

Before the Panel Convener

FTAA-2604-1217

Under Fast-track Approvals Act 2024

In the matter of Remarkables Ski Area Upgrade and Doolans Expansion

Memorandum of counsel on behalf of Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou, Hokonui Rūnanga, Waihōpai Rūnanga, Te Rūnanga o Awarua, Te Rūnanga o Ōtaka-Aparima, Te Ao Marama Incorporated and Aukaha (1997) Limited regarding Minute 3 of the Panel Convener

Date: 3/08/2026

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May it please the Panel Convener

- 1 This memorandum is filed on behalf of Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou, Hokonui Rūnanga, Waihōpai Rūnanga, Te Rūnanga o Awarua and Te Rūnanga o Ōraka-Aparima, Te Ao Mārama Incorporated and Aukaha (1997) Limited in advance of the convener's conference, scheduled for 10am on Thursday 6 August 2026.
- 2 Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou, Hokonui Rūnanga, Waihōpai Rūnanga, Te Rūnanga o Awarua and Te Rūnanga o Ōraka-Aparima (collectively, *Kā Rūnaka*) represent mana whenua in the Tāhuna (Queenstown) area.
- 3 This memorandum is provided in response to the Minute 3 of the Panel Convener regarding the Convener's conference for the Remarkables Ski Area Upgrade and Doolans Expansion (*Application*) by NZSki Limited (*the Applicant*) under the Fast-track Approvals Act 2024 (*FTAA or Act*).
- 4 Minute 3 invites conference participants to:
 - (a) comment on the extent of engagement by the applicant both before and following lodgement of the application;
 - (b) identify in-house experts and external consultants engaged on this project;
 - (c) identify principal issues in contention and whether those issues are capable of resolution through conditions of approval;
 - (d) record processes agreed with the applicant to narrow or reduce any issues;
 - (e) describe the complexity of this application;
 - (f) state whether the drafting of proposed conditions (and management plans) is accepted;
 - (g) proposed efficient processes for the Panel to understand, resolve or narrow the scope of any likely issues and implications for the timeframe.
- 5 This memorandum has been structured to briefly address these points in turn, with the intention that this will be expanded upon at the Conference.

A. Engagement with the applicant

- 6 Engagement between the Applicant and Kā Rūnaka has been inadequate and significantly constrained by what is essentially a refusal by the Applicant to meet the reasonable costs incurred by Kā Rūnaka in fulfilling their statutory role under the FTAA.
- 7 This is recorded in Section 5 of the substantive application, where the Applicant states:
 - (a) NZSki has further engaged with Papatipu Rūnaka via their mandated agents for FTAA, Kā Rūnaka, regarding the specific details of the Project.
 - (b) This commenced on 14 March 2025, with a process agreement entered into in July 2025. NZSki understands Kā Rūnaka are responsible for engaging with Papatipu Rūnaka, and therefore separate consultation by NZSki with Te Rūnanga o Ngāi Tahu has not been further advanced. A record of this engagement is set out in Part E (refer to document E.01) of the application documents.
 - (c) Following a discussion between NZSki and Kā Rūnaka regarding costs of Kā Rūnaka ongoing involvement in the FTAA process, Kā Rūnaka terminated the process agreement on 7 April 2026. NZSki remains committed to open and transparent engagement with both Papatipu Rūnaka and Te Rūnanga o Ngāi Tahu and seeks to continue discussions regarding both the Project and the longer-term vision for the mauka.
- 8 Kā Rūnaka understand that this *commitment* did not extend to funding Kā Rūnaka engagement with the Applicant or involvement in the Fast-track process, nor will costs incurred by Kā Rūnaka in continuing discussions be fully recoverable.
- 9 Kā Rūnaka are aware of the High Court's decision in *Ngāti Kuku Hapū Trust v Environmental Protection Agency* [2025] NZHC 2046 that confirms that the principles for adequate consultation in the *Land Air Water Association v Waikato Regional Council* case apply to applications under the FTAA, and that the consultation requirements in the FTAA are intended to be strictly applied.
- 10 Further, Schedule 5 of the FTAA sets out the requirements for approvals relating to the RMA, which includes requirements that the assessment of environmental effects includes:

- (a) Cl 6 (e) identification of persons who may be affected by the activity and any response to the views of any persons consulted, including the views of iwi or hapū that have been consulted in relation to the proposal;
 - (b) Cl 7 (d) any effect on natural and physical resources that have aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generation.
- 11 Schedule 6 of the FTAA sets out the requirements for approvals relating to the Conservation Act 1987, which includes requirements that the assessment of application for concession includes:
 - (a) Cl 3 (d) (ii) information about the extent to which the project is consistent with any conservation management strategies or conservation management plans that have been co-authored, authored, or approved by a Treaty settlement entity; and
 - (b) Cl 7 (1) (vii) (A) must take into account any conservation management strategies or conservation management plans that have been co-authored, authored, or approved by a Treaty settlement entity
- 12 Kā Rūnaka are of the view that these requirements have not been met by the Applicant to date.
- 13 Following the termination of the process agreement, the Applicant commissioned from a third party an *“Overview of Ngāi Tahu Treaty Settlements”* which is transparent that it is not an impact assessment.

