
MINUTE OF THE PANEL CONVENER

Advising of the Expert Panel Appointments and Decision Timeframe

FTAA-2508-1093

(30 October 2025)

[1] This is an application for the approvals required for a proposed production facility in the Wakatipu Basin featuring two studios, accommodation, and supporting facilities and amenities.

[2] A conference was held on 15th October 2025 for the purpose of informing my decisions on:

- (a) the appointment of panel members;¹
- (b) the timing of the panel decision.²

[3] Consent approvals (only) are sought. Together with an application filed under s 127 of the RMA to amend a condition of an existing resource consent, the applicant also seeks certification pursuant to s 139 of the RMA that an activity that can be done lawfully without a resource consent.

Time frame for release of a decision

[4] Where the time frame is being set by the Panel Convener, it must be appropriate given the nature, scale and complexity of the approvals sought as (s 79(2)). As noted, other types of approvals are not sought and so I have not

¹ FTAA, schedule 3

² FTAA, section 79

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consulted with the administering agencies over time.

[5] Aside from the inherent complexity stemming from the volume and type of evidence filed, this application appears straightforward.

[6] The Applicant proposes a time frame of 62 working days (commencing after the Applicant's response to comments has been filed). This is a cautious estimate of time, given the comments from adjacent landowners and occupiers during pre-lodgement consultation. However, on balance, I have decided that the appropriate time frame is 55 working days.

Engagement

[7] The applicant has engaged the two local authorities and Kā Rūnaka.

Otago Regional Council

[8] Subject to what I say next, the Regional Council advises that there are no issues outstanding in relation to this application. If the panel is minded to grant the application, then it has agreed on the wording of proposed consent conditions (including management plans). Together with the District Council, the Regional Council is interested in the topic of transportation, including the provision of bus services in this area.

Queenstown Lakes District Council

[9] The position of the Queenstown Lakes District Council is different. The District Council has commissioned or is waiting on updated modelling to confirm demand upon or capacity of the water supply and wastewater network. In relation to water supply, the Applicant has approval to take water from the District Council's network. Modelling is required to verify the Applicant's assessment of water demand and to provide the District Council with assurance that the supply of water to the Applicant can be managed within the terms of the Council's

permit(s). While there are issues arising in relation to stormwater and flooding, also transportation, these are resolvable.

[10] As discussed, it is my expectation that the Applicant and District Council will continue to engage to resolve or narrow the above matters prior comments closing under s 53.

[11] Having said that, the District Council will be commenting on the application raising concerns in relation to the integrity of the District Plan, and the adverse impact of the proposal on the landscape character and visual amenity.

Kā Rūnaka

[12] Kā Rūnaka expressed significant concerns regarding the consultative process and the outcome of consultation. The genesis of their concerns lies in the appending to the application a draft CIA produced by Te Ao Mārama. The draft had not been approved by Kā Rūnaka. Their perspective is that the Applicant put pressure on them to produce the draft and, having done so, they did not agree to the way that the draft was subsequently used. The Applicant has a different understanding, and notes that all the recommendations made in the draft CIA have been implemented.

[13] The use of the draft CIA has created tension in the relationship between the Applicant and Kā Rūnaka and this is regrettable. Where documentation is not prepared by an applicant, it is preferable for the terms of its use to be agreed in writing. It is also preferable that the final version of the document is appended to an application as the FTAA does not easily accommodate an iterative style of working.

[14] Kā Rūnanga propose delaying setting up the Panel while it finalises the CIA. While small delay in setting up a panel may be accommodated at the Applicant's request, the Applicant does not agree.

[15] The way forward is this. Kā Rūnaka are invited to produce a final CIA (with or without amendments) either before or as part of their comments on the application. The Applicant prefers the former and, if an endorsed version of the CIA is filed before the panel issues its invitation to comment, it will consider and respond to the finalised CIA before invitations are sent out. Alternatively, as I note, Kā Rūnanga may prefer to file the CIA when providing comments to this application.

