

11 June 2026

Chairperson
Expert Panel – North West Rapid Transit
C/- Environmental Protection Authority
Private Bag 63002
Wellington 6140

For: Lachlan Muldowney
By email to: [REDACTED]

Dear Panel

Further Disclosure of Interests and Management of Potential Conflicts of Interest

1. By memorandum dated 3 June 2026, counsel for New Zealand Transport Agency Waka Kotahi (**NZTA**) raised a potential conflict issue regarding Panel Member Langwell with respect to his disclosure about ongoing involvement with development at Westgate. You have sought my advice on whether the interests disclosed warrant recusal, and if not, what further steps (if any) the Panel should consider taking to actively manage the further interests disclosed.

Executive Summary

2. By letter dated 4 June 2026, I considered potential conflict of interest issues arising in the context of litigation involving members of the Expert Panel pertaining to the development of land within Zone 6 of Sub-precinct B of the Westgate precinct. I concluded that advice by noting that Panel Members must remain alive to the potential need to disclose additional interests, particularly once comments have been made and the parties with an interest in the Project, and key issues in contention, have crystallised.
3. As a consequence of comments having now been made on the Application, a further potential conflict issue has arisen. That issue involves Panel Member Langwell's ongoing involvement in the development of the Westgate precinct. Those interests give rise to a potential conflict of roles, and the potential for a perception of bias to arise.
4. Mr Langwell has made a further disclosure providing additional information about his ongoing involvement in the development of the Westgate precinct. Based on Mr

Langwell's further, detailed, disclosure, I do not consider that recusal is required. However, there is a risk that a perception of bias may arise, and that risk should be actively managed by the Panel.

5. Now that the key issues in contention, and parties involved in the Application, have crystallised, I recommend that the Expert Panel considers taking the following additional steps to ensure that it is, and is being seen to, actively manage the interests of concern raised by NZTA that have been disclosed by Mr Langwell:
 - (a) The Register of Interests should be updated with the further, detailed, disclosure from Mr Langwell;
 - (b) The Panel should consider engaging a suitably qualified and experienced traffic engineer as a technical advisor to provide the Panel with independent advice in relation to key transport issues in contention involving the Westgate precinct;
 - (c) The Panel should consider issuing a Minute informing the parties how it proposes to actively manage the further interests disclosed; and
 - (d) Insofar as the Applicant has any residual matters which it seeks to raise about the Panel's response to its memorandum, the Applicant could be invited to set out those matters in a memorandum, and the Panel could then convene a conference with counsel for the Applicant to discuss resolution of those matters.

Background

6. By memorandum dated 3 June 2026, counsel for NZTA raised a potential conflict issue that it says requires active management. NZTA says that the potential conflict arises from:
 - (a) The comment from Westgate Properties (2017) Limited and NZRPG Management 2017 Limited (*NZRPG*) relating to proposed development projects; and
 - (b) The ongoing involvement of Panel Member Langwell in those projects.
7. The development projects at issue are described in the comments from NZRPG as:
 - (a) A proposed private hospital development; and
 - (b) A major Outlet and Entertainment Centre development.
8. NZTA considers that the potential conflict issues it has raised require active management for the following reasons:
 - (a) The proposed development projects relate to land that is directly affected and adjacent to the Proposed Designation;

- (b) The NZRPG comment puts potential impacts of the Project on the proposed development projects directly in issue, and particularly transport impacts that are squarely within Panel Member Todd Langwell's expertise;
 - (c) Other commenters, including Stride Holdings Limited and Costco Wholesale New Zealand Limited, have also raised concerns with transport impacts at Westgate; and
 - (d) Panel Member Todd Langwell has an ongoing role in relation to the proposed development projects for NZRPG.
9. NZTA's concerns were raised in the context of the initial disclosure of Member Langwell's interests, which were set out in the Register of Interests dated 24 April 2026. In that disclosure, Member Langwell recorded that he had ongoing involvement in development projects at Westgate, including the two referred to above at paragraph [7].
10. Mr Langwell has now provided a more detailed disclosure of his ongoing interests in relation to the development projects, as well as a further disclosure about his involvement in another project at Westgate.
11. In the light of these further disclosures, you have asked me to advise whether the interests are such that recusal is required, or whether the potential conflicts of interests that may arise can be appropriately dealt with by the Expert Panel taking further active steps to manage them.

