- 47 A number of the comments relate to matters that are already addressed in NZTA's proposed conditions as follows:
- 47.1 Designation Condition 16(b)(vii) addresses access (including for emergency access, rubbish collection and mail/courier deliveries) and Designation Condition 16(b)(xv) requires a Construction Traffic Issues Resolution process, including for access complaints.
- 47.2 Designation Condition 19(c)(xi) addresses building condition surveys.
- 48 NZTA responds to the remainder of the comments as follows:
- 48.1 Request for "*direct and meaningful consultation before material detailed-design decisions affecting the property are confirmed*": It is not practicable for NZTA to consult with every potentially impacted landowner as it advances the Project design, and such a requirement is not necessary to address any environmental effects. As it has noted at several stages of this process, NZTA will engage with directly affected landowners through the PWA process at the appropriate time, and is aware of the need for that to be handled sensitively.
- 48.2 Request for "*site-specific landscaping, privacy, screening and reinstatement measures*": The whole of Ms Skeates' property

²⁸ NZTA Memorandum of Counsel in response to comments received dated 3 June 2026, Appendix B.

is located within the Proposed Designation, which will need to be acquired by the Crown for the Project. The measures requested in the comment are therefore not required to address adverse effects.

- 48.3 Request for “*direct periodic communication throughout the extended lapse period*”: As affirmed in NZTA’s response to comments, NZTA will continue to provide Project updates through the Project website and with affected landowners directly as the Project moves towards the construction phase.

Hui Liu and Ji Ma

- 49 The comments from Hui Liu and Ji Ma request conditions addressing vehicle access (including emergency services, rubbish collection and deliveries), construction-related effects and “advance notice” of works that may affect their property or access to Kasia Close.
- 50 NZTA considers these matters are appropriately addressed through its proposed conditions, particularly:
- 50.1 Designation Condition 16(b)(vii) addresses access, including for emergency access, rubbish collection and mail/courier deliveries. Designation Condition 16(b)(ix) requires NZTA to communicate traffic management measures to affected road users. Designation Condition 16(b)(xv) requires a Construction Traffic Issues Resolution process, including for access complaints.
- 50.2 Designation Conditions 17 – 20 address construction noise and vibration.

CONCLUSION

- 51 NZTA welcomes the Panel’s draft decision approving all approvals sought for the Project.
- 52 NZTA respectfully requests the Panel carefully considers NZTA’s response to the Panel’s draft designation and consent conditions dated 19 August 2026 as well as NZTA’s response to comments from other parties contained in this memorandum.

Dated 26 August 2026



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