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## MINUTE 11 OF THE EXPERT PANEL

Designation lapse date  
[FTAA-2507-1085]

16 March 2026

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[1] In its draft decision the Panel proposes to impose a 20 year lapse date on the approval for alteration to designations D203 and D181, to align with the 20 year lapse date sought by the applicant relating to the resource consents.

[2] The Panel's draft decision sets out the legal issue perceived by the Panel in relation to lapse dates on alterations to designations under the Fast Track Approvals Act 2024 (**FTAA**). While the Panel acknowledged case law under the Resource Management Act 1991 (**RMA**) which suggests that a lapse date should not be imposed on an alteration to a designation, the Panel is required to consider the relevance and application of clause 26 to Schedule 5 of the FTAA, which requires the Panel to specify a lapse date for an approval sought under the FTAA in order to avoid the default position of the approval lapsing after 2 years.

[3] The Panel acknowledges the applicant's submissions on this issue set out in its Memorandum of Counsel dated 6 March 2026. In essence, those submissions argue that, because the approval in this case is for an alteration to a designation, and the original designation (which covers the existing SH2 in the Project area) has been given effect to, then the Panel cannot impose a lapse date.

[4] The submissions highlight the following aspect of clause 26(1) in support of

that submission:

“A decision document for a resource consent or **designation** must specify the date on which the approval lapses **unless it is given effect to** by the specified date” (emphasis added). [Applicant’s emphasis]

[5] The submissions also highlight that “*The definition of “designation” does not include an alteration to a designation.*”

[6] The Panel acknowledges that the definition of designation (taken from s166 RMA) does not include an alteration to a designation. However, the Panel observes that clause 26(1), Schedule 5, FTAA refers to the date on which the “approval” lapses (which must be specified in the decision document) rather than the date on which the designation lapses. “Approval” is defined in the FTAA (s42(4)(d)) to include “a designation or an alteration to an existing designation ...” . The Panel considers it arguable that the qualification “unless it is given effect to by the specified date” relates to the approval (i.e. the alteration to the designation) rather than the original designation.

[7] The Panel also observes that D181 (Road for access to SH2) is proposed to be altered in addition to D203 (Road purposes – SH2), and it is unclear from the information provided with the Application whether that designation has been given effect to.

[8] Given the legal position is unclear, and it is at least arguable that the deeming provision (setting a 2 year default lapse date) would apply to the approval sought to alter the existing designations, the failure to impose a lapse date on the altered designation (as proposed by the applicant) runs the risk that the default date should apply as a matter of law.

[9] The Panel is unclear why the applicant opposes the Panel imposing a clear lapse date of 20 years in the approval for the alteration to the designations, given that date aligns with the resource consent lapse dates sought by the applicant and given that, once the approvals sought are given effect to, then the lapse date would not apply in any event.

[10] The Panel therefore seeks:

- [a] Confirmation as to whether the applicant accepts the imposition of a 20 year lapse date for the alteration to designation approval; or, if not
- [b] Clear reasons why the applicant opposes a lapse date (both practical and legal reasons).

[11] The Panel directs the EPA to request the above further information from the applicant pursuant to section 67(1)(i) FTAA. The information is required to be provided by **5 p.m. on Tuesday 17 March 2026.**



Mary Hill  
Takitimu North Link – Stage 2 Expert Panel Chair