

Fast-track Approvals Act 2024

MINUTE 14 OF THE EXPERT PANEL

Application by Save the Maitai Inc for Panel to create record of online meetings
Maitahi Village [FTAA-2502-1009]

9 September 2025

Introduction

[1] The Panel has received a memorandum from counsel for Save the Maitai Inc (**STM**) in which it seeks that “a record of the Panels meeting with PDP be made available on the Fast Track website and provided by e-mail to us.”

[2] A copy of the memorandum can be viewed on the fast-track website here:
<https://www.fasttrack.govt.nz/projects/maitahi-village/correspondence>

[3] The reference to PDP is to the consulting firm Pattle Delamore Partners which was appointed by the Panel “to assist it with issues arising from certain technical reports submitted by the applicant, namely, contaminated land, water and ecology issues in the remediation thereof” as recorded in Minute 9 dated 7 July 2025 at [4].

[4] Earlier, counsel for STM had on 11 August 2025 emailed the Environmental Protection Authority (**EPA**) requesting that a copy of the advice commissioned from PDP on contaminated land be published on the EPA website. In support of this request, counsel cited a provision from clause 14.19 of the Panel Conveners Practice and Procedure Guidance which states:

Reports of the advisors

14.19 Unless directed otherwise by the panel, the reports and advice produced by an adviser should be published on the Fast-Track website and provided to the participants.

[5] On 13 August 2025 the EPA's Advisor Regulatory Process, following consultation with the Panel, advised STM as follows:

With respect to technical advice from PDP, no report has been received by the Panel. The Panel met online with representatives of PDP on two occasions to discuss technical issues on a preliminary basis. Subsequently no report was requested by, or provided to, the Panel and there was thus nothing to publish on the EPA website.

[6] The Panel held an online meeting on 4 September 2025 to consider the application by STM. This Minute records the response of the Panel and its reasons.

Legal basis for request

[7] In essence, STM is contending that the Panel is required by law to create ex post facto a record of two meetings in circumstances where the meetings had been held and, in the exercise of its discretion to regulate its own procedure, the Panel had made no record or minutes of the meetings concerned.

[8] Counsel for STM submitted that, if meetings are held with special advisers, in order to meet the requirement to keep a full record of proceedings minutes must be kept and released. The only authority for this proposition was cl 10(5) Sch 3 of the Fast-track Approvals Act 2024 (the Act).

[9] The Panel notes that the memorandum made no reference to the provisions of cl 10(1) of Sch 3 which provide:

1. 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.

[10] Neither was any reference made to the provisions of s 10 of the Act which relevantly provide:

10. Procedural principles

- (1) Every person performing functions and duties and exercising powers under this Act must take all practicable steps to use timely, efficient, consistent, and cost-effective processes that are proportionate to the functions, duties, or powers being performed or exercised

[11] The Panel has endeavoured, at all times throughout the limited time of 87 working days within which it is required to reach its decision on the substantive application, to keep the above statutory provisions in mind and apply them to the issues in question. It has interpreted cl 10(1) above as a mandate to regulate its procedure on a discretionary basis as it thinks appropriate.

[12] Moreover, the Panel does not consider cl 10(5) of Sch 3 requires it to retrospectively create a record of what took place, particularly in circumstances where the Panel did not consider it necessary in respect of the two online meetings with representatives of PDP to make a minute of the discussion at the time.

Factual context

[13] At the time when the Panel recorded in Minute 9 (7 July 2025) to appoint PDP as technical advisers to assist it with issues arising from technical reports, it did not know whether it would in fact need to seek formal advice or reports from representatives of PDP and appointed them on a precautionary basis. The EPA, on behalf of the Panel then invited representatives of PDP to familiarise themselves with the Application and the reports relevant to their areas of expertise.

[14] As at 7 July 2025 the Panel had not yet received from the Applicant its V2 condition sets. The V2 condition sets only arrived on 11 July 2025 and these needed to be assessed in the light of the technical reports provided by the Applicant and

other participants. Whether the Panel would need to commission any report or reports from PDP would in part depend on these matters, as well as on the comments to be received from participants following the invitation to comment under s 70 of the Act. It would also depend upon the qualifications, expertise and experience of the representatives which PDP put forward.

[15] In the case of both of the online meetings with representatives of PDP, each was both preliminary, exploratory and informal. A key factor for the Panel was whether the technical experts made available by PDP were suitably qualified and experienced to provide any advice or report that may eventually be needed by the Panel. PDP had been asked to read the application and the attachments, including some of the technical reports. The Panel was keen to understand and explore the range of technical experience and expertise available, should it be needed as consideration of the application proceeded. For example, the issue of contaminated soil and its remediation was an important issue that the Panel considered may need to be the subject of formal advice or a report.

[16] It was for the above reasons that the meetings were held and why the EPA advised STM that the meetings were “to discuss technical issues on a preliminary basis”.

[17] While no formal advice or report was sought or provided during the meetings, PDP confirmed their understanding on the matters specific to the individual areas of expertise of the individual participants. The Panel is satisfied that it would be unfair to the representatives of PDP and potentially misleading in the context of the consideration of the substantive application, to retrospectively create a record of these two meetings. This is particularly so given that the matters discussed had no material influence on any aspect of the Panel’s deliberations.

[18] As noted, the Panel did not, at any stage of its deliberations, see the need to seek a formal report. Even applying the approach in clause 14.19 of the Guidance

Note, there was no report to be published on the website as none was received.

[19] In accordance with its usual practice for such meetings, no recording was made of either meeting. Neither was any minute made on either occasion. Significantly, no decisions were made at either meeting in respect of any issue relevant to the disposition of the substantive application.

[20] This is in sharp contrast to other meetings held by the Panel. In situations where decisions have been made, or steps taken relative to progressing the determination of the substantive application, these have been recorded in formal minutes. This is illustrated by a perusal of the contents of each of Minutes 1 to 13.

Conclusions and disposition

[21] The Panel does not consider it is required to respectively create a record or minute of the matters discussed at either of the meetings in question. To do so would not be consistent with the steps the Panel has taken throughout to regulate its own procedure. It would also be inconsistent with the discretionary requirements of cl 10(1) of Sch 3 of the Act.

[22] In summary, the two meetings with representatives of PDP were of a preliminary nature. Nothing was decided and so there was no need to make a minute as none was required. As the assessment of the Application progressed, it was eventually decided that the Panel did not need to seek a report from PDP on any issue. There was therefore nothing to be published on the fast-track website.

[23] Beyond the record now created by this Minute, the application by STM for the Panel to retrospectively create a record of the two meetings is declined. To do so would not assist any of the participants, including STM, to deal with any issue in the Application. Moreover, it would not involve taking practicable steps to use timely, efficient, consistent and cost-effective processes. In fact, the reverse would be true.

[24] The application by STM is therefore declined.



Hon Lyn Stevens CNZM KC
Maitahi Village Expert Panel Chair