

Fast-track Approvals Act 2024

MINUTE #8 OF THE EXPERT PANEL

Joint empanelling, conferencing, and further statements
Waitaha Hydro [FTAA-2505-1069]

2 February 2026

[1] The purpose of this **Minute #8** is to confirm arrangements and procedures for a joint empanelling of experts in the areas of hydraulic engineering, fish passage (technical design), and fluvial geomorphology. It also makes directions in relation to conferencing for freshwater ecology and whio, and provides a further opportunity for written statements from landscape and recreation experts.

A summary of the views of the Applicant and DOC

[2] There appears to be support from both the Applicant and DOC for a joint empanelment, albeit DOC suggested a separate conferencing step (potentially on 13 February 2026) prior to any joint empanelment occurring (potentially on 16 February 2026).

[3] Both parties also agreed that legal counsel should attend, although the Applicant suggests that this be in an observer capacity, whereas DOC considers legal counsel should have a more active role.

[4] The Applicant suggested some refinements and additions to the procedural steps prior to the joint empanelling and DOC suggested some additional conferencing in other areas (such as landscape and recreation) following the joint empanelment.

[5] While all of the Applicant's witnesses are available on the afternoon of 13 February 2026, DOC's freshwater ecology and fish passage expert is not available that afternoon, and DOC has not yet confirmed availability of its whio expert.

Discussion

[6] The Panel thanks the Applicant and DOC for the detailed and constructive responses they provided to [Minute#7](#).

Joint empanelment

[7] In relation to the issue of joint empanelment or conferencing, given the Panel is not available to convene in the week of 16 February 2026, and acknowledging that issues addressed through the joint empanelment may have flow-on implications for other areas, the Panel has determined it is more efficient to proceed straight to joint empanelment.

[8] However, in light of DOC's witness unavailability, the joint empanelment will be limited to witnesses in the areas of hydraulic engineering, fish passage (from a technical design rather than an ecological perspective), and fluvial geomorphology. As the joint empanelment is a form of hearing (albeit discrete in scope and modified) a notice of hearing is required to be issued (and is attached to this Minute). The joint empanelment will be recorded and a transcript will be made available to the Applicant and DOC (indicatively within 2 working days following the empanelment) to assist with the further expert conferencing and written statements noted below.

[9] Legal counsel for the Applicant and DOC will be able to attend the joint empanelment session primarily in an observer capacity. There will be no direct questioning of the witnesses by legal counsel (or by any other participant other than the Panel). Should an issue arise during the joint empanelment that counsel consider it is necessary to raise with the Panel, leave is reserved for an oral application to be made.

[10] To assist the experts attending the joint empanelment the Panel intends to issue a list of draft questions / issue areas that it intends to explore in advance of the joint empanelment. The Panel expects to have this list available by no later than 12pm on 12 February 2026.

[11] As the joint empanelment will be held online the usual online protocols will apply regarding declaring whether there are others in the room with you, remaining on mute unless speaking, using the electronic 'raise hand tool' if you wish to speak, keeping your camera on when addressing the Panel, and seeking leave before screen sharing. The Panel will run through these protocols at the start of the joint empanelment following introductions (of the Panel and the attendees).

[12] The relevant expert witnesses for the joint empanelment are:

- a) Paul Morgan;
- b) Associate Professor Jon Tunnicliffe;
- c) Dr Murray Hicks;
- d) Martin Doyle;
- e) Dr Dougal Clunie; and
- f) Jeremy Kent-Johnstone.

[13] In addition, Mason Jackson and Rodger Griffiths are able to attend, primarily in an observer capacity. However, if any questions arise that relate to condition wording, or

Westpower specific design matters, the Panel may put questions to these witnesses on those matters.

[14] The Panel's planning/conditions advisor Megan Couture will also be attending the session in an observer capacity.

[15] Any persons attending in an observer capacity (being legal counsel and any witnesses mentioned in this Minute) should keep their cameras off (after the introductions have concluded and the joint empanelment proper commences).

[16] In terms of the additional procedural steps suggested by Westpower, as the joint empanelment does not include freshwater ecology and whio expert witnesses, it is not necessary for these steps to be completed *before* the joint empanelment occurs. However, to the extent relevant, these steps have been incorporated into the directions for conferencing as noted below.

