UNDER THE FAST-TRACK APPROVALS ACT 2024

FTAA-2607-1262

UNDER	the Fast-Track Approvals Act 2024
AND	
IN THE MATTER	of approvals for resource consents, wildlife approvals, a land exchange, concession, and an archaeological authority under the FTAA by Winstone Aggregates for the **Belmont Quarry Development**

MEMORANDUM OF COUNSEL FOR WINSTONE AGGREGATES

PANEL CONVENER CONFERENCE

3 November 2026

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Introduction:

1. We act for Winstone Aggregates (a division of Fletchers Concrete and Infrastructure Ltd) ("**Applicant**") for the Belmont Quarry Development, a Schedule 2 listed project under the FTAA.

2. This memorandum is filed ahead of the Convenor's conference, responds to Minute 2 of the Panel Convenor dated 19 October 2026, and sets out matters for consideration at the upcoming Convenor's conference on 5 November 2026.

3. The purpose of that conference is to gather participants' views on matters arising from the Applicant's Fast Track application to inform the Panel Convenor's decisions on the appointment of Panel members[1] and the timing of the Panel decision.[2] To assist with that decision, the participants' views are sought on the matters in paragraphs [6] and [8] of Minute 2.

4. In summary, overall the Applicant considers that the application is of moderate complexity. While it raises novel legal and factual issues in that it is the first land exchange under the Fast-track Approvals Act 2024 ("**FTAA"**), it does not otherwise involve evidence with particular technical or factual complexity (over and above what can normally be expected in a composite Fast Track quarry application).

5. There has been broad consultation and engagement with both Hutt City Council ("**HCC**") and Greater Wellington Regional Council ("**GWRC**"), and Ngāti Toa and Taranaki Whānui, which has resulted in a good level of agreement. The Applicant understands that the Councils' technical review of the application is underway, and it looks forward to working through any matters arising from that technical review with the councils.

6. The information requested by the Convenor, and Applicant's response, is set out below.

[1] FTAA, Schedule 3.
[2] FTAA, section 79.

Background

7. In accordance with s 42(2) of the FTAA, the Belmont Quarry Development is a listed project. The Applicant is seeking approval for (collectively "**Project**"):

    a. A land exchange approval under the Reserves Act 1977;
    b. New district and regional consents required under the RMA to construct and operate a new overburden disposal area ("**OBDA**") to support the regionally significant mineral extraction activities at Belmont Quarry;
    c. A Wildlife Act approval under the Wildlife Act 1953;
    d. An Archaeological Authority under the Heritage New Zealand Pouhere Taonga Act 2014;
    e. A concession under the Reserves Act relating to various activities within the adjacent Belmont Regional Park, including lizard relocation, offset activities, wetland creation, plant translocation, access and seed collection.

Time frame for a decision (paragraphs 5 and 6(g))

8. In terms of the timing of the Panel's final decision, under s 79, the Applicant respectfully requests a total of 100 working days for the issue of a decision from the receipt of section 53 comments i.e. an additional 70 working days over and above the 30 working day statutory default.

9. The Applicant confirms by this memorandum that it agrees to a 100 working day time frame, which exceeds 90 working days (s 79(2)(b)(ii)).

10. That proposed duration reflects the detailed task facing the Panel, the time taken by panels on both the *Drury* and *Kings Quarry* and recent *Hunua* applications, and the additional complexity of the land exchange application and conditions.

11. On that timetable, if the Panel commenced work on 17 November 2026 (as indicated by the Convenor), comments would be sought by 1 December 2026, and the comment period would close on 19 January

2027 (as currently proposed), with a decision released no later than 16 June 2027.

12. The Applicant's indicative timing is set out in **Schedule 2** to this memorandum.

Further matters relevant to timeframe

13. The Applicant's response on the further matters relevant to timeframe set out in paragraph 6 is set out below.

Identify any significant gaps in the information submitted with the application (paragraph 6(a))

14. There are no known significant gaps in the application. There is however a possibility that further information may be requested by the Panel in respect of the land exchange application, depending on the outcome of the preliminary issues hearing and determination that is proposed by the Applicant and DOC in the joint memorandum dated 19 August 2026. The proposed timeframe allows time for that possibility.