Legal framework

12. The legal framework was set out in detail in my letter of advice dated 4 June 2026. I adopt that framework for the purposes of this further advice. It is not necessary for me to repeat it here.

Further disclosure

13. Following the filing of NZTA's memorandum of counsel dated 3 June 2026, Panel Member Langwell has made a further, and more detailed, disclosure of his ongoing involvement in development projects at Westgate. A full copy of Mr Langwell's further disclosure is attached as **Appendix 1** to this advice.
14. As can be seen from the further disclosure, Mr Langwell has involvement in three development projects at Westgate, as follows:
- Proposed Private Hospital – 13-15 Westgate Drive*
15. Mr Langwell was engaged by NZRPG to prepare a transport assessment in support of a resource consent application for a private hospital at 13 – 15 Westgate Drive.

The assessment was prepared, together with further input into a design matter relating to the proposed vehicle crossings for the site on 17 March 2026. Mr Langwell discloses that his last direct contact with NZRPG on this project was on 9 April 2026, whereby he received confirmation that no further input was required from him for the resource consent application.

16. Mr Langwell disclosed that he still receives meetings notes from what he describes as fortnightly Design Meetings for the overall project, but that he does not attend the meetings.
17. As to further involvement, Mr Langwell advises that any further involvement will be limited to design matters only, within the site, and will not relate to the North West Rapid Transit project.

Outlet and Entertainment Centre at 17 – 35 Maki Street

18. Mr Langwell prepared a transport assessment to support a resource consent application for an entertainment and retail centre dated 20 May 2025, and provided a response to a section 92 request for further information.
19. Consent was granted on 9 April 2026, and Mr Langwell has had no further involvement with this project. Mr Langwell has also confirmed that he does not intend to have any further involvement in this project while appointed as a Panel Member for the Project.

Westgate Town Centre – Zone 2

20. Whilst not expressly raised by counsel for NZTA, for completeness, Mr Langwell has disclosed that he has also had involvement in the development of Zone 2 land. This land is not identified as being adjacent to the proposed designation.
21. Mr Langwell's past involvement involved him preparing a transport assessment to support a Resource Consent application for a retail development in June 2025. Mr Langwell also prepared a section 92 response in July 2025.
22. Mr Langwell's ongoing involvement involves supervision of a colleague who is providing vehicle tracking analysis of the building design to NZRPG. Mr Langwell records that any involvement that he has in the project whilst he is a Panel Member will be limited to design matters only, and will not relate to the proposed North West Rapid Transit Project.

Analysis

23. The further disclosure of interests by Mr Langwell gives rise to potential conflicts falling into either of the following two categories:
 - (a) Conflict of roles; or

(b) Predetermination, or perception of bias.

24. I deal separately with Mr Langwell's interest in each of these projects.

Outlet and Entertainment Centre

25. I can deal with this development project swiftly.

26. The Outlet and Entertainment Centre is located, in part, on land that is the subject of the substantive application.

27. Mr Langwell's initial disclosure indicated that his involvement in this development project was ongoing. However, his further disclosure indicates that resource consent was granted in April 2026, and that he has had no further involvement in this project since that time. Mr Langwell has also advised that he does not intend to have any further involvement in this project whilst he is a Panel Member.

28. Because Mr Langwell has completed his brief, and confirmed that he has not had, and does not intend to have, any further involvement in this development whilst he is a Panel Member, the interests that might be said to arise are not in conflict.

29. I observe that Mr Langwell has left open the possibility that he might do further work on this project once he has completed his work as a Panel Member. I will deal with this possibility when considering overall perception of bias issues later in this advice.

Proposed Private Hospital – 13-15 Westgate Drive

30. This development project is located on land that is neither land to which the substantive application relates, or land identified by the Expert Panel as being adjacent to land to which the substantive application relates.

31. Mr Langwell's further disclosure indicates that no further involvement on his part is required in relation to the resource consent application. Mr Langwell has also confirmed that any further involvement in the project will be limited to design matters within the site.

