
MINUTE OF THE PANEL CONVENER
Decisions on panel appointment and decision timeframe
Taranaki VTM [FTAA-2504-1048]
(12 August 2025)

Purpose of Minute

1. On 17 July 2025, following a convener conference held on 7 July 2025, I issued a Minute issuing post-conference directions to the Applicant, seeking information I considered necessary to exercising my duties, functions and powers under the Act, namely the appointment of an expert panel to make a decision on the approvals sought, and the setting of a timeframe within which the decision must be delivered.
2. That Minute also recorded the parties who attended the conference and summarised their views on the key matters having a bearing on both expert panel composition and decision timeframe, notably issues likely to be in contention and their factual and legal complexity.
3. By memorandum dated 4 August 2025 the Applicant has responded to the Minute. Some responses to my directions have been helpful and will provide useful guidance to the expert panel regarding the extent to which the application material has been amended and updated to respond to:
 - a. the findings of the Supreme Court in 2021;
 - b. issues in contention during the reconsideration of the original application in 2023-2024 following the Supreme Court decision; and
 - c. since the 2016 application was withdrawn in 2024.
4. Responses to my directions on issues in contention and timeframe have been less helpful, although I note that the Applicant has revised its proposed decision timeframe to a total of 100 working days (compared to the 76 working days proposed in its pre-conference memorandum).
5. In light of the Applicant's response, as well as matters raised at the conference by other parties, the purpose of this Minute is to confirm the Expert Panel (Taranaki

VTM Expert Panel) appointments and the timeframe I have determined is required for the Expert Panel to deliver its decision on the application.

6. I record my thanks to all conference participants for their attendance and their thoughtful responses to the matters discussed.

Expert panel - decision

7. I am appointing the following persons to the Taranaki VTM Expert Panel to determine the substantive application:
 - a. Hon Kit Toogood KC (chair);
 - b. Loretta Lovell (local authority nominee);
 - c. Dr Hilke Giles (coastal science);
 - d. Gavin Kemble (planning); and
 - e. Natalie Hampson (economics).
8. I am satisfied that, collectively, the Taranaki VTM Expert Panel will hold appropriate expertise and experience in relation to law, planning & policy, te ao Māori and Māori development, marine ecology and economics.
9. There are a range of other specialist technical disciplines that the Expert Panel may wish to engage to assist them in their task and they will no doubt turn their minds to those matters once their work commences.
10. The date on which the Taranaki VTM Expert Panel will commence work is **25 August 2025**.
11. I strongly recommend that the Applicant commence engagement with the local authorities, relevant agencies, iwi authorities and Treaty settlement entities to identify or narrow issues in contention and confer on conditions, and to make arrangements for a panel briefing session and a site (or wider location) visit, ideally both to be undertaken prior to the invitation to comment being issued (which will be due on 8 September).

Decision timeframe - discussion

12. As recorded in my Minute of 17 July, there are some divergent views regarding an appropriate timeframe for the decision. While the Applicant has now revised its proposed timeframe to 100 working days in total, that proposal does not appear to be based on any engagement with participants regarding key issues likely to be in contention, or any specific suggestions regarding procedural steps that might assist with efficient exploration of those issues.
13. Before listing a wide range of issues it expects other participants to raise, the Applicant's memo records its somewhat cynical expectation that:

"... opponents who are invited to comment are very likely to raise any and every issue that they think may impede the project, regardless of merit."¹

14. The Applicant remains of the view that the statutory framework is clear², leaving "little room for real debate", that the Panel can undertake its assessment without need for a hearing and "without getting distracted by any unsubstantiated claims made by opponents"³. Further, the Applicant asserts that the setting of timeframes "cannot reasonably proceed on an assumption that a hearing will be required, given the uncertainties that exist"⁴. While it stops short of expressing this view outright, I infer from both the substance and tone of the memorandum that the Applicant considers any effort spent or additional time allocated towards issue resolution is pointless.
15. The other participants at the convener conference all agreed that the standard timeframe of 30 working days following the panel's receipt of invited comments would not be sufficient to determine the approvals sought, and many referred to the "upper limit" of the Act (in relation to working days) being used. Others suggested that six months would be necessary. All expressed the view that some form of hearing would likely be required.
16. In fact this Act provides no "upper limit" in terms of decision timeframe, unlike the COVID fast track legislation, which requires all decisions to be issued, at the latest, within 50 working days unless otherwise specified in a referral order. Pursuant to section 79 of this new Act the timeframe must be appropriate having regard to the scale, nature and complexity of the approvals sought, and any other matter raised by the substantive application. Of critical importance is that, once set by me, the timeframe cannot be amended for any reason (other than applicant-initiated suspension). While I had hoped to gain a clearer picture of the technical and evidential matters likely to be in dispute for the purpose of setting an appropriate timeframe, the Applicant's responses to some of my directions have provided little, if any assistance, and have in fact led to my taking a more conservative approach to timeframe.
17. Finally, I need to record my concerns about the Applicant's approach to the matter of tikanga. A number of iwi authorities and Treaty settlement entities, and the iwi/hapu they represent, as well as MACA claimants and other relevant groups or parties identified in the section 18 report, have participated in the earlier application process and related litigation. All those parties expect to participate in this application via the invitation to comment process and have continued to express concerns with the proposal and its impact on the environment and their cultural values and interests.