Comment on the extent of engagement both before and post lodgement (paragraph 6(a))

15. Pre-lodgement consultation with HCC, GWRC, DOC, relevant iwi parties, and neighbours and community groups has informed the project and been incorporated into the design and conditions as set out in the relevant consultation and iwi engagement reports. Consultation on the application occurred in advance of the Applicant's application to be a listed party to Fast Track and has continued for both the land exchange and other approvals since July 2025 has helped to shape the project.

16. Engagement with HCC, GWRC, DOC and HNZPT and relevant iwi parties was ongoing before lodgement and has continued post-lodgement through responses to their initial feedback on the completeness check. Site visits have been completed, technical experts have conferred, and the Applicant has addressed the requested information. Draft conditions have been shared with the councils, and their feedback sought, noting the councils

are still completing technical review of the submitted application. The Applicant has also provided further information to address those parties' section 46 comments.

Complexity of the application (paragraph 6(a))

17. Apart from in one respect discussed below, the application is not legally complex. The project does not involve novel or difficult legal issues. Other than as discussed below,it does not involve untested law or interpretation of statute.

18. The exception relates to how the land exchange application should be assessed, as discussed in the joint memorandum of counsel for the Applicant and the Director-General of Conservation dated 19 August 2026 (**attached** at Schedule 1 to this memorandum). Issues arise as to how the transitional provisions of the Fast-track Approvals Amendment Act 2025 should be applied to the Land Exchange application, and how the requirements of Schedule 6 of the FTAA should be applied.

19. In that regard, counsel consider that the FTAA process would be assisted by the Panel making a preliminary determination of three discrete issues after hearing from the Applicant and DOC. Providing all parties with clarity on these matters prior to the substantive consideration will limit the matters in dispute, thereby improving the efficiency of the process overall.

20. Accordingly, the Applicant intends to make an application for a hearing and preliminary determination once the Panel is appointed which, if accepted by the Panel, will allow the Panel to consider and determine the preliminary issues. Counsel acknowledge, of course, that whether such a preliminary hearing is held, and if so its scope, is a matter for the Panel.

Evidentiary Complexity

21. In terms of evidentiary complexity, the applications contain a significant volume of expert reports/evidence, draft management plans, and draft conditions designed to meet the information requirements for the relevant approvals under the FTAA. However, based on feedback received to date, the only particularly contentious matters are likely to relate to ecology and the legal aspects of the land exchange application..

22. The applications are supported by expert technical opinion/evidence in specialised fields. This evidence is described below.

The land exchange application

23. The Applicant's land exchange application is supported by technical assessments relating to:

i. Landscape and visual;
ii. Geotechnical;
iii. Land contamination;
iv. Planning;
v. Recreation;
vi. Terrestrial and aquatic ecology;
vii. Stormwater and flooding;
viii. Hydrology;
ix. Cultural engagement;
x. Archaeology;
xi. Economics;
xii. Land valuation;
xiii. Survey report; and
xiv. Community engagement;

24. The application includes all the materials that were exchanged in the process that led to the issuing of the Final DOC Report on the Land Exchange and draft conditions.

25. In addition to resolving the legal issues, the land exchange application will require the application of the Schedule 6 land exchange provisions to competing technical opinions between the Director-General and the Applicant's experts' assessments of conservation values, and determining suitable conditions.

Resource consent application

26. The resource consent application is supported by a further suite of technical reports addressing the following matters, together with a full suite of draft management plans and draft conditions:

    i. Geotechnical;
    ii. Air quality;
    iii. Lizard management;
    iv. Recreation;
    v. Erosion and sediment control;
    vi. Hydrology;
    vii. Noise and vibration;
    viii. Archaeology;
    ix. Landscape and visual assessment;
    x. Land contamination;
    xi. Iwi engagement;
    xii. Ecology;
    xiii. Operations/resource;
    xiv. Economics; and
    xv. Planning.

Archaeological authority:

27. The application for the archaeological authority is supported by:

    i. Archeological assessment;
    ii. Draft Archaeological Management Plan; and
    iii. Draft conditions.

