

BEFORE THE PANEL CONVENER

FTAA-2608-1290

UNDER

Fast-track Approvals Act 2024

IN THE MATTER

of the Tahimana Project

**FIRST MEMORANDUM OF COUNSEL FOR TAHIMANA LIMITED - RESPONSE
TO PANEL CONVENER MINUTE 2**

Dated 12 October 2026

Counsel: Sally Gepp KC
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SALLY GEPP KC
BARRISTER

TO THE PANEL CONVENER

1. This memorandum responds to the Panel Convener's Minute 2.

Updating matters

Status of application under the Resource Management Act 1991 (RMA)

2. The substantive application refers to Tahimana Limited's application for resource consents to Tasman District Council (**Council**) under the RMA. That application was withdrawn on 8 October 2026 in accordance with s 94 FTAA.

Planning Act 2026 and Natural Environment Act 2026

3. Amendments to the RMA and the FTAA made by the Planning Act 2026 and Natural Environment Act 2026 do not apply to this application because it was lodged "before the date of commencement of the transition period". The application must continue to be processed and determined under the FTAA, and in relation to the RMA, as in force at the time the application was made.¹

Matters in Panel Convener Minute 2

Applicant's view on appointment of Panel Members and timing of panel decision

4. As the purpose of the Panel Convener conference is to gather participant views on the Panel Convener's decisions regarding the appointment of panel members and the timing of the panel decision, the Applicant sets out its views on those matters below, before addressing the related issues itemised in Minute 2.
5. The Applicant considers that it would be useful for a panel appointed to decide this substantive application to have legal, planning, and three waters engineering (or specifically wastewater) expertise.
6. The Applicant considers that the panel should be required to make its decision within 45 working days after the date specified for receiving comments under section 53.

a. comment on the extent of engagement by the applicant both before and following lodgement of the application

7. The Applicant has engaged extensively with the Council and relevant iwi authorities and has engaged with the most directly affected neighbouring property owners and occupiers in relation to its previous application for approvals under the Resource Management Act 1991. As part of that engagement, Te Rūnanga o Ngāti Tama prepared a Cultural Impact

¹ Pursuant to cl 19 of Sch 12 of the Planning Act 2026.

Assessment² and Te Rūnanga o Ngāti Rārua prepared a Cultural Values Statement.³ The Applicant has subsequently engaged with the Council and relevant iwi authorities specifically in relation to its referral application and substantive application under the FTAA. Feedback received has informed the Project design and proposed consent conditions.

8. Prior to lodging the substantive application, the Applicant met with the Council on 8 June 2026 for the purpose of discussing any Council officer issues with the substantive application, with a view to that feedback informing the final Project design, final technical reports and proposed conditions.⁴ Amendments were made to the Project design and draft technical reports in response to feedback received at that meeting, in particular in relation to potable water infrastructure. The Council's feedback on the type of conditions it anticipated for the communal wastewater disposal infrastructure (in relation to long-term ownership and maintenance funding) was also particularly influential in preparation of the Applicant's proposed wastewater discharge conditions.
9. The Applicant subsequently provided:
 - a. A final draft of all of its technical reports to Council and relevant iwi authorities in July and August 2026 (the latest on 11 August 2026).
 - b. A copy of the Applicant's draft consent conditions in August 2026 (the latest on 17 August 2026).
10. No specific feedback has been received on those drafts as yet.
11. The Applicant has also had some engagement with the Council on Panel member areas of expertise suitable to this application. The Applicant suggested that legal, planning and three waters or wastewater expertise would be appropriate. The Applicant understood the Council to broadly agree.

b. the applicant aside, identify in-house experts and external consultants engaged on this project

12. Not applicable to the Applicant.

c. where there is a difference of opinion between the applicant and any other participant, identify:

i. the principal issues in contention; and

ii. those issues capable of resolution through conditions of approval.

² Attachment 10.1 to substantive application.

³ Attachment 10.2 to substantive application.

⁴ The minutes of this Meeting are Attachment 20 to the substantive application.

iii. record processes agreed with the applicant to narrow or reduce any issues relevant to the application and the decision that the panel is required to make

13. The Council had previously identified wastewater, water supply, roading and lighting as matters requiring discussion.⁵ Following the meeting on 8 June 2026, the Applicant understood that the Council no longer had concerns regarding water supply and that:

- a. Any issues in relation to wastewater related to ensuring long-term ownership and funding for maintenance was secured by appropriate consent conditions.
- b. Issues with roading were resolved.

