

BEFORE THE FAST-TRACK PANEL CONVENER

IN THE MATTER

An application for approvals under section 42 of
the Fast-track Approvals Act 2024 ("FTAA")

AND

IN THE MATTER

Te Ākau Bream Bay sand extraction, a project
listed in Schedule 2 to the FTAA

MEMORANDUM OF COUNSEL FOR TE PATUHARAKEKE TE IWĪ TRUST BOARD
AND NGĀTIWAI TRUST BOARD

24 March 2026

MAY IT PLEASE THE PANEL CONVENER

1. This memorandum is filed on behalf of Te Patuharakeke Te Iwi Trust Board (“Patuharakeke”) and Ngātiwai Trust Board (“Ngātiwai”) in response to Minute 2 of the panel convener.

Panel composition

2. Patuharakeke and Ngātiwai support appointment of Troy Brockbank.
3. In Patuharakeke’s and Ngātiwai’s submission it is essential that the panel includes at least 1 member who is pūkenga tikanga Māori and mātauranga Māori and has local understanding. Troy Brockbank has this knowledge.
4. Patuharakeke and Ngātiwai support having panel members with coastal process and legal skills and do not take issue with the 2 panel members proposed at paragraphs [7]-[9] of Minute 2, in addition to Mr Brockbank.
5. However, they submit that a 4th panel member with planning expertise should also be appointed given the breadth and complexity of the issues arising from the application and the planning aspects of assessing the RMA component of clause 17 Schedule 5.

Decision timeframe

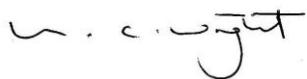
6. Patuharakeke and Ngātiwai submit that the time frame set for the panel to issue its decision should be 90 working days after the date specified for receiving comments under s 53 FTAA.
7. This is similar to but slightly shorter than the timeframe that was allocated to the Taranaki VTM application (“TTR application”).¹
8. The slight reduction reflects that the Taranaki VTM application was the first application to seek approvals under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (“EEZ Act”) which added a layer of complexity that is not present in this case.
9. However, the TTR application time frame has been used as a reference point, accounting for the EEZ Act difference, because similarly complex factual and legal issues arise, and because the cultural context means that hui kanohi ki te kanohi will be required.
10. Factual and legal issues arising include, but will not be limited to:²

¹ Panel convener Minute dated 15 August 2025

² Patuharakeke and Ngātiwai are still working through the substantive application, including with counsel who has only recently been engaged, and are not in a position at this stage to provide a comprehensive and complete list of all legal and factual issues they consider arise

- a. Impact of live claims under the Marine and Coastal Area (Takutaki Moana) Act 2011 (“MACA Act”) on ability to grant fast-track applications that would undermine those claims or render them redundant.
 - b. Consistency with Māori commercial and customary fishing rights established under the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and the Māori Fisheries Act 2004 and related secondary legislation.
 - c. Establishing the strength of interest of different interested Māori entities and consequently the applicable tikanga and extent and nature of cultural effects.
 - d. Establishing the existence and/or extent of the proposal’s regional or national benefits.
 - e. Dispute over the accuracy and completeness of the applicant’s technical analyses and related conclusions about benefits and adverse impacts, in particular relating to cultural impacts, sand and coastal process impacts (including cumulative effects and surf breaks), marine fauna and flora impacts, fish and fisheries impacts, sand market supply and demand.
11. These matters mean that for Patuharakeke and Ngātiwai the application is not at the stage where they can express a view on the proposed conditions, because the primary question is whether Te Ākau Bream Bay is an appropriate location for this activity at all. Their position is that it is not.
 12. In terms of process, as already noted at paragraph [8] of Patuharakeke’s memorandum dated 10 March 2026, Patuharakeke and Ngātiwai agree with the findings in the MFE s 18 report regarding applying Patuharakeke’s Mana Whakahono ā Rohe in accordance with schedule 3 clause 5 FTAA.
 13. In Patuharakeke’s and Ngātiwai’s submission, this, paired with the nature of the issues arising, supports a process including a legal issues hui (and indeed may require several of these) and a cultural values hui so that the panel has the opportunity to test legal argument and so that it can properly understand the cultural importance of Te Ākau Bream Bay through kōrero in accordance with tikanga.
 14. Hearings or expert conferencing on specific technical matters may also be required.
 15. The exact nature and timing of hui and/or conferencing is likely best determined by the panel after receipt of comments, as this will also be informed by the areas where the panel feels the issues are diverse or parties’ views/expert views are particularly disparate.
 16. Patuharakeke and Ngātiwai thank the panel convener for considering this memorandum and advise that they will be represented at the panel convener conference by:
 - a. Tui Kailahi, Patuharakeke, Trustee
 - b. Simon Mitchell, Ngātiwai, Raukura

- c. Dave Milner, Patuharakeke, Taiao Resource Management Unit
 - d. Clive Stone, Ngātiwai, Pou Taiao lead
 - e. Madeleine Wright, legal counsel for Patuharakeke and Ngātiwai
17. Email contacts can be provided direct to the EPA case officer.
18. Patuharakeke and Ngātiwai also request to be provided with the opportunity to open and close the conference with karakia in accordance with tikanga.



Madeleine C Wright

Counsel for Patuharakeke Te Iwi Trust Board and Ngātiwai Trust Board