Concession application:

28. The concession application draws upon the technical reports and management plans submitted for the RMA approvals (paragraph [26] above) and is further supported by;

    i. The concession report; and

ii. Draft conditions.

Wildlife permit:

29. The application for a wildlife approval draws upon the technical reports and management plans submitted for the RMA approvals (paragraph [26] above) and is further supported by;

iii. Memorandum as to effects of Lizards;
i. Draft Lizard Management Plan; and
ii. Draft conditions.

Overview of evidentiary matters

30. The Applicant's experts have assessed the Project's effects and included their assessment reports. Analysis of that evidence will be necessary as part of the application in the usual way.

31. In terms of factual complexity there is a reasonably large volume of expert evidence/reports.

32. The proposed land exchange is considered factually complex. It involves the application of and weighing of competing technical evidence as to conservation values across multiple disciplines, including disputed expert opinion and methodology.

33. The evidence in support of the application to construct and operate the OBDA is of low complexity; it addresses routine matters arising in the context of quarrying overburden disposal areas, and no specific or unusual technical complexity arises from the consents sought. The environmental effects in this case are lower (in size and scale) to those encountered in other quarrying Fast Track applications (*Kings Quarry*, *Drury Quarry* and *Hunua Quarry*). This application is simpler and far smaller than those other quarry applications, and only relates to overburden disposal and does not seek approvals for aggregate extraction.

Identify the principal environmental effects and the principal issues likely to be in contention or other disputed matters relevant to the Application and the panels decision (paragraph 6 (c))

34. A summary of principal environmental effects and corresponding issues for each approval that the Applicant considers may arise during the Panel processing of the application is provided below. This is not a conclusive list, and the Applicant notes that this may change as the Panel and parties work through their technical reviews. It is based on matters raised in pre-lodgement consultation and comments received from the various administering authorities.

Land exchange issues

35. As part of the land exchange process, DOC has already invited parties to comment on the draft report. There is no provision for parties to provide further comments on the land exchange application.[3] The issues in contention on the land exchange are therefore well defined and it is unlikely that further issues will emerge.

36. The Applicant and DOC have filed a joint memorandum setting out key preliminary legal issues that arise in respect of the land exchange application. As discussed earlier determination of those legal issues is necessary to confirm the legal tests applicable to the land exchange.

37. There is disagreement between the Applicant and DOC's technical advisers (and some commenting parties) about their assessments of the conservation values of the proposed land exchange and whether it results in a net benefit in the following areas, however DOC and the Applicant have agreed to undertake further direct discussions prior to Christmas to see whether the technical differences, including methodology between the experts can be narrowed[4] Areas of current disagreement are:

    a. Ecology – Habitat /Flora;
    b. Ecology – Freshwater;

[3] Fast track Approvals Act 2024, s 41, which disapplies the s 53 comments process in respect of a land exchange application before a panel.
[4] Noting this changes depending upon which version of the law applies.

c. Recreation;
d. Planning (methodology); and
e. Suitable conditions for the exchange.

Substantive application issues (resource consents, wildlife permit, archaeological authority, concession)

38. Based on feedback obtained during consultation and engagement on the resource consents sought to construct and operate the OBDA, comments from other parties are likely to focus on the following matters:[5]

a. Landscape and visual impacts, particularly on viewers in the nearby Belmont Regional Park and Hutt Valley;
b. Ecological effects, including the loss of streams and significant indigenous vegetation and adequacy of associated offsets;
c. Hydrology and erosion and sediment control, and effects on the Hutt River;
d. Impact on recreation and surrounding park; and
e. Management of cultural effects and appropriate conditions.
f. Stability/Geological effects;

39. The Applicant has worked hard to avoid, remedy or mitigate effects to acceptable levels through an iterative design process and through specifc consent conditions. In addition, substantial offsets and/or environmental compensation are proposed that are consistent with national policy direction.

40. The Applicant has consulted extensively with NZHPT on the archaeological approval; there is a high level of agreement and no issues have arisen.