32. I consider that no actual conflict of interest arises in relation to Mr Langwell's interest in this development project. That is because:

(a) The site on which this development project is located is not part of the application site, nor identified by the Panel as being adjacent to the application site; and

(b) Mr Langwell has completed his substantive brief, and any ongoing involvement will be limited to design matters within the development site itself.

33. The issue of perception of bias does remain, though.

Westgate Town Centre – Zone 2

34. Mr Langwell has also made a further disclosure in relation to development within Zone 2 of the Westgate Precinct.
35. Zone 2 is beyond the application site, and has not been identified by the Panel as land adjacent to the application site.
36. Again, Mr Langwell's substantive brief for the development project appears to be complete, with his ongoing involvement limited to supervision of a colleague who is preparing vehicle tracking analysis of the building design. Mr Langwell has confirmed that any further involvement with this project whilst he is a Panel Member will be limited to design matters only, and within the site.
37. I consider that no actual conflict of interest arises in relation to Mr Langwell's interest in this development project. That is because:
 - (a) The site on which this development project is located is not part of the application site, nor identified by the Panel as being adjacent to the application site; and
 - (b) Mr Langwell has completed his substantive brief, and any ongoing involvement will be limited to design matters within the development site itself.
38. The issue of perception of bias does remain, though.

Perception of bias

39. When considered individually, I consider that Mr Langwell's interests in the identified development projects at Westgate do not give rise to an actual conflict of interest. However, when viewed holistically, I cannot discount the possibility of a perception of bias which might amount to predetermination arising.
40. As set out in my advice dated 4 June 2026, in the context of apparent bias, the Supreme Court in *Saxmere* adopted the test laid down in Australia, namely that a Judge is disqualified:¹

...if a fair-minded lay observer might reasonably apprehend that the judge might not bring an impartial mind to the resolution of the question the judge is required to decide.
41. As to what might constitute a fair-minded lay observer, the Court in *Saxmere* said:²

The fair-minded lay observer is presumed to be intelligent and to view matters objectively. He or she is neither unduly sensitive or suspicious nor complacent about what may influence the judge's decision. He or she must

¹ *Ebner v Official Trustee in Bankruptcy* (2000) 205 CLR 337.

² *Saxmere Company Ltd v Wool Board Disestablishment Company Ltd* [2009] NZSC 72, [2010] 1 NZLR 35, at [5].

be taken to be a non-lawyer but reasonably informed about the workings of our judicial system, as well as about the nature of the issues in the case and about the facts pertaining to the situation which is said to give rise to an appearance or apprehension of bias.

42. The key issue that emerges in this context is whether Mr Langwell's broader involvement in development projects at Westgate, might give rise to an appearance or apprehension of bias on the part of a fair-minded lay observer.
43. The context within which consideration of this issue occurs is the Fast Track Approvals Act 2024 (**FTAA**). As I said in my earlier advice, the statutory scheme of the FTAA informs the approach that must be taken when considering an apprehension of bias. In this regard, a fair-minded lay observer must necessarily be informed about the workings of the fast track system, including the basis upon which appointments to Expert panels are made, including the fact that such appointments are not purely judicial appointments, and that members of panels will be continuing on their ordinary practice.
44. That contextual overlay is important. Whilst Mr Langwell has been involved in a number of development projects in and around Westgate, the interests that arise are not in actual conflict, and the potential risk of a perception of bias is not at a level of seriousness where recusal is required.
45. However, given the concerns that have been expressed, I recommend that the Panel takes further active steps to ensure that the risk of a perception of bias is appropriately managed.

Further steps

46. Mr Langwell has provided a further, more detailed, disclosure of his interests in development projects at Westgate. The Register of Interests should be updated with that further information.
47. I would also encourage the Panel to consider appointing a technical advisor to provide advice on transport matters that arise in and around Westgate.³ Such an appointment would:
 - (a) provide the parties with further assurance that the Panel has access to further, independent, transport expertise, and not just Mr Langwell's expertise;
 - (b) provide Panel Members (excluding Mr Langwell) with a further technical resource on contentious transport related matters in and around Westgate; and
 - (c) provide Mr Langwell with further technical support and a sounding board against which to test his consideration of the evidence before him.

³ Fast Track Approvals Act 2024, Schedule 3, cl 10(3).