B. Experts engaged

- 14 Due to the refusal by the Applicant to resource Kā Rūnaka involvement in the Application, Kā Rūnaka are still working through the extent to which they are able to engage experts for this Application.
- 15 At this stage, Kā Rūnaka have engaged the following experts/counsel:
 - (a) Dr Alayna Rā – Landscape and visual;
 - (b) Matt Dale – Ecology;
 - (c) Dr Gail Tipa – Cultural impact and Treaty settlement;
 - (d) Dr Richard Meade – Economics;
 - (e) Anderson Lloyd – Legal.

- 16 Subject to resourcing decisions, and discussions with the Applicant, further experts may be engaged.

C. Principal issues in contention

- 17 Kā Rūnaka (and their appointed experts) are yet to complete detailed reviews of the AEE and technical assessments. Therefore, at this stage we are unable to narrow or identify with great accuracy the issues Kā Rūnaka consider will need to be addressed by the Panel.
- 18 It is however anticipated that the following issues may or will be raised by Kā Rūnaka:
- (a) Whether the Applicant has fulfilled the obligation to consult with relevant iwi authorities, hapū, and Treaty settlement entities under the FTAA section 29;
 - (b) Lack of assessment of effects on cultural impacts, the Ngāi Tahu Settlement and associated instruments and the Treaty of Waitangi;
 - (c) Whether the concession application triggers right of first refusal requirements under the Ngāi Tahu Claims Settlement Act 1998, and more broadly whether the Application is in breach of the Ngāi Tahu treaty settlement, and therefore in breach of the FTAA section 7;
 - (d) The obligations of any decision maker in relation to section 4 of the Conservation Act 1987 in relation to determining a concession (and the extent to which a decision maker must have regard to the principles of the Treaty of Waitangi);
 - (e) Adequacy of the scope of assessment of effects, including omission of assessment of effects on the Mata-au (Clutha River) and associated statutory acknowledgment area;
 - (f) Effects on freshwater bodies and species, including taonga species;
 - (g) Effects on the wāhi tupuna cultural landscape and terrestrial taonga species;
 - (h) Effects of proposed wastewater disposal, including on ecology and mauri;
 - (i) Intergenerational impacts diminishing the ability of future generations to recognise and relate to ancestral landscapes;
 - (j) Diminution of mauri through development pressures;

- (k) Lack of conditions addressing mana whenua role and cultural values;
- (l) Accidental discovery protocol and kōiwi / taonga protocols.

19 In our submission these matters are fundamental to ability for the Application to proceed. To proceed otherwise would establish a dangerous precedent for the FTAA process, set an unacceptably low standard for the acknowledgement of cultural severance within the Ngāi Tahu takiwā, and undermine the integrity of the Panel's decision-making mandate.

D. Processes agreed

- 20 No processes have been agreed with the Applicant. The Process Agreement remains terminated.
- 21 Kā Rūnaka are willing to engage with the Applicant, but do not expect to do so at their own expense.

E. Complexity of the application

- 22 Kā Rūnaka consider that this application is highly complex due to:
- (a) The interface with the Conservation Act and Ngāi Tahu Claims Settlement Act;
 - (b) The culturally significant and environmentally sensitive location; and
 - (c) The lack of engagement with cultural issues.

F. Drafting of conditions

- 23 Kā Rūnaka have not been able to advance any engagement with the Applicant on the proposed consent conditions.

G. Panel timeframe and process

- 24 Given the above, Kā Rūnaka consider that it would not be appropriate to formally appoint a Panel for the Application until the deficiencies in information and consultation are rectified.
- 25 Kā Rūnaka consider that, with the cooperation of the Applicant, this could be achieved by October.
- 26 If it is not possible to delay appointing a Panel, Kā Rūnaka consider that an additional period of at least eight weeks is required in the Panel process to enable sufficient time for assessment by mana whenua to be finalised and any new issues to be worked through.

27 It is emphasised that in terms of wider Kā Rūnaka involvement in applications under the FTAA, the current application is unprecedented. Kā Rūnaka are committed to engaging to the best extent they can but they are concerned that any Panel will ultimately need to determine matters that ordinarily would have been resolved through applicant and Ka Rūnaka constructive and respectful engagement.

Dated this 3rd day of August 2026



Ben Williams / Rachel Robilliard

Counsel for Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou, Hokonui Rūnanga, Waihōpai Rūnanga, Te Rūnanga o Awarua and Te Rūnanga o Ōraka-Aparima