41. The Applicant has consulted with DOC, GWRC and relevant iwi in respect of the wildlife permit; to date the following matters have been raised:

[5] Minute 2, Schedule 2 paragraph 3(a).

a. DOC representatives have acknowledged that Belmont Regional Park for lizard relocation site could work, but they have a preference for off-site release to Mana Island;
b. Winstone and iwi consider that the release site in the Belmont Regional Park is preferable.
c. Adequacy of lizard survey data.

42. In respect of the concession application, GWRC (in its capacity as the Statutory Manager of the Park) has provided its written approval for the use of Belmont Regional Park. The Applicant has consulted with both GWRC and DOC about the concession application. To date, the following matters have been raised:

a. Access arrangements;
b. Whether translocation management plans for swamp maire should be provided now as part of the concession application; and
c. Suitability of Belmont Regional Park for lizard relocation.

Propose, or record where agreed, efficient processes to enable the panel to understand, resolve or narrow/reduce the scope of any such issues and indicate how these might be accounted for in the decision timeframe. (paragraph 6 (d))

43. The Applicant is ready and willing to engage directly with the Panel and other parties to the application (as necessary to advance the application efficiently), whether by way of briefings, meetings, or expert conferencing, mediation or direct discussion between the Applicant and experts appointed by the Panel.

44. The Applicant will also continue to engage directly with other parties post-lodgement.[6] This will include direct efforts to resolve issues and work on suitable draft conditions, and counsel will keep the Panel updated as to those efforts.

45. Based on the information currently available (and assuming the preliminary legal issues agreed with the Director General of Conservation

[6] Minute 2, paragraph 6(a).

and identified above are heard and determined), the Applicant respectfully suggests that an efficient way for the Panel to test the remaining conflicting views of technical experts, in particular the ecologists, would be to direct targeted expert conferencing and preparation of joint witness statements, followed by a discrete hearing to allow the experts to be cross-examined on remaining issues in dispute (if required).

46. The proposed timings in Schedule 2 illustrate how a preliminary legal issues hearing could be accommodated within the wider decision timeframe sought by the Applicant. We respectfully submit that it would be most efficient for expert conferencing to occur after the preliminary issues have been determined and following completion of the comments process.

47. These are all matters for the Panel to decide. If at any stage the Panel considers that a hearing is necessary for its understanding or substantive deliberations, the Applicant and its experts will ensure they can participate and will assist the Panel in any way they can.

48. Proposed conditions may be another area that the Panel may wish to hear from the Applicant's planners, and other planners, at a suitable point in the process.

State whether the drafting of the proposed conditions for the approvals sought (including any draft management plan filed) is accepted and, to the extent that it is not accepted, indicate the areas of dispute and likely effort and time needed to resolve these issues. (paragraph 6(e)

49. The Applicant has provided draft technical reports to the relevant administering authorities and iwi as part of its pre-lodgement consultation on the approvals and factored that feedback into development of the final versions of those reports and management plans.

50. Post-lodgement, it is working through the application and further condition comments with GWRC and HCC, relevant iwi, DOC, and NZHPT. Most of those parties are still reviewing the final technical reports, management plans, and conditions, after which they will be better positioned to provide

more specific comment on which aspects of the conditions and management plans are agreed and what is disputed.

Identify any changes made since lodgement or in the process of being made to the application since lodgement, including new or supplementary reports and draft conditions (paragraph 6(f))

51. The Applicant provided further information on 25 September 2026 in response to the EPA completeness check. That material is listed on the Belmont Fast Track website under the heading "updated application documents."[7]

52. The Applicant is also in the process of addressing comments received from DOC, GWRC and HCC as part of the post-lodgement s 46 process. It intends to update the application material to reflect these matters prior to the Panel commencing.

53. It has also received further feedback from Greater Wellington and Hutt City on the proposed draft conditions and will provide a revised set to the EPA before the Panel commences work.

54. The Applicant is also having further discussions with relevant iwi and DOC on the Wildlife permit and the concession application.

Composition of the Panel (paragraph 8)

55. The Applicant considers that a Panel of three members with the following skills and expertise would be well placed to determine the application:

a. Legal experience in Resource Management Law and the Conservation Act 1987;
b. Previous quarrying/aggregate extraction project experience;
c. Planning expertise – particularly with the Hutt City District Plan and Greater Wellington Regional Plan and condition frameworks; and
d. Ecology expertise.

