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**TARANAKI VTM PROJECT  
[FTAA-2504-1048]**

**MINUTE 25 OF THE EXPERT PANEL**

Treaty and Cultural Expert  
Conferencing  
and Joint Witness Statement

(25 November 2025)

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**Introduction**

[1] This minute records the Panel's reasons for proceeding with the Treaty and Cultural expert conferencing on 20 November 2025 in the absence of an expert nominated by the applicant and clarifies the manner in which the Panel intends to treat the resulting Treaty and Cultural joint witness statement (Treaty/Cultural JWS).

[2] This minute also provides the applicant with an opportunity to file limited supplementary expert evidence responding to the Treaty/Cultural JWS.

**Applicant memorandum**

[3] On 21 November 2025 the applicant filed a memorandum relating to a number of matters including the Treaty/Cultural JWS. In that memorandum the applicant states:

*[13] TTR records that a decision was taken to proceed with the Treaty Settlements and Cultural Effects conference without a TTR representative present.*

*[14] While the time limits around this process are tight, the decision to proceed without TTR represented inevitably means that the conferencing was fundamentally one-sided, as all participants in the conference share the view that the project should not be approved. Rather than being a forum for testing and exploring different points of view, the conference became a further opportunity for parties with a common opposition to the project to re-state their opposition in the form of a "joint" statement.*

[4] The Panel sets out the relevant chronology below and then addresses how the Treaty/Cultural JWS will be treated and what, if any, further process is required.

### **Chronology of Treaty and Cultural expert conferencing**

#### *Minute 19*

[5] On 5 November 2025, the Panel issued Minute 19 directing expert conferencing to occur, including a session on Treaty settlements and cultural effects.

[6] Paragraph 10 of Minute 19 stated (emphasis added):

#### *Treaty and Cultural caucus nominations:*

*[10] Iwi and hapū who submitted may nominate a Māori cultural expert for the cultural caucus. **The Applicant may also nominate a suitable Māori cultural expert to attend on its behalf.***

[7] Minute 19 also:

- (a) identified the topics for Treaty and Cultural conferencing
- (b) proposed two dates (20 or 21 November 2025) for conferencing and the filing of any resulting joint witness statements
- (c) required parties, by 5.00 pm on 6 November 2025, either to confirm their nominated expert's attendance at conferencing or to identify a substitute expert if they were unavailable. Following those directions, EPA staff sought confirmations of availability from experts nominated by the parties for the Treaty and Cultural conferencing session and from the approved facilitator.

#### *Responses from participants and venue*

[8] By 10 November 2025, EPA staff had received responses from eight entities confirming that 20 November 2025 was suitable for the Treaty and Cultural conferencing, together with an offer from Te Rūnanga o Ngāti Ruanui to host the session at its boardroom in Hāwera. Those confirmations represented a substantial number of individual experts and support personnel whose attendance had been arranged for 20 November.

#### *Applicant's initial position*

[9] Within this same period, no confirmation of participation was received from the applicant in response to Minute 19 in respect of the Treaty and Cultural conferencing.

[10] On 10 November 2025, EPA staff contacted the applicant to confirm whether it intended to nominate a Treaty/Cultural expert. Counsel for the applicant advised that the applicant would not be sending a representative to the Treaty and Cultural conferencing session.

#### *Applicant's subsequent nomination and rescheduling request*

[11] On 11 November 2025, counsel for the applicant advised EPA staff by

telephone that the applicant was reconsidering its position and might wish to nominate an expert. EPA staff explained that the preferences of other participants indicated that 20 November 2025 was the preferred conferencing date, being one of the two dates already identified in Minute 19.

[12] Later on, 11 November 2025, counsel for the applicant emailed to advise that Mr Buddy Mikaere would be the applicant's nominee for the Treaty and Cultural conferencing and indicated that he had availability constraints which affected his ability to attend on 20 November 2025.

[13] In light of that development, ChanceryGreen (on behalf of the Panel) emailed all participants who had previously indicated attendance on 20 November 2025 on 14 November 2025, seeking their availability for alternative dates of 25, 27 and 28 November 2025, so that conferencing could potentially be rescheduled to allow for Mr Mikaere's attendance. The Panel notes, however, that rescheduling at that point would have required multiple iwi and hapū participants and other parties, who had complied with the Panel's directions, to re-arrange their commitments at short notice.

[14] Responses were requested by midday on 17 November 2025.

[15] A response from Mr Mikaere was not received until 18 November 2025, after the requested response time. By then, the Panel had already concluded that conferencing on 20 November needed to proceed in order to maintain the overall timetable for the Panel's determination process.

#### *Confirmation of conferencing arrangements*

[16] On 17 November 2025, ChanceryGreen confirmed on the Panel's behalf that the Treaty and Cultural conferencing would proceed on 20 November 2025 at the Ngāti Ruanui boardroom in Hāwera. That communication also recorded that remote access would be provided for those unable to attend in person.

[17] On 18 November 2025, the Panel reconsidered its decision to proceed with the expert conferencing on 20 November 2025 in the light of Mr Mikaere's late response but confirmed its decision. ChanceryGreen responded to Mr Mikaere's email of that date and confirmed that remote access to the 20 November conferencing would be available, should he or the applicant wish to participate on that basis.