[16] For the record, I note that Kā Rūnaka raise substantive concerns around the rate of urbanisation, and desire new developments be designed and managed to actively restore ecological and cultural balance.

Complexity

[17] As the decisions released to date attest, the Act's processes for evaluation and decision-making are rigorous. The expectation of all participants is high, and effective engagement under this legislation requires a focus on the matters of consequence to the decision.

[18] That said, the appointment of experts to the panel is to rapidly identify the principal issues in contention and either to make findings on those issues or direct appropriate processes to narrow or resolve differences. If there are differences, then the time frame is to be appropriate to either resolve through the processes described in the Guidance Note if necessary or make findings on the same.

[19] Staying with the 55 working day time frame, Appendix B sets out an alternative timing and sequencing of statutory processes. I provide this to assist participants in understanding my rationale for the time frame. Subject to the timeframes imposed under the Act, it is a matter entirely for the Panel as to how to use the time allocated.

Decision on time frame

[20] Having considered feedback received during the Convenor's Conference, and having regard to the scale, nature and complexity of this application, the decision time frame is 55 working days from the date that the Applicant's response to comments is received

[21] The panel commencement date, for the purpose of section 53 of the Act, is 5th November 2025. The panel will invite comments by 19 November 2025, and comments will be due by 17 December 2025. The Applicant will file its comments in response by 14 January 2026. Subject to the processing of the application being suspended for any of the reasons outlined in section 60 of the Act, the decision on the application will be due on 2 April 2026.

Objection to the Chair

[22] I will appoint senior counsel, Trevor Robinson, to chair the panel.

[23] When I initially approached Mr Robinson he brought to my attention that he had been on a panel appointed by the District Council to decide zoning of the subject site under the proposed District Plan ('zoning decision'). The zoning decision was appealed to the Environment Court, and the Court came to a different view on land uses enabled within that zone. Mr Robinson provided me with a copy of the zoning decision and the decisions of the Environment Court. I advised him that I would canvass the local authorities and the Applicant to ascertain whether any issue of principle arose from his appointment to the panel set up to decide this application.

[24] The Applicant responded, noting Mr Robinson's involvement in the District Plan hearings and recording that during the hearing the capacity of the area of the site to adsorb development was in issue and likely to be in issue for the Ayrburn Screen Hub application. Given this, the Applicant submits that there may

be a “possible perception of unconscious bias potentially affecting the necessary open-minded and objective consideration of relevant issues”.³ The Applicant stresses that it does not raise any issue about Mr Robinson’s integrity.

[25] Addressing the perception of bias, I found the process outlined in the Recusal Guidelines for Judges of the Environment Court helpful. The guiding principle is that a [person]⁴ is disqualified from sitting if, in the circumstances, there is a real possibility that in the eyes of a fair-minded, objective and fully informed observer, the person might not be impartial in reaching a decision on the case. This includes instances where there may be an appearance of bias (as asserted).

[26] I have applied the two-step test set out in the Recusal Guidelines and my conclusions follow.

[27] The circumstance that is said to give rise to an appearance of bias is a zoning decision made by the panel of which Mr Robinson was one of four members. That decision was subsequently appealed to the Environment Court, which came to a different conclusion on the land uses to be enabled in the zone. I considered the circumstances that the Applicant says might lead to a reasonable apprehension of bias. Having spoken a second time with Mr Robinson, I am not satisfied a fair minded, objective, and fully informed observer might reach that view. I reach this view considering:

- (a) The passage of time (the relevant zoning decision was made in 2019).
- (b) The applicable law to decide this application and the plan policy context are different:
 - (i) The zoning decision concerned the Waterfall Park Development’s Ltd use of land for residential and village purposes. On appeal Waterfall Park sought one of three

³ Email dated 13 October 2025 from Warrick Goldsmith to the EPA.

