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## MINUTE 26 OF THE EXPERT PANEL

Suspension of processing  
Ashbourne [FTAA-2507-1087]

(18 March 2026)

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1. The Panel has now considered the joint memorandum filed on behalf of Matamata-Piako District Council (MPDC) and Waikato Regional Council (WRC) dated 18 March in relation to expert conferencing on NPS-HPL issues.
2. The Memorandum concludes that the Panel ought to decline the request for expert conferencing because, alongside the FTAA post-draft decision provisions and section 79 timeframes, the timing guidance in paragraph 15.1 of the Panel Convenors' Practice and Procedure Guidance ('the Guidance') weighs against initiating conferencing at this stage without a compelling justification.
3. Paragraph 15.1 of the Guidance provides for expert conferencing to be directed by the Panel prior to its formal deliberations and the Councils' Memorandum notes that the Panel is in the deliberations stage and expert conferencing is neither necessary nor proportionate.
4. The Panel agrees with that advice and that there is no compelling justification to depart from the Guidance.
5. The Councils' Memorandum does record that in their view, if discrete clarification is required, the Panel may issue narrowly scoped written questions under section 67 with short response times.
6. That may be the case, but this Panel does not require clarification on any issues associated with NPS-HPL.
7. Subsequent to the Councils' Memorandum being received by the Panel, we received another Memorandum from the Applicant which challenged the Councils' weighting of the Guidance and the timing of the deliberations. At paragraph 7 the Applicant stated:

*With respect, and noting that "formal deliberations" is not a term that is defined in the Guidance, MDL does not consider that it is appropriate to treat the issue of a draft decision as the commencement of the Panel's "formal deliberations". This is because:*

*(a) interpreting the Guidance in the way proposed by MPDC and WRC would be inconsistent with section 67 of the Act;*

*(b) the draft decision and conditions reflect the Panel's preliminary views on the application. Consistent with the decision-making process under the Act being an iterative one, the ability to provide comments or make amendments to the application under sections 69 and 70, illustrate that the Act intends for the parties to be able to provide input on the Panel's proposed approach before any final decision is prepared. Accordingly, the Panel must remain open to amending or refining its preliminary findings, as expressed in the draft decision, where it has received further feedback, information or evidence; and has been made to gather no further information that may assist the making of a final decision.*

*c) if the Panel's deliberations were to invariably commence when a draft decision is being developed, that would preclude a panel from ever having the benefit of conferencing as a result of issues emerging during that draft decision preparation. Formal deliberations should be considered to commence when a decision has been made to gather no further information that may assist the making of the final decision'*

8. The Panel disagrees. The time constraints placed on all participants in this process are onerous. The draft Decision is a result of the deliberations by the Panel and is required to be offered to the Applicant to provide an opportunity for the Applicant to propose conditions or modification to the Applications. It is not a strictly iterative process at the current stage. Nothing in the Act supports that assumption, and sections 69 and 70 are specific in their constraint on what the Applicant provides at this stage of the process.
9. The Applicant has been offered numerous opportunities through RFI's to provide more expert evidence and to seek to undertake conferencing before the draft Decision was issued.
10. We remind the Applicant that on 4 February 2026 we stated in Minute 14 paragraph 13 that there was a very real likelihood that the Panel would decline approvals for development on HPL.
11. The draft Decision made it plain that the evidence of the Council expert on HPL productivity is preferred to the evidence of the Applicant in that regard.
12. The Panel has received a number of comments on the conditions, and understands that these will be uploaded to the website in the near future. These include a legal opinion from Mary Hill on behalf of the owners of 247A, 247B and 173 Station Road who are strongly in support of the Application as their land forms part of the development site. The views expressed mirror those of the Applicant.
13. The opinion takes the view that section 70 provides an opportunity for comments to be made on conditions when an application is approved and as such does not preclude comments on the draft decision itself. We accept that a commenter may provide the background reasoning for a condition to be added, modified or removed pursuant to section 70, but the procedure where an approval is declined is dictated by the constraints in section 69(2) and specifically confines the Applicant to proposing conditions on, or modifications to, the approvals sought.
14. There were also claims of unfairness in respect of the failure to hold a hearing on HPL issues. As stated above, we had expert evidence from both the Applicant and the Council in response to RFI's. We saw no reason to hold a hearing. We remain

of the view that we received all the necessary evidence we required. To suggest that we did not receive enough evidence because we did not approve the RV is a specious argument.

15. Like the Applicant, Ms Hill describes this process as iterative. The Panel takes the view that the current iterative process is the deliberation and the receipt of comments on conditions and proposed conditions or modifications of approvals.
16. This is a fast-track application and the claim that the Applicant can continue to offer evidence and engage in conferencing on an iterative basis after the draft Decision issues runs counter to the purpose of the FTAA.
17. The Panel therefore declines the request by the Applicant for expert conferencing on issues associated with NPS-HPL. Accordingly, it also declines the request for the suspension period sought to enable that conferencing to occur but will approve the suspension from for a limited period of time, from **11.59pm Tuesday 17 March** to **11.59pm Friday 20 March 2026** to enable the conditions or modifications and comments to be provided by the Applicant pursuant to sections 69 and 70. Such response must be received by **5pm Monday 23 March 2026**, upon resumption of processing.
18. Any comments (or further comments, if comments have already been provided) on draft conditions from other parties pursuant to section 70 of FTAA must now also be received by **5pm Monday 23 March 2026**.
19. Any comments on the draft decision and conditions from the Minister of Māori Crown Relations and the Minister for Māori Development pursuant to section 72 must now be received by **5pm 30 March 2026**.



Sue Simons  
Expert Panel Chair