#### *Panel's decision not to reschedule*

[18] The Panel's reasons for declining the applicant's late request that the Treaty and Cultural conferencing be rescheduled to accommodate Mr Mikaere's availability included that:

- (a) multiple experts from several parties had already confirmed their availability for 20 November 2025 and the Panel considered they would be unduly inconvenienced by a late change in the date.

- (b) the inquiry is subject to a compressed statutory timetable under the Fast-track Approvals Act 2024 (FTAA) including fixed milestones for completion of the Panel's report.
- (c) the applicant elected to appoint Mr Mikaere to be its representative at the conference, despite knowing that the panel proposed to hold the conference of experts on 20 November and that Mr Mikaere was unavailable on that date; and
- (d) vacating the established conferencing date would have created a material risk to the overall timetable and the Panel's statutory obligations.

[19] The Panel also took into account that remote participation was available and had been expressly offered to the applicant's expert. The applicant elected not to have an expert participate in the 20 November Treaty and Cultural conferencing, whether in person or remotely.

#### *Conferencing outcome*

[20] Treaty and Cultural expert conferencing proceeded on 20 November 2025 between the experts who attended in person in Hāwera and those who participated remotely. The Treaty/Cultural JWS dated 20 November 2025 was produced as a result of that conferencing.

[21] The Panel has used the time since the JWS was received to consider it in the context of its deliberations. Delaying that process until 25 November 2025 would have materially compromised the Panel's decision-making timetable.

[22] Having regard to the chronology above, the Panel is satisfied that its decision to proceed with conferencing on 20 November 2025, notwithstanding the applicant's late request to reschedule, was reasonable. It was consistent with its obligations under sections 10 and 57–59 and clause 10 of Schedule 3 of the FTAA to use timely, efficient and proportionate procedures that promote the just determination of the approvals sought, while maintaining a fair process that has proper regard to the interests of all participants.

#### **Nature and use of the Treaty/Cultural JWS**

[23] The Panel records that the Treaty/Cultural JWS reflects the views of those experts who attended the conferencing session on 20 November 2025. Those experts oppose the project, in whole or in part, on Treaty settlement and cultural grounds.

[24] The Panel does not treat the Treaty/Cultural JWS as embodying the applicant's cultural or Treaty position, nor as implying any concession by the applicant. The applicant did not have an expert present at that conferencing session

and is not to be taken as having adopted the terms of the Treaty/Cultural JWS.

[25] The Treaty/Cultural JWS is one component of the overall evidential record before the Panel. It is useful as a synthesis of the evidence and opinions of the experts who participated in the conferencing, but it is not treated as a comprehensive statement of all possible opinions and positions on Treaty settlements and cultural effects in these proceedings.

[26] The Panel will assess the Treaty/Cultural JWS alongside, and not as a substitute for, the separately filed expert and lay evidence of all parties, including the applicant.

### **Further opportunity to respond**

[27] The Panel has decided to provide the applicant with an opportunity to file a short supplementary statement from its Treaty/Cultural expert responding to the Treaty/Cultural JWS.

[28] For the avoidance of doubt, this supplementary evidence process is directed solely to the Treaty/Cultural JWS. The Panel does not require commentary on the underlying ecological or other technical effects evidence that informs tangata whenua views. That evidence has been, or will be, addressed through separate expert evidence, conferencing and hearing processes.

[29] The supplementary statement should therefore focus on Treaty settlements, tikanga and cultural effects in light of the Treaty/Cultural JWS. It is not an opportunity to re-open or expand upon marine ecology, marine mammals, sediment transport, or other foundational evidence.

### **Directions**

[30] The Panel directs as follows.

#### *Supplementary statement from applicant's Treaty/Cultural expert*

[31] The applicant may file a supplementary statement from a Treaty/Cultural expert by 4.00 pm on 28 November 2025.

[32] The supplementary statement must be confined to:

- (a) (a) identifying any factual errors or mischaracterisations in the Treaty/Cultural JWS
- (b) (b) clearly stating the respects in which the expert disagrees with the views expressed in the Treaty/Cultural JWS and explaining why
- (c) (c) identifying any parts of the Treaty/Cultural JWS that, in the expert's opinion, are better characterised as submissions or as conclusions about the legal effect of Treaty settlements or the Panel's statutory functions.

[33] In each case, the statement must briefly set out the expert's position and

reasoning.

[34] The supplementary statement is not to address ecological, hydrological, or other scientific or technical matters that are the subject of separate expert evidence and conferencing. It is confined to Treaty settlement, tikanga and cultural effects related issues.

[35] The Panel notes that, in this proceeding, witnesses for the applicant have referred to Mr Mikaere's expert evidence to the EPA on behalf of the applicant, dated 17 December 2016. By 4.00pm on 28 November 2025, the applicant shall file a memorandum of counsel, or a statement from Mr Mikaere, addressing Mr Mikaere's position as follows:

- (a) stating whether he continues to hold the opinions expressed in his 17 December 2016 expert evidence, insofar as that evidence addresses Treaty settlements, tikanga and cultural effects in relation to the project
- (b) identifying whether, and to what extent, Mr Mikaere wishes that 2016 evidence to be treated as adopted for the purposes of these proceedings (for example, by attaching it and confirming its continued relevance)
- (c) identify any respects in which his current views differ from those expressed in that 2016 evidence and explain the reasons for any such differences.



**Hon. Kit Toogood KC**  
Taranaki VTM Expert Panel chair