48. The Panel should also issue a Minute informing parties that it intends to appoint a technical advisor as part of the Panel's process of actively managing the potential perception of bias issue that might arise given Mr Langwell's broader involvement in development projects in and around Westgate.
49. Finally, insofar as the Applicant has any residual matters that it wishes to raise about the Panel's response to its memorandum, the Panel should consider giving the Applicant an opportunity to file a memorandum setting out those residual concerns. The Panel could then convene a conference with Counsel for the Applicant to discuss resolution of those matters.

Conclusion

50. Please let me know if you have any questions of clarification.

Yours faithfully



Philip Maw

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File Note:

08 June 2026

1. This file note addressed the potential conflicts of interest raised on behalf of the New Zealand Transport Agency Waka Kotahi (NZTA) in a memorandum dated 3 June 2026 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. The memorandum addresses a potential conflict issue regarding my ongoing involvement with projects, and consent relating to Westgate Properties (2017) Limited and NZRPG Management 2017 Limited (NZRPG). Two key projects have been listed as
 - a. *A proposed private hospital development at 13-15 Westgate Drive, Westgate.*
 - b. *A major Outlet and Entertainment Centre at 17-35 Maki Street, Westgate.*
3. Although not listed, the memorandum also identifies other interest at Westgate that are ongoing, although not specifically raised by NZRPG or other comments received to date.
4. For avoidance of any doubt, I have not had any direct or indirect contact with NZRPG or any its agents regarding the NWRT project and any time including since I was approached by the FTAA Panel convener to consider an appointment to the Panel on 4 March 2026.
5. Below I set out an update to my involvement in each of the Westgate projects and the measures I have taken to manage any potential conflicts relating to the NWRT project since appointed to the Panel on 1 April 2026.

Proposed Private Hospital – 13-15 Westgate Drive

1. The location of this site is not adjacent to the proposed designation however is in proximity.
2. I prepared a transport assessment to support a RC application for a private hospital dated 26 February 2026.
3. I provided input into a design matter relating to the proposed vehicle crossings for the site on 17 March 2026.
4. No further reporting or assessment has been requested from myself or TPC since 17 March 2026.
5. The last direct contact I have had with any employee from NZRPG regarding this project occurred on 9 April 2026, confirming no further input was required from me for the RC application.
6. I have received fortnightly meeting minutes from Design Meetings for the overall project. I have not attended the meetings, nor have I been required to action any matters from the meetings.

7. I intend that any further involvement I have with this project, while appointed as a Panel member will be related to design matters only, within the site and will not relate to the proposed NWRT.

Outlet and Entertainment Centre at 17-35 Maki Street

8. Part of this site is located within the proposed designation.
9. I prepared a transport assessment to support a RC application for an Entertainment and retail centre dated 20 May 2025.
10. I prepared a Section 92 response to support the RC application dated 15 September 2025.
11. No further reporting or assessment has been requested from myself or TPC since 15 September 2025.
12. I sought confirmation from a NZRPG Consultant Planner for the application as to the status of the application on 9 April 2026 and I received a response the same day that consent had been granted. At this time, I resolved to have no further involvement in this project to avoid any potential or perceived conflicts arising.
13. I acknowledge that I had omitted to update the register if my interests with the EPA.
14. I receive a call from NZRPG's consultant Architect on 20 April 2026 requesting assistance with building design matters because of the proposed designation. I declined to assist in this matter citing that a potential or perceived conflict might arise with the proposed NWRT.
15. I intend to have no further involvement with this project while appointed as a Panel member.

Westgate Town Centre – Zone 2

16. The location of this site is west of Maki Street and north of Kohuhu Lane. This site is not adjacent to the proposed designation.
17. I prepared a transport assessment to support a RC application for a retail development dated 9 June 2025.
18. I prepared a Section 92 response to support the RC application dated 25 July 2025.
19. The last direct contact I had with NZRPG for this project was on 7 August 2025.
20. I have received on going requests from NZRPG's consultant Architect for vehicle tracking analysis of the building design, which is attended to by one of my colleagues under my supervision.

21. I intend that any further involvement I have with this project, while appointed as a Panel member will be related to design matters only, within the site and will not relate to the proposed NWRT.

A handwritten signature in blue ink, appearing to read "T. Langwell", with a stylized, cursive script.

Todd Langwell