Freshwater ecology and whio conferencing

[17] In light of the unavailability of one of DOC's witnesses and the uncertainty regarding the availability of its other witness, the Panel has determined that freshwater ecology (including fish passage from an ecological perspective) and whio matters should be subject to separate expert conferencing (i.e. a freshwater ecology conference and a separate whio conference), without the Panel, parties or non-experts being present. These conferencing sessions should occur during the second half of the week commencing 16 February 2026. This will allow time for the transcript of the joint empanelment to become available, and provide the relevant experts with a slightly less compressed timeframe to attend to the remaining procedural steps in terms of responses and conferencing issues statements/agendas. Following receipt of the issue statements/agendas, if the Panel has any further questions or issues that it wishes the experts to address, it will issue a list of those prior to conferencing occurring.

[18] The experts in each of the two conferencing sessions will be as follows:

- a) Freshwater ecology: Shelly McMurtie and Marine Richarson; and
- b) Whio: Dr John McLennan and Jason Malham.

[19] The experts in each of the two separate conferences will be required to prepare a joint witness statement recording the outcome of that conferencing (areas of agreement, disagreement and reasons etc) and to submit it to the EPA at the conclusion of the conferencing session. The joint witness statements are to be strictly limited to matters raised in the Peer Review Reports and the joint empanelling session. If following receipt of the joint statements the Panel considers any further procedural steps (such as requests for further information or conferencing with the Panel present) are required, it will issue further directions at that time.

[20] Any of the above-named freshwater ecology and whio experts for the Applicant and DOC who are available, are able (but not required) to; attend the joint empanelment

in an observer capacity, provided their attendance is advised in advance in accordance with the Panel's directions below.

Other conferencing

[21] At this stage, and based on the information it has received to date and that which it expects to receive in response to current information requests, the Panel does not consider that it is necessary to direct conferencing in other areas. However, the Panel recognises that the evidence given at the joint empanelment may potentially have flow on effects in terms of landscape and recreation. Accordingly, the Panel considers it appropriate to give the relevant landscape and recreation expert witnesses an opportunity to provide a further brief statement noting whether as a result of the joint empanelment, their evidence and in particular their conclusions are impacted in any way, and if so, how. Any responses must however be strictly limited to matters raised during the joint empanelment. The relevant witnesses are as follows:

- a) Landscape: James Bentley and Jeremy Head; and
- b) Recreation: Robert Greenaway and Shelley Sidley.

[22] Any of the above named landscape and recreation experts for the Applicant and DOC who are available, are able (but not required) to, attend the joint empanelment in an observer capacity, provided their attendance is advised in advance in accordance with the Panel's directions below.

[23] The Panel's recreation advisor, Paul Wilson, may also attend in an observer capacity if he is available. If he is not, the Panel will provide him with the transcript and any responses received from the Applicant and DOC's recreation witnesses, so that he is able to provide a brief addendum to his report (if necessary). Any such response would then be made available to the Applicant should it wish to comment further.

Directions

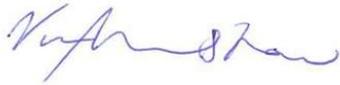
[24] Accordingly, the Panel makes/confirms the following directions:

- a) **By 12pm on 10 February 2026**: Applicant to file any responses to the review reports;
- b) **By 5pm on 11 February 2026**: Applicant to file a statement of issues in relation to hydraulic engineering, fish passage and fluvial geomorphology;
- c) **By 12pm on 12 February 2026**: Applicant and DOC to advise any freshwater ecology, whio, landscape and recreation witnesses attending the joint empanelment in an observer capacity;
- d) **At 1pm on 13 February 2026**: Joint empanelment session commences.
- e) **By 5pm on 18 February 2026**: Applicant and DOC to:
 - (i) file a joint statement of issues/agenda for each of the separate freshwater ecology and whio conferences;

- (ii) confirm the date and time that each conferencing session has been set down for.

f) **By 5pm 20 February 2026:**

- (i) Freshwater ecology and who experts to file joint witness statements with the EPA; and
- (ii) Applicant and DOC to file any response statements from their landscape and recreation experts.



Vicki Morrison-Shaw

Waitaha Hydro Expert Panel Chair