
TARANAKI VTM PROJECT
[FTAA-2504-1048]

MINUTE 26 OF THE EXPERT PANEL

Hearing of Legal Issues:
Question 10: Treaty
Principles,
Existing Interests and Treaty
Settlement Obligations

(25 November 2025)

Background

[1] In its Legal Hearing Minute (Minute 11), the Panel identified a series of legal questions on which it sought submissions. Question 10 was framed in the following terms (emphasis added):

“What is the relevance of Treaty principles, cultural values and kaitiakitanga to the Panel’s consideration, and where do they fit within the assessment framework? In particular, what is the correct legal test to distinguish an effect on an ‘existing interest’ (as defined and used in the EEZ Act) from an effect on an ‘obligation arising under a Treaty settlement’ (FTAA s 7(1)(a))?”

[2] The Panel has received a joint memorandum of counsel dated 24 November 2025 on behalf of a number of parties who will attend the legal hearing on 26 November 2025. The memorandum attaches a table indicating which parties propose to address each of the Panel’s questions. In that table, Question 10 is recorded only in terms of its first sentence, referring to the relevance of Treaty principles, cultural values and kaitiakitanga and their place in the assessment framework.

[3] The written submissions filed to date provide a range of views on the first part of Question 10, with some context relating to the second part of that question found in responses to Question 21. The Panel considers that it would also be assisted by submissions directed specifically to the second part of Question 10, namely the correct legal test for distinguishing between an effect on an “existing interest” under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the **EEZ Act**) and an effect on an “obligation arising under a Treaty settlement” under section 7(1)(a) of the Fast-track Approvals Act 2024 (**FTAA**).

Request for further information

[4] Under section 67 of the FTAA, the Panel may request further information in relation to a substantive application from the applicant, relevant local authorities, relevant administering agencies and persons or groups invited to provide comments. In light of the issues above, the Panel considers that targeted oral submissions on the second part of Question 10 would assist its deliberations.

[5] The Panel therefore directs the EPA, pursuant to section 67(1)(a), to invite counsel who intend to address Question 10 at the legal hearing on Wednesday to be prepared to make oral submissions on both aspects of the question, including the distinction between “existing interests” and Treaty settlement obligations and how that distinction should inform the Panel’s assessment and decision-making under the FTAA.

A handwritten signature in blue ink, appearing to read 'Kit Toogood', is positioned above the printed name.

Hon. Kit Toogood KC
Taranaki VTM Expert Panel chair