⁴ I substitute ‘person’ for ‘judge’.

alternative zoning options for Ayrburn Farm, albeit two of those were not ultimately pursued. Different land uses are proposed in the FTAA application.

- (ii) While landscape and amenity were in issue, the principal reason given for not rezoning land for residential and village purposes concerned the effects of the rezoning on water quality in the Lake Hayes catchment. This, when considered in the context of the NPSFM and the Partially Operative RPS 2019, led the panel conclude that a Rural Amenity Zone was more appropriate.
- (iii) Relevant to the effects on landscape and amenity, the zoning panel found more development could occur in the zone proposed by Waterfall Park than was addressed in its evidence.
- (iv) The planning context has been superseded by the Environment Court's decisions on the objectives and policies of the proposed District Plan, including Chs 3 and 4 (as to Strategic Directions and Urban Development) and Ch 24 (Wakatipu Basin) its approved Structure Plan.

The Panel

[28] Taking into consideration the circumstances set out in clause 3(7)) of Schedule 3 and having canvassed the matter with participants at the Convener's Conference, I consider that there are circumstances warranting the appointment of more than 3 persons.

[29] Having considered all the matters under clauses 3, 4, and 7 of Schedule 3 of the Act, I appoint the following persons to the Panel:

- (a) Trevor Robinson (chair)
- (b) Ray O'Callaghan
- (c) Hoani Langsbury
- (d) David McMahon (local authority nominee)

[30] I have appointed Mr Langsbury in response to Ngāi Tahu's submission that it is highly desirable for at least one panel member to have expertise in Ngāi Tahu tikanga, given the significance of the area to Kā Rūnaka and the wider iwi. I would add that, given the disagreement that has arisen during the consultative process, care will be by the panel moving forward.

[31] I have considered the skill set and experience required for the Panel. I have satisfied myself that the panel collectively has a good understanding te ao Māori and Māori development (clause 7 of Schedule 3). The panel members have satisfied me that they have no conflict of interests. In making these appointments, I consider the panel will collectively have the skills and experience required under clause 7 of Schedule 3.



Jane Borthwick

Panel convener for the purpose of the Fast-track Approvals Act 2024

Appendix A: Persons in attendance the Convener's Conference

Organisation	Name	Title
Waterfall Developments Limited (the applicant)	Warwick Goldsmith	Legal Counsel
	Lauren Christie	General Manager
	George Watts	Senior Design Manager
	Karl Cook	Planner Barker & Assoc
	Simone Williams	Planner Barker & Assoc
QLDC	Neil Harkin	Senior Planner
	Sarah Scott	Legal counsel
	David Wallace	General Manager Planning and Development
	Fiona Blight	Manager Resource Consents
	Jeff Fuller	Senior Planner
ORC	Mat Bell	Team Leader Consents
	Jenny Ross	Team Leader Consents
Ministry for the Environment	Sarah McDaniel	Analyst
Kā Rūnaka	Rachel Robilliard	Legal counsel
EPA	Mel Prescott	Advisor

Appendix B⁵

Task	Working Days	Date
Panel commencement	n/a	5 November 2025
Invite comment from participants	10 w/d later	19 November 2025
Comments close for invited participants (ss 53 & 54)	20 w/d	17 December 2025
Comments close for applicant (s 55)	5 w/d later	14 January 2026
Any other procedural steps, evaluation, and decision writing		To be directed by the panel
Draft decision is to approve		
Draft decision and conditions to Ministers (s 72)	30 w/d later from close of comments for the applicant	26 February 2026
Response from Ministers (s 72)	10 w/d later	12 March 2026

⁵ Excluding Christmas period as set out in the Resource Management Act 1991 and other statutory holidays.

Draft conditions and decision to participants		26 February 2026
Participant comments on draft conditions	10 w/d later	12 March 2026
Applicant response to participants on conditions (s 70(4)) Applicant response to Ministers' comments (if any)	5 w/d later	19 March 2026
Evaluate and finalise decision and conditions and release final decision	10 w/d later	2 April 2026