

---

**MINUTE OF THE PANEL CONVENER**  
**Post-conference decisions on panel appointment and decision timeframe**  
**POTL – Stella Passage Development [FTAA-2504-1042]**  
**15 August 2025**

---

[1] On 2 July 2025 I held a convener conference in respect of this application. The conference was attended by the Applicant, the local authorities (Bay of Plenty Regional Council (BOPRC), and Tauranga City Council (TCC)), the Department of Conservation (DoC) on behalf of the Director-General, the Ministry for the Environment (MfE), as well as the following iwi authorities and Treaty settlement entities identified in the section 18 report prepared by MfE<sup>1</sup>:

- (a) Te Rununga o Ngāti Ranginui Iwi Society Incorporated
- (b) Ngāti Ragninui Fisheries Trust
- (c) Ngā Hapū o Ngāti Ranginui Settlement Trust
- (d) Ngāi Te Rangi Settlement Trust
- (e) Te Rununga o Ngāi Te Rangi Iwi Trust
- (f) Ngāti Pūkenga iwi ki Tauranga Trust
- (g) Te Tāwharau o Ngāti Pūkenga
- (h) Ngāa Pōtiki a Tamapahore Trust
- (i) Tauranga Moana Iwi Customary Fisheries Trust

---

<sup>1</sup> I have not included Ngāi Tai Ki Mauao Hapū Collective, whose counsel requested and was granted permission to attend the conference to observe and answer my questions in view of the Collective's judicial review proceedings – see Minute dated 4 July.

[2] The delay in issuing this Minute is largely attributable to the procedural matters addressed in my Minute of 4 July 2025 and the subsequent application for interim orders made by the Ngāi Tai Ki Mauao Hapū Collective in the course of ongoing proceedings for judicial review in respect of this project. The application for interim orders, along with a related application for stay of proceedings brought by the Applicant, was heard in the High Court at Wellington on 16 July 2025. Justice Gendall declined the orders sought in a judgement issued on 24 July 2025<sup>2</sup>.

[3] Having undertaken in my Minute of 4 July not to take steps to set up the Expert Panel prior to 1 August 2025, I then resumed the process of identifying and confirming potential panel members, including seeking a nomination from the relevant local authorities.

[4] The purpose of this minute is to:

- a. Summarise the views expressed by conference participants on the matters of panel composition and the timeframe required for the expert panel to deliver its decision; and
- b. Confirm my decisions on those two matters;
- c. Confirm the steps taken to clarify two matters arising out of the MfE section 18 report that were raised by conference participants.

[5] In advance of the conference, I received written memoranda from the following conference participants:

- a) Port of Tauranga Limited (Applicant) and Bay of Plenty Regional

---

<sup>2</sup> *Ngāti Kuku Hapū Trust v the Environmental Protection Agency* [2025] NZHC 2046.

Council (Joint memorandum)

- b) Department of Conservation
- c) Ngā Hapū o Ngāti Ranginui Settlement Trust
- d) Ngāi Tai ki Mauao Collective
- e) Ngāti Pūkenga Iwi ki Tauranga Trust and Te Tāwharau o Ngāti Pūkenga Trust
- f) Ngāti Ranginui Fisheries Trust and Te Runanga o Ngati Ranginui Iwi Society Incorporated
- g) Tauranga Moana Customary Fisheries Trust

[6] Referring to the default period of 30 working days that applies where no timeframe is set, the Applicant considered that only 10 additional working days (following receipt of invited comments) would be required, on the basis that the project has already been through a fully contested direct referral process in the Environment Court and that no new issues arise.

[7] To summarise, the Applicant proposes a timeframe of 40 working days. In reality, the Panel would have significantly less than the 40 working days as this period includes several processes mandated by statute, such as time for the Applicant to file comments in response to other participants (section 54) or the time allowed for certain Ministers to comment on the draft decision (section 72).

[8] The Applicant acknowledged that the main issues at large are cultural and, in response to my questions, expressed the view (via counsel) that those issues were unlikely to be resolved via any hearing or similar process and needed a decision, having regard to the national significance of the Port.

[9] The councils (who had filed a joint memorandum with the Applicant),

considered that 50 working days might be more appropriate and suggested various procedural steps that might be taken by the panel to assist, including a facilitated discussion with the mana whenua parties, acknowledging that the panel would want to engage with them.

[10] Counsel for Te Rununga o Ngāti Ranginui and Ngāti Ranginui Settlement Trust sought a working day period of 90-120 working days having regard to the complexity of the cultural issues, and considered a hearing to be necessary. Other iwi authorities and Treaty settlement entities endorsed these comments.

[11] In relation to panel composition and expertise, the Applicant considered that only 3 members were required, comprising legal, planning and te ao Māori expertise. If a 4<sup>th</sup> member were required, ecology (or as suggested by the Councils, tikanga and mātauranga) expertise could usefully be considered. Other participants were strongly of the view that a 5-person panel should be appointed and that tikanga, mātauranga and Treaty settlement expertise was essential, having regard to the cultural complexities.

[12] I record my thanks to all conference participants for their attendance and thoughtful participation.