[7] https://www.fasttrack.govt.nz/projects/belmont-quarry-development/substantive-application

56. The Applicant does not consider the application justifies or warrants having more than three Panel members. None of the factors mentioned in the Fast Track Panel Practice Note or Schedule 2 paragraph 4(b) arise in this case.

Panel Convenor Conference Attendees

57. It is proposed that the following attendees will be present at the online conference on 5 November 2026:

a. Shalini Sanjeshni, Ian Wallace, Philip Heffernan (Winstone Aggregates).
b. Bal Matheson KC, Phernne Tancock, Duncan Ballinger (Counsel for the applicant).
c. Colin Hopkins (Planning Lead, DCS Limited).



B Matheson KC / P Tancock / D Ballinger

Dated: 3 November 2026

UNDER THE FAST-TRACK APPROVALS ACT 2024

FTAA-308

UNDER	the Fast-track Approvals Act 2024
AND	
IN THE MATTER	of approvals for land exchange, resource consents, wildlife approvals, and archaeological authority approvals under the FTAA by Winstone Aggregates for the **Belmont Quarry Development Project.**

JOINT MEMORANDUM ON BEHALF OF WINSTONE AGGREGATES AND THE DIRECTOR GENERAL OF CONSERVATION IN REGARD TO PRELIMINARY LEGAL ISSUES ARISING ON THE LAND EXCHANGE APPLICATION

19 August 2026

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MAY IT PLEASE THE PANEL CONVENOR:

1. This joint memorandum is filed on behalf of Winstone Aggregates (**Winstone**) and the Director-General of Conservation (**The Director-General**) (together the **Parties**).

2. Winstone is the authorised person for the Belmont Quarry Fast Track Project, a Schedule 2-listed Project under the Fast Track Approvals Act 2024 (**FTAA**).

3. The project seeks the following approvals:

    a. all necessary approvals needed to construct and operate a proposed overburden disposal area, in accordance with section 42(4) and Schedule 5, 7 and 9 of the FTAA, being approvals that would otherwise be applied for under the Resource Management Act 1991, the Wildlife Act 1953, and the Heritage New Zealand Pouhere Taonga Act 2014 and concessions under the Reserves Act 1977. This new overburden disposal area will enable the continued operation of the existing regionally significant Belmont Quarry; and

    b. a land exchange under Schedule 6 of the FTAA to exchange land owned by Winstone with Crown land that is classified as recreational reserve land under the Reserves Act 1977, managed by Greater Wellington Regional Council and which forms part of Belmont Regional Park. The purpose of the land exchange is to provide land for the overburden disposal area described in (a) above.

4. The Director-General is the administrative head of the Department of Conservation and is the administering agency for the purposes of the land exchange application under the FTAA. The Director-General has prepared a report on the land exchange application pursuant to section 35 of the Act.

Purpose of this memorandum

5. This memorandum alerts the Panel Convener to a number of legal issues identified by the Parties regarding the land exchange, which the Parties propose are to be determined by the Panel as preliminary matters.

6. This information is being provided to the Convener at substantive application lodgement because it has some bearing on matters to be considered by the Panel Convener – such as the appropriate expertise of the Panel members, timeframes for a decision, legal complexity, etc.

7. Counsel for the Parties have conferred and offer a suggested way forward to address the matters requiring the Panel's determination.

8. A key benefit of having the Panel determine the legal issues early in the process is that it would avoid the need for the participants to address different scenarios based on the Parties' differing views on:

    a. what version of the Act applies to the Panel, and

    b. the effect of the amendments to the Act on the Panel's assessment of the land exchange (if the Panel considers the amended Act applies).

9. These matters will also have a considerable bearing on the information that needs to be provided to the Panel and the outcome of the Panel's consideration of the exchange application (and any directions it may make to that effect).

10. The Parties acknowledge that determining procedural matters is the role of a Panel (once appointed).[1] The decision whether to decide these matters as preliminary legal issues, and if so, how, is up to the Panel to determine.