14. The Council's response to the EPA on substantive application completeness is set out below:

Overall, Council considers that the Tahimana substantive application is capable of assessment through the Fast-track process and appears to address the information requirements for a substantive application. However, several technical matters require further consideration and, if approval is granted, robust conditions to ensure effects are appropriately managed over the life of the development.

Council considers that further discussion is required with the Applicant to work through the comments provided in this report. Please refer to Attachment 3 for further details on these matters. Specifically:

1. Wastewater servicing remains a key issue, particularly the long-term ownership, operation, maintenance, renewal funding and governance of the privately owned communal wastewater system.
2. Water supply arrangements require clear documentation, including the bulk supply point, private ownership of downstream infrastructure, secondary supplier obligations, storage, firefighting supply and licences to occupy for private infrastructure within road corridors.
3. Stormwater management, detention basin design, wetland recharge, water quality treatment, overland flow paths and long-term maintenance responsibilities require careful condition drafting and engineering certification.
4. Wetland and stream protection, ecological restoration planting, fish salvage, monitoring and maintenance need to be secured through enforceable and stage-linked conditions.
5. Earthworks, construction discharges, dust, erosion and sediment control, and works near wetlands and waterways will require detailed construction management plans and clear compliance triggers.
6. Transport, roading, walkway, shared path and lighting matters require further refinement through detailed design and conditions, including treatment of the Stagecoach Road and Dicker Road corridors.

⁵ Substantive Application Attachment 20: Notes of meeting

7. Productive land, housing supply, affordability and economic benefit claims may require further substantiation, particularly where those matters are relied on to support claimed project benefits.
 8. Is the proposed scale and intensity of the residential clusters is consistent with the Rural 3 Zone's intended character and development outcomes, or whether it represents a form of suburban residential development that exceeds what was anticipated by the Rural 3 planning framework.
 9. Condition sets will require further review to ensure they are internally consistent, enforceable, appropriately staged, and capable of securing the stated mitigation, monitoring, maintenance and governance outcomes.
15. The Applicant acknowledges that the Council only had a short period to provide its completeness response, and that it may not have been possible in that timeframe for the Council to consider the Applicant's proposed conditions. The Applicant considers that all matters identified above as requiring further consideration, careful condition drafting, or substantiation, have been addressed by its technical reports and draft conditions. The Applicant remains open to discussion, provision of further information, and refinement of conditions. The Applicant would be grateful for specific feedback from Council to inform those matters.
16. The Applicant has engaged with relevant iwi authorities, none of whom indicated a position of opposition to the Project. The Applicant has included conditions to address matters raised by iwi in its proposed conditions. On that basis, the Applicant does not understand there to be any significant unresolved issues as between the Applicant and iwi. However, as the Applicant has not received feedback on its proposed conditions it is acknowledged that refinements may yet be sought by iwi. The Applicant remains open to this.
17. The Applicant anticipates that owners and occupiers of adjacent land may raise traffic, amenity and rural character effects as issues of concern. Some adjacent owners may be interested to ensure stormwater and sedimentation effects are appropriately managed, including with respect to the large significant wetland to the east of the site.
18. On that basis, the Applicant anticipates that key issues in contention may be:
- a. Overall condition drafting, and conditions relating to:
 - i. Potable water supply and communal wastewater disposal (ownership, governance, funding).
 - ii. Stormwater management and earthworks and sediment controls.
 - iii. Wetland and stream protection.
 - iv. Cultural matters.