[13] Following the conference, the Applicant filed a further memorandum dated 9 July 2025, which attached as Appendix One an extensive list of persons (numbering 38 individuals) who it considered to be conflicted with respect to potential panel appointment. These persons had either represented or provided expert evidence on behalf of various iwi authorities, hapū and Treaty settlement entities (many of whom were identified in the section 18 report and attended the conference) during the direct referral process in the Environment Court.

[14] The Applicant also identified a range of people that it considered acceptable to chair the expert panel and who would bring the necessary understanding of

te ao Māori and Māori development.

[15] At no time did I invite the Applicant or any other conference participant to provide suggestions as to potential panel members, save for acknowledging the nomination process established in the Act for local authorities under clause 3(3), Schedule 3. Further, it is inappropriate in my view for any fast-track participant other than the relevant local authority to provide either positive recommendations as to prospective panel appointees or negative recommendations of the type recorded in Appendix One to the memorandum.

[16] The extensive list of purportedly conflicted persons in Appendix One has in fact served to confirm my observations, based on the Environment Court's interim decision on the direct referral application<sup>3</sup>, of the dysfunctional relationship between the Applicant and mana whenua/moana whenua. Because these parties have struggled to engage constructively, cultural issues remain at large. As a result, the Expert Panel will need more time than would otherwise be required to fully understand the project's impact on cultural interests and values and to consider appropriate ways of addressing them under the decision-making framework.

### **Decision - panel**

[17] I am appointing the following persons to the Expert Panel to determine the substantive application lodged for the Stella Passage Development:

- a) Bronwyn Curruthers KC (chair);
- b) Hugh Leersnyder (local authority nominee);

---

<sup>3</sup> *Port of Tauranga Ltd v Bay of Plenty Regional Council* [2023] NZEnvC 270

c) James Whetu

[18] I am satisfied that, collectively, the Expert Panel will hold appropriate expertise and experience in relation to law, planning & policy, te ao Māori and Māori development.

[19] There are a range of other specialist technical disciplines that the Expert Panel may wish to engage to assist them in their task, including for example marine ecology/coastal processes and local tikanga/mātauranga expertise, and they will no doubt turn their minds to those matters once their work commences.

[20] The date on which the Expert Panel will commence work is **1 September 2025**.

[21] I strongly recommend that the Applicant commence constructive 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 an Expert Panel briefing session and a site visit, ideally both to be undertaken prior to the invitation to comment being issued (which will be due on 15 September).

### **Decision - timeframe**

[22] I consider that a timeframe of 80 working days following the receipt of invited comments to be appropriate, having regard to the scale, nature and complexity of the approvals sought. The Expert Panel decision will be due on **25 February 2026**, subject to the application being suspended for any of the reasons outlined in section 60 of the Act, and to comments on the application being invited on 15 September 2025.

[23] In setting this timeframe I have had regard to the following relevant matters:

- a) The volume of application material including technical reports;
- b) The consideration that the Expert Panel will need to give to the relevance of the Environment Court findings in the direct referral process, including the conditions as approved by the Court in its final decision. The Applicant seems to hold a view that the Expert Panel need not inquire into any issues tested before the Environment Court. That is a matter for the Expert Panel. The change in the legislative context of the Environment Court's decisions is relevant, and the Expert Panel may want to commission legal advice in light of the new statutory approval regime;
- c) The potential scope of the invitation to comment, having regard to the history of the project and the number of parties involved in the direct referral process. If invited to comment, those parties who participated fully and called evidence in the direct referral will likely provide detailed comments, potentially supported by technical reports that could give rise to evidential disputes. 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 response material may increase the time needed to resolve evidential disputes, obtain specialist technical advice, prepare appropriate conditions and finalise the decision;
- d) The Expert Panel has the power to request further information and 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, it is likely the Expert Panel will consider engaging specialists on a variety of issues;
- e) The range and significance of cultural matters that appear to remain at issue

following the direct referral process, coupled with the Applicant's past engagement challenges. The Expert Panel may wish to hear directly from mana whenua/moana whenua on those issues, whether that occurs by way of a hearing or an alternative process. I have therefore made provision in the decision timeframe to undertake these types of processes in a way that is consistent with tikanga;

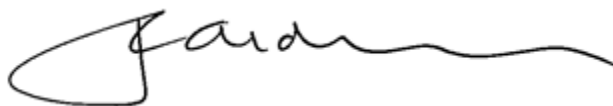
- f) Work required on conditions, particularly those that may be advanced to address cultural concerns. I am also conscious that the end of year holiday period may limit the Panel's ability to finalise a draft decision and draft conditions for circulation.

[24] In terms of next steps, the participants will be contacted by the Stella Passage Expert Panel upon commencement.

#### **Section 18 report clarification**

[25] In Minute 3 dated 11 July 2025 I asked MfE to clarify two specific matters that were raised with me at the convener conference.

[26] In response, MfE provided an addendum report dated 17 July 2025, which is available in the Reports section of the Stella Passage folder on the Fast-track website.

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

Jennifer Caldwell

Associate Panel Convener for the purpose of the Fast-track Approvals Act 2024