¹ See Applicant's memorandum dated 4 August 2025, para [30].

² Ibid, at para [33]

³ Ibid, at para [34]

⁴ Ibid, at para [37]

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18. For whatever reason (and there is debate about this, as observed at the conference), these parties have had limited engagement with the Applicant team, both at the time of the original application and in the years since. The hearing scheduled by the EPA-appointed Decision-Making Committee in 2024 to reconsider the 2016 application in the wake of the Supreme Court decision was commenced but not completed due to the Applicant's withdrawal of the application. Without an opportunity to raise their concerns directly with decision makers, and in the absence of a constructive, functional relationship with the Applicant, the concerns held by these parties remain unheard and unresolved.
19. The Supreme Court made very clear the relevance of tikanga and found that the decision issued on the 2016 application failed to effectively grapple with the true effect of the proposal for iwi parties, amongst other related findings.⁵ While there may well be scope for legal argument over the extent to which those findings are applicable to an application made under this Act, nevertheless it is disappointing that the Applicant professes to defer to Māori on matters of tikanga⁶ while at the same time insisting that no hearing is required.

Decision timeframe - Decision

20. I have decided to fix the total number of working days at **130** following the receipt of invited comments. The Expert Panel decision will be due on **18 March 2026**, subject to the application being suspended for any of the reasons outlined in section 60 of the Act.
21. In setting this timeframe I have had regard to the following relevant matters:
- a. The volume of application material, and technical reports in particular, is significant. Further, some of this information was prepared to support an earlier application (2016) made under the EEZ Act and there have been a range of amendments and updates made to respond to various Court decisions and procedural milestones in relation to that earlier application (as recorded in the Applicant's response to my Minute of 17 July 2025). The panel and other participants will need to navigate all of those matters to gain clarity on exactly what is being proposed and how this application departs from the earlier one;
 - b. This is the first application under the Act to seek approvals under the EEZ Act, and as such there are some legal complexities around the interplay between the legislative regimes and the extent to which the Supreme Court decision in 2021 is relevant to an application under this Act. The Applicant has a very clear view about these matters, but the Expert Panel may want to

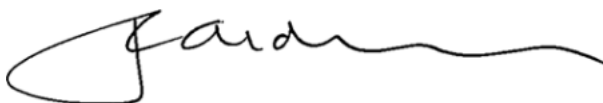
⁵ Those findings are summarised in the Applicant's memorandum of 4 August 2024 at para [8.b] but for the Supreme Court decision see *Trans-Tasman Resources Ltd v Taranaki-Whangānui Conservation Board* [2021] NZSC 127.

⁶ Applicant memorandum dated 4 August 2025, at paras [13-14] and [41].
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seek legal submissions from other participants and may choose to commission its own legal advice;

- c. The Expert Panel has the power to request further information and to reports under section 67 of the Act and the power to appoint special and/or technical advisers under clause 10, Schedule 3. Given the breadth of technical reports provided with the application, and the volume of material it will have to deal with, it is likely that the Expert Panel will consider engaging specialists on a variety of issues including for example the interpretation of sediment plume modelling data, the impact of the proposal on both commercial and customary fisheries, local tikanga and mātauranga, or the application of international law;
- d. Given the history of the application and project, the level of local interest, the economic benefits claimed and the nature of some effects, there are likely to be a substantial number of invitations to comment issued by the Expert Panel. While the time period for comments to be provided cannot be amended from the 20 working days set out in section 54, the potential volume of responses may increase the time needed to resolve evidential disputes, obtain specialist technical advice, prepare appropriate conditions and finalise the decision;
- e. The complex suite of conditions required for the approvals sought will require significant attention from the Expert Panel and that effort should not be underestimated. I am also conscious that the end of year holiday period may limit the Panel's ability to finalise a draft decision and draft conditions for circulation;
- f. I have made provision in the decision timeframe for the Expert Panel to hold some form of hearing (in accordance with tikanga requirements) and/or to hold workshops or other facilitated issue resolution sessions.

22. In terms of next steps, the participants will be contacted by the Taranaki VTM Expert Panel upon commencement.

A handwritten signature in dark ink, appearing to read 'J Caldwell', with a long, flowing horizontal line extending to the right.

Jennifer Caldwell

Associate Panel Convener