- v. Transportation and shared pathways, including lighting.
 - b. Land productivity and associated policy consistency.
 - c. Traffic, amenity and rural character effects as experienced by adjacent landowners and occupiers.
 - d. Consistency with Rural 3 Zone anticipated development.
 - e. Extent of benefits.
19. Council has advised that its list of issues is largely consistent with the above.
20. The Applicant considers all issues are capable of resolution through conditions.
21. Possible methods of resolving differences are addressed in paragraph 26 below.

d. identify any changes made, or currently underway, to the application since lodgement, whether as a result of engagement with participants or other work undertaken by the applicant, including any new or supplementary reports and draft conditions

22. The Applicant has not made any changes to the substantive application since it was lodged.
23. No work is currently underway to provide new or supplementary reports or draft conditions but the Applicant would appreciate feedback from the Council and iwi to enable it to refine its proposed conditions to address concerns where practicable.

e. describe the complexity of this application

24. The Applicant considers the substantive application to be of relatively low complexity:
- a. The only approvals sought are under the RMA. As set out above, amendments made by the Planning Act 2026 and Natural Environment Act 2026 do not apply to this substantive application.
 - b. The Project is proposed for the Rural 3 Zone. This zone has been specifically developed to provide opportunities for innovative residential developments in order to meet demand for residential living in a rural context and reduce pressure for rural residential and residential subdivision in other rural parts of the district with higher productive land, landscape and rural character values. It is not an “out of zone” or “unanticipated” development.

- c. There do not appear to be major contested issues raised by mana whenua. Issues raised by the Council appear largely to concern consent conditions rather than substantive technical differences of opinion. Issues likely to be raised by adjacent owners and occupiers are expected to be of a nature that are often raised in relation to new subdivision, and not unusual or complex.
- d. The Project does not involve significant adverse effects on the environment. The vast majority of effects are less than minor or positive.

f. state whether the drafting of proposed consent conditions (including any draft management plan filed) is accepted

25. The Applicant understands this question to be directed at other participants.

g. propose efficient processes to enable the panel to understand, resolve or narrow the scope of any likely issues and indicate how these processes may be accounted for under the decision timeframe.

26. The Applicant offers:

- a. To convene a workshop on conditions with the Council and/or interested mana whenua groups as soon as those participants are ready to meet (ideally before comments are due).
- b. To make its experts available to respond to questions from participants, either through workshops between experts or direct discussion.
- c. To report to the Panel on any outputs of such workshops and discussions.

27. To the extent that there are matters where technical differences of opinion between experts arise, the Applicant considers that expert witness conferencing would be appropriate, and that this should take place shortly after its response to comments on 15 January 2027. Given anticipated availability constraints in January, it would be helpful if the key participants could indicate early the topics where they anticipate areas of disagreement are likely to arise and their relevant experts' availability in January. That would enable expert conferencing sessions to be pencilled in, to be used if the Panel ultimately directs expert conferencing. That process should be able to be completed within two weeks (by 29 January 2027).

Schedule 2 draft timetable

28. Please see attached version of Schedule 2 at the end of this Memorandum.

The Applicant is to confirm that its experts can respond to participants' comments by 15 January 2027

29. The Applicant confirms that its experts can respond to participants' comments by 15 January 2027.

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

Sally Gepp KC
Counsel for Tahimana Limited

Schedule 2 from Panel Convener Minute 2 with Applicant views on timetable

Task	Working days	Date
Panel commencement	N/A	6 November 2026 (nominal)
Invite comment from relevant parties	10 W/D later	20 November 2026
Comments close (ss 53 & 54)	20 W/D after invites	18 December 2026
Comments close for applicants (s 55)	5 W/D after comments	15 January 2027
Any other procedural steps, evaluation and decision writing	25 W/D after comments to prepare draft decision <i>Applicant suggests that if expert conferencing is required, it is scheduled for 15 – 29 January</i>	
Draft decision is to approve		
Draft decision and conditions to Ministers (s 72)	25 W/D after comments	12 February 2027
Draft conditions and decision to participants (s 70(1))	25 W/D after comments	12 February 2027
Participant comments on draft conditions (s70(2))	30 W/D after comments	19 February 2027
Response from Ministers (s 72)	35 W/D after comments (10 W/D after invitation)	26 February 2027
Applicant response to participants on conditions (s 70(4))	35 W/D after comments (5 W/D for response)	26 February 2027
If not agreed, procedural step in relation to draft conditions.	35 - 40 W/D after comments	27 February 2027 to 5 March 2027
Applicant response to Ministers comments (if any)	40 W/D after comments (5 W/D for response)	5 March 2027
Evaluate and finalise decision	Between 35 and 45 W/D after comments	26 February 2027 to 11 March 2027
Decision release	45 W/D after comments	12 March 2027