[1] FTAA Panel Convenors Practice and Procedure Guidance (22 July 2025) at 18.1, 18.2, 18.4.

Background

11. On 10 December 2025, Winstone lodged a land exchange application with the Director-General for a land exchange of Crown-owned reserve land under section 33(1) and Schedule 6 of the FTAA. Winstone's proposed land exchange was applied for prior to the 17 December 2025 amendments (i.e. under the **original law)**.

12. Applicants for land exchange under the FTAA must first lodge the exchange application with the Director-General of Conservation.[2] The Director-General processes the application and invites comments on the proposal and a draft report prepared by them, after which the Director-General issues a land exchange report.[3]

13. On 17 December 2025, amendments were passed into the FTAA (Amendment Act). These amendments changed the criteria to be applied by an Expert Panel when considering whether to grant a substantive application for land exchange (**amended law**).

14. Winstone's land exchange application was processed by the Department under the original law, and on 7 July 2026 the Director-General provided a Land Exchange Report to Winstone under section 35(3), in accordance with the timeframe set by the Panel Convenor.[4]

15. Applicants for land exchange must obtain a land exchange report before any application for the remaining substantive approvals can be lodged with the Environmental Protection Authority (**EPA**).[5]

16. Now that it has the Land Exchange Report, Winstone has lodged its substantive fast-track application with the EPA for its Belmont Quarry Development in Wellington, which is a Schedule 2-listed Project.

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[2] Section 33(1), 35(9) FTAA and Section 42(4)(f) and (8).
[3] Section 35 FTAA.
[4] Section 35(7), Panel Convenor's Minute 1 at: FTAA-2511-L001 Minute 1 of Panel convener.
[5] As footnote 1 above.

Panel consideration

17. The Fast Track Panel appointed to consider the application will need to determine both Winstone's land exchange application and the other necessary approvals required to construct and operate a new overburden disposal area as part of the Belmont Quarry Development Project.

18. This will be the first land exchange application to be made or processed under the FTAA and the first time the exchange provisions in Schedule 6 of the FTAA have been considered by a Panel.

19. A complicating factor in this application is that the amendments to the FTAA that were made between the lodgement of the land exchange application with the Director-General on 10 December 2025 and the lodgement of the substantive application, as described above in paragraphs 11–13. Winstone and the Director-General agree that the Land Exchange Report had to be prepared and completed under the original law but disagree as to which version of the law the Panel must apply to the Panel's consideration of the substantive application for the land exchange.

Summary of disputed issues

20. The following paragraphs provide a summary of the issues in dispute between the Parties.

<u>Which version of the law applies to this land exchange application</u>

21. Under the **original law**, there was no requirement to discount conservation values affected by matters registered or noted on the title (including QEII covenants) under clause 29 of Schedule 6 to the Act.

22. Under the **amended** law the Panel is directed to discount the extent to which the conservation values of the land to be acquired by the Crown are

affected by matters registered or noted on the title (including QEII covenants) for conservation purposes.[6]

23. Winstone considers that the **original law** applies to the Panel's substantive consideration of the land exchange application, while the Director-General considers that the Panel must apply the **amended law**.

Land Areas to be considered:

24. The **original law** provided that the conservation values that were required to be enhanced were those "of land managed by the Department of Conservation[7]". Under the **amended law**, the conservation values required to be enhanced under clause 29(2) are broader, being "the conservation values of conservation areas and Crown-owned reserves considered as a whole."

25. Winstone considers that (if the **amended law** applies) this permits consideration of off-site enhancements or benefits in conservation values across the broader conservation estate. It has provided an alternative improvement package ("Package B") which offers improvements to enhance conservation values on land which is immediately adjacent to the land that will be acquired by the Crown under the proposed land exchange (should the **amended law** apply). The Director General considers that any improvements need to relate directly to the land to be acquired by the Crown under the Land Exchange, as the Panel cannot require works or money to be paid for works to be undertaken on any other part of the conservation estate.

26. There is also disagreement between the parties over how the Panel should approach the "discounting" exercise, if the **amended law** applies.

