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## MINUTE OF THE PANEL CONVENER

Advising of the Expert Panel Appointments and Decision Timeframe

[FTAA-2507-1089]

4 February 2026

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[1] A conference was held on 21 January 2026 to gather participant views on matters arising in relation to the application filed under the Fast-Track Approvals Act 2024 (FTAA).

[2] I am grateful for the consideration given to this application in the detailed memoranda filed. A list of persons who attended the conference is attached to this memorandum and marked “A”. The EPA has been asked to provide the memoranda to the panel, as participants intend them to serve as a snapshot of the current topics and issues.

[3] I have taken into consideration the views expressed when deciding both the timeframe for the decision and the composition of the panel.

[4] I also wish to record participants’ commitment to a smooth and efficient process and accept that they are working hard to be in a position to assist the panel, when appointed, within the time available.

### **Scale, nature, and complexity of the approvals sought**

[5] Participant memoranda indicate, and I accept, that the application is substantial in scale and technically complex. There are likely to be many principal issues for resolution, with significant evidential complexity and inter-dependencies. Opinion evidence will require analysis of technical, scientific,

and other highly specialised subject matter. Factual complexity will arise because some matters fall within the jurisdiction of multiple regulatory agencies. The application will likely raise novel legal issues. The engagement of multiple jurisdictions, a feature of the Fast-Track Approvals Act, introduces added legal complexity, as the panel must be cognisant of several specified Acts (parent legislation) as well as the Fast-Track Approvals Act.

### **Effective process**

[6] Most Fast-Track participants will have heard me speak about the need to front-load the process.<sup>1</sup> By time of the convener's conference, it is usual that for invited participants:

- (a) the payment of the local authority's costs is resolved,<sup>2</sup>
- (b) any gaps in information or questions of clarification are identified and addressed,
- (c) site visits attended by the applicant's and participants' experts have taken place,<sup>3</sup>
- (d) issue identification is complete or well underway,
- (e) review of draft conditions and management plans is underway.

[7] On this occasion, a copy of the draft application was not provided to the invited participants before lodgement, although some near-final draft reports were provided as they came to hand.

[8] The applicant has explained its reasons for this but is aware of the challenges it creates for the local authorities particularly in the procurement external resources (experts), with Christmas intervening to reduce their availability

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<sup>1</sup> By front-loading the process I mean concentrating effort early on (for example, scoping issues, identifying information gaps, and organising site meetings) so later stages can run more smoothly and with fewer surprises.

<sup>2</sup> The District Council and applicant appeared to have different views on post-lodgement costs, with arrangements only being put in place by mid-December.

<sup>3</sup> With additional site visits scheduled (if required) for future dates.

prior to the conference. Although the process of identifying or clarifying information has commenced, the narrowing or resolution of matters this will now largely await the production of the participants' comments and the applicant's response.<sup>4</sup>

[9] Effective procedures can put in place by the panel to achieve the purpose of the Act.<sup>5</sup>

[10] With the applicant's agreement, the commencement date will be 25 February 2025, rather than the earlier date I indicated. This provides them the opportunity to respond to information requests from persons appearing at this conference.

[11] The applicant has identified several measures that support the Fast-Track Approvals Act's purpose noting that the Act provides an opportunity to move beyond traditional hearings and enables participants to adopt practical and innovative approaches to resolving issues, clarifying matters, and narrowing the scope of any contentious points.<sup>6</sup>

[12] To that end, the applicant, Otago Regional Council, Central Otago District Council, and the Director-General of Conservation anticipate expert conferencing on an array of topics. Mediation and workshopping of conditions and management plans may also be sought.<sup>7</sup> The need for a hearing on discrete topics was mentioned, with Kā Rūnaka noting that a hearing on cultural evidence and

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<sup>4</sup> It is possible some issues will fall away once further information to be provided by the applicant is considered.

<sup>5</sup> FTAA, Schedule 3, cl 10 (1) provides "A panel must regulate its own procedure as it thinks appropriate, without procedural formality, and in a manner that best promotes the just and timely determination of the approvals sought in a substantive application."

<sup>6</sup> Applicant's memorandum at [46].

<sup>7</sup> Applicant memorandum dated 16 January 2026 at [44-46] and the attachment. CODC memorandum dated 16 January 2026 at [35-37]. ORC memorandum dated 16 January 2026 at [45]. Director-General of Conservation memorandum dated 16 January 2026 at [42-44].

legal issues is desirable.<sup>8</sup>

### **Breach of Treaty settlement**

[13] Kā Rūnaka signalled that granting the approvals sought may be in breach of Treaty settlements. If that is correct, and sections 7 and 85(1)(b) apply, section 69 will be likely be triggered.

[14] If section 69 is triggered, for this or any reason, the panel must have adequate time to consider any amendments proposed by the applicant. The time required to consider an amended application, is in addition to time required for ss 70 and 72 processes. The panel convener cannot extend the timeframe for a decision.

### **Timeframe for a decision**

[15] Matakanui Gold Ltd has amended its earlier estimated timeframe from 30 working days to 60 working days.<sup>9</sup> Of that period, 12 working days are proposed for expert conferencing, mediation, or other processes to resolve matters in contention.<sup>10</sup> Matakanui Gold's confidence in these time estimates stems from its consultative processes before and after lodgement, and consultation remains ongoing.

[16] For reasons that they give, the other participants have a different view on the effectiveness of the consultative process and, accordingly, the timeframe the panel will require.<sup>11</sup> The District Council recommends a minimum timeframe of 120 working days, and the Director-General and Regional Council recommend a

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<sup>8</sup> Kā Rūnaka memorandum dated 16 January 2026

<sup>9</sup> All timeframes in this Minute commence after the participant comments are received (s 54).