Request for preliminary determination

27. The Director-General and Winstone share the view that (once appointed) the Panel's decision on the legal issues will have a considerable bearing

[6] Clause 29(2A) inserted by the Amendment Act.
[7] Pre-amendment version of cl. 29(2) of Schedule 6.

on the information that will need to be provided to it, and the outcome of the Panel's consideration of the Land exchange application.

28. Winstone intends to request a preliminary hearing of these matters to allow them to be determined by the Panel (once appointed) as preliminary legal issues, as a first step in the Panel's processing of the land exchange application, and to be heard on those issues. The Director-General reserves his position on whether a hearing is needed.

Agreed list of issues

29. A list of the agreed issues for which a preliminary determination is requested is set out at **Schedule 1.**

Impact on panel processing timeframes and sequencing

30. The Parties propose that the preliminary legal issues could be addressed efficiently in the following manner:

a. Winstone filing an application for a hearing and determination of the preliminary legal issues once a Panel is appointed.

b. The Panel could make a procedural decision on whether it wishes to determine the legal issues as a preliminary matter; hold a hearing on the preliminary issues, and the timing of that.

c. The Panel could issue a separate determination on those issues in a manner that helps achieve a timely and efficient determination of the preliminary issues, consistent with the procedural principles in section 10 of the Act.



B Matheson KC/ P Tancock
Counsel for Winstone Aggregates
Dated the 19th day of August 2026



Jeremy Prebble/ Shona Bradley
Counsel on behalf of the Director General of Conservation
Dated the 19th day of August 2026

Schedule 1: List of issues

Primary Issue

1. When preparing the Land Exchange Report, the Director-General was required to prepare that report in accordance with the law as it existed prior to 17 December 2025, including the criteria as they existed at that time (**Original law**). On 17 December 2025, the assessment criteria were amended, most notably by excluding, from any values calculation, the values of the land to be exchanged that are affected by the QEII covenant- refer in particular new clause 29(2A);

   > "*When considering the conservation values of the land to be acquired by the Crown, for the purpose of forming its view under subclause (2), the panel must discount the extent to which the conservation values of that land are affected by anything registered or noted for conservation purposes on the record of title for that land.*" (**Amended law**).

2. Without prejudice to either party's position on the questions that follow, Winstone accepts that other, non-material, procedural requirements of the Amended law may apply to the consideration of any substantive application. The Director-General considers that the Amended law must apply to the Panel's consideration of the land exchange.

   Question 1: When considering the Director-General's Land Exchange Report as part of the substantive land exchange application, is the Panel required to apply the Original law or is it required to apply the Amended law?

If the Amended Law applies, then the further 2 questions arise:

3. The Amended law cl 29(2) provides:

   > *"The panel must not grant the approval unless the panel is satisfied that the land exchange (including any money that may be received under clause 30 and any conditions that the panel may impose in accordance with clause 32) will enhance the conservation values of conservation areas and Crown-owned reserves considered as a whole.*"

4. Because this is a threshold requirement - i.e. the Panel cannot grant an approval unless this statutory test is met - it is essential to understand at a preliminary stage what land areas are caught by the phrase "conservation areas and Crown-owned reserves considered as a whole" and whether for the purposes of cl 29(2), the Panel may:

   (a) consider enhancements to conservation values that would result from a proposal by the applicant to undertake or pay for improvements to Crown-owned reserves or conservation areas that are not to be acquired by the Crown under the exchange; and

(b) impose conditions under cl 30 or 32 requiring the applicant to undertake or pay for improvements to land that is not to be acquired by the Crown under the exchange.

5. The Applicant is proposing to undertake works both on the land which is to be exchanged with the Crown and on land that is immediately adjacent to that which is to be exchanged with the Crown but is not being acquired by the Crown. DOC's position is that any enhancement of values through improvements proposed by the Applicant can only be taken into account if the improvements are to be undertaken on the land to be acquired by the Crown under the land exchange.

Question 2:

(a) When considering whether clause 29(2) is satisfied, may the Panel consider enhancement works undertaken to enhance the values of conservation areas–or Crown-owned reserves that are not to be acquired by the Crown as part of the proposed land exchange?

(b) When considering whether clause 29(2) is satisfied, may the Panel require the applicant to undertake or pay money to the Crown for improvements to enhance conservation areas or Crown-owned reserves that are not to be acquired by the Crown as part of the proposed land exchange?

6. The Amended Criteria include clause 29(2A):

> "*When considering the conservation values of the land to be acquired by the Crown, for the purpose of forming its view under subclause (2), the panel must discount the extent to which the conservation values of that land are affected by anything registered or noted for conservation purposes on the record of title for that land.*"

7. The Applicant says that it is only those conservation values secured by anything noted or registered on the record of title area to be discounted (the Applicant has accordingly not discounted historic, cultural or recreational values because they are not referenced in the QEII covenant).

8. DOC's position is that:

(a) if there is a conservation instrument registered on the land, then all conservation values of the land affected by that instrument must be discounted; and

(b) whether or not specific values are referred to in the QEII covenant, the covenant affects all the relevant conservation values.

9. The issue in this case is whether or not the Panel can have regard to any or all of the historic, cultural, and recreational values of the land subject to the conservation QEII covenant on the land to be exchanged.

10. The meaning of clause 29(2A) and interpretation of the QEII covenant are discrete legal issues that could significantly affect the exercise of the Panel's judgment under cl 29(2), Schedule 6, FTAA. It is therefore appropriate that this issue be dealt with as a preliminary issue.

Question 3: When undertaking the discounting required by clause 29(2A):

(a) What are the values of land "affected by" the QEII covenant?

(b) Is the Panel required to discount all such values for the purpose of clause 29(2)?

Schedule 2: Participants' estimated timeframe

Task	Working days	Date
Panel Convenor convenes a conference.	*N/A*	**5 November**
Panel appointment by Panel Convenor	*N/A*	Say **10 November 2026**.
Panel commencement	Within 5 W/D of appointment (section 52)	**By 17 November 2026.**
Applicant files application for preliminary issues to be determined on land exchange application and for a hearing on legal issues.	1st day of Panel Commencement.	**17 November 2026 (or first day of commencement)** *(Panel week 1)*
Panel briefing – exchange and substantive + site visit	Prior to invitation to comment	**Sometime between 21 and 28 November 2026 (depending on Panel availability).** *(Panel week 2)*
Panel identify whether a hearing is required, if so, *give issue parties notice of hearing & exchange legal submissions (reply done at hearing)*	5 W/D (from commencement)?	**By 24 November 2026** *(Panel week 2)*
If hearing held Parties to advise if wish to be heard	2W/D from receipt of notice 3 W/D from hearing date	***From 4 December 2026***
If hearing required, hearing to be held	5 W/D after notice of hearing issued + *time to allow parties to file submissions 5W/D in advance, oral replies at hearing.*	***Sometime between 9 and 16 December 2026?***

Task	Working days	Date
Panel Invite comment from relevant parties substantive application	10 W/D after Panel commencement.	**1 December 2026**
Comments close (ss 53 & 54)	20 W/D later (noting Christmas closedown)	**19 January 2027**
Applicant's Responses to comments close for applicants (s55)	5 W/D later	**27 January 2027 (taking into account Wellington Anniversary Day on 25th January).**
Determination of preliminary legal issues		**TBC**
Expert conferencing on uresolved technical issues & production of joint witness statements	*5 W/D days later*	**TBC**
Disputed issues hearing or Panel conference on disputed issues to resolve remaining technical issues	*5 W/D later*	**TBC**
Draft decision is to approve		
Draft decision and conditions to Ministers (s 72)	*Say approx. 50 – 60 W/D after close of comments (taking into account Waitangi Day).*	*TBC*
Response from Ministers (s 72)	*10 W/D later*	

Task	Working days	Date
Draft conditions and decision to participants (s 70(1))	*Contemporaneous with s 72 – s 72(1A)*	
Participant comments on draft conditions (s70(2))	*10 W/D later*	
Applicant response to participants on conditions (s 70(4))	*5 W/D later*	
Panel to issue Final Decision.	**100 working days** from close of invitation to comment under s54.	**16th June 2027**