<sup>10</sup> Additional time for conferencing, conditions workshops and mediation were proposed if, following the release of the draft decision, the participants were not in agreement on conditions). This is a very useful suggestion by the applicant.

<sup>11</sup> When iwi and hapū, or any other consulted persons, provide views on a proposal, the application should have included a response to those views.

minimum timeframe of 140 working days with the latter suggesting of that time, six weeks should be allowed for expert conferencing. These timeframes reflect the range of issues currently in issue as between them. Kā Rūnaka and Heritage New Zealand Pouhere Taonga did not offer a view on time.

[17] In my experience, a period of 12 working days proposed by the applicant would be insufficient to convene and conclude multiple technical expert conferences or to mediate. This is so even if some events could occur concurrently. No arrangements appear to have been put in place, and no opportunity allowed for the panel to give guidance on the purpose of the conferencing.

[18] The Act's decision-making criteria and other assessment matters,<sup>12</sup> and other statutory directions that apply to the panel when making its decision<sup>13</sup> are relevant. These are detailed and cannot be addressed within 5–10 working days as suggested by the applicant. While the timeframe must be decided regarding the nature, scope and complexity of this application<sup>14</sup> the timeframes for other complex applications are informative. I consider this application to be more complex than the nearest comparable case, Oceana Gold (New Zealand) Limited's application for the Waihi Mine, and that it will require a longer timeframe than the Waihi Mine. There are important differences also, including the fact Oceana has existing and consented mines and mining activities at Waihi and therefore a knowledge base to draw upon; participants were familiar with the application as it had been originally lodged under the RMA and finally, when the panel commenced Oceana had resolved or narrowed many of the issues raised by the local authorities.

[19] The applicant has not persuaded me that 60 working days is an appropriate timeframe. The timeframe is insufficient given the scale, nature, and complexity of the approvals sought and matters arising in relation to the substantive application

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<sup>12</sup> See FTAA, Schedules 5-11 (as relevant).

<sup>13</sup> For example, FTAA, ss 81 and 85.

<sup>14</sup> See pursuant to s 79.

including:

- (a) The interdisciplinary and transdisciplinary nature of the technical reports and approvals for determination;
- (b) The outstanding information requests;
- (c) The fact that narrowing or resolution of issues is yet to occur;
- (d) The agreed requirement for the alternative dispute resolution processes;
- (e) The possible requirements for hearing time; and
- (f) Possible invocation of s 69 of the Act.

[20] Having regard to the scale, nature, and complexity of the approvals sought, and the other matters in s 79, I have decided the appropriate timeframe for release of the decision is 140 working days.<sup>15</sup>

[21] The panel commencement date, for the purpose of section 53 of the Act is 25 February 2026. The panel will invite comments from participants by 11 March 2026, and comments will be due by 10 April 2026. The applicant's comments in response will be due 17 April 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 29 October 2026.

### **Panel members**

[22] Skills, qualifications and experience of expert panel

[23] The panel appointed must, collectively, have

- (i) knowledge, skills, and expertise relevant to the approvals sought in the substantive application; and

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<sup>15</sup> FTAA, section 79.

- (ii) expertise in environmental matters.<sup>16</sup>

[24] I consider that there are circumstances warranting the appointment of more than three persons and will appoint seven panel members. Each panellist is an expert within their subject-matter fields. Three of the appointed seven panel members have mining sector experience.

[25] The reasons for appointing seven members are first to ensure that collectively, the panel has the attributes to consider and decide this complex application for multiple approvals. Comprising 141 documents, the subject-matter expertise<sup>17</sup> engaged by the applicant is extensive. While the applicant says the issues raised are not novel in a mining context, this does not derogate from the Act's requirement that the panel collectively has subject-matter expertise and expertise in environmental matters.

[26] Kā Rūnaka say their concerns are significant and immutable. I accept tikanga that is relevant to the application, however I decline to appoint, as suggested, multiple persons who are familiar and competent with local tikanga. As required by the Act, several are members of the panel with an understanding of Te Ao Māori and Māori development. I have noted for the panel Kā Rūnaka's suggestion that the panel obtain advice on tikanga and that sensitive information they provide be protected.

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

- (a) Hon Matthew Muir KC (Chair)
- (b) Gina Sweetman
- (c) Philip Barry

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<sup>16</sup> FTAA, Schedule 3, cl 7.

<sup>17</sup> Subject matter expertise means knowledge, skills, and expertise relevant to the approvals sought in the substantive application.

- (d) Roger MacGibbon
- (e) Tim Mulliner
- (f) Peter Kensington
- (g) Douglas Johnson

[28] The appointment will be effective on 12 February 2026 with the panel commencement date, for the purpose of s 53, being 25 February 2026.

A handwritten signature in black ink, appearing to read 'Jane'.

Jane Borthwick

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



## **Attachment A**

Participants at the convener conference:

### **Applicant team**

- Cheryl Low
- Damian Spring
- Joshua Leckie
- Laura Brown
- Mark Chrisp
- Nicolai Berry

### **Kā Rūnaka**

- Nicole Buxeda
- Mike Holm
- Shane Ellison

### **Central Otago District Council**

- Ann Rodger
- Fiona Garrett
- Kirstyn Royce
- Jayne Macdonald
- Peter Kelly

### **Otago Regional Council**

- Shay McDonald
- Jenny Ross
- David Randal

### **Heritage New Zealand Pouhere Taonga**

- Emma Clifford
- Melanie Russell

### **Department of Conservation**

- Dean van Mierlo
- Pene Williams
- Marie Payne

### **Ministry for the Environment**

- Michelle Flay