
MINUTE 5 OF THE PANEL CONVENOR
Appointment and timing of panel

Alternative to Brynderwyn Hills [FTAA-2603-1178]

26 June 2026

[1] On 25 May 2026, I held a convenor conference in respect of this application. Previous Minute 3 provides a summary and post conference directions. I record my thanks to all parties that have filed memoranda or responses following the directions in Minute 3. Minute 3 confirms my next steps which was to issue this minute.

[2] The purpose of this minute is to:

- (a) Respond to matters raised by the Department of Conservation (DOC), the Applicant (New Zealand Transport Agency (**NZTA**)) and Te Rūnanga o Ngāti Whātua since the convenor conference was held.
- (b) Confirm my decision on the matters of panel composition and the timeframe required for the expert panel to deliver its decision.

Matters raised by participants

DOC

[3] DOC attached an appendix to its memorandum dated 19 June 2026 which sets out the initial comments provided by its experts on the application material covering a range of topics. I am satisfied that all of these matters will be considered by the expert panel in due course.

[4] DOC also confirmed that it remains of the view that the maximum time under the FTAA (90 working days) should be selected for the decision given the likely factual, evidential and legal issues the application will need to address. DOC expressly disagreed with the proposed 50 working days put forward by the applicant.

[5] DOC reiterated its view that it does have a regulatory role with regard to freshwater, particularly freshwater fish, indigenous freshwater fisheries and protecting recreational freshwater fisheries and freshwater fish habitats. DOC further reiterated its concern that the no freshwater fisheries approvals have been applied for and they are required. In terms of panel composition DOC considers that a freshwater ecologist on the expert panel would be ideal.

[6] Finally, DOC reiterated its comments in the convener conference memorandum which set out the planning and legal concerns.

NZTA

[7] NZTA lodged a memorandum dated 22 June 2026 which, for obvious reasons, did not expressly comment on the matters raised by DOC in its memorandum of the same date.

[8] NZTA: sought clarification in relation the directions issued with regards to DOC in Minute 3; requested reconsideration of the indicative 90 working days decision-making timeframe; commented on the panel composition; and clarified the position of Te Rūnanga o Ngāti Whātua and Te Parawhau ki Tai cultural impact assessments for the Project.

[9] In terms of the directions in minute 3 relating to DOC I am satisfied that DOC has provided the clarity I was seeking. I am also satisfied that the matters raised by DOC are matters that can appropriately be considered by the expert panel.

[10] Regarding the decision time-frame NZTA is concerned that the decision would not be issued until close to the statutory shutdown period which could mean (if the application was suspended) that the decision may not be issued in this calendar year.

[11] As to panel composition NZTA was concerned about the appointment of Graham Ussher due to a difference of opinion between Mr Ussher and NZTA in relation to another project

[12] With regards to position of Te Rūnanga o Ngāti Whātua and Te Parawhau ki Tai cultural impact assessments for the Project, NZTA notes the position but does not make any substantive comment on them.

[13] On 26 June 2026, I received a memorandum from Te Rūnanga o Ngāti Whātua noting that it was not able to provide comments on the CIAs of others by the date directed in Minute 3 but noted that it endeavour to provide its CIA promptly to the expert panel within the timeframe provided for in section 53 FTAA. I was asked to direct that Te Rūnanga is excused from providing comments on the CIAs of others by 26 June and that Te Rūnanga may provide a CIA for consideration of the expert panel. I so direct these matters.

[14] With regards to panel composition the participants at the convener conference from the following; Te Parawhau ki Tai, Te Rūnanga o Ngāti Whātua, Te Uri o Hau, and Patuharakeke indicated their strong preference for there to be a specific panel member with expertise in iwi / hapū tikanga.

Panel composition

[15] I have carefully considered the matters raised by DOC, NZTA and the iwi / hapū / Treaty Settlement entities. I am appointing the following persons to the expert panel to determine the substantive application lodged for the Alternative to Brynderwyn Hills project:

- (a) Mary Hill (chair)
- (b) Chloe Trenouth (council nominee)
- (c) Graham Ussher.

[16] With regards to the concerns raised about Mr Ussher by NZTA I am satisfied that Mr Ussher does not have a conflict of interest in relation to this Application. Mr Ussher has confirmed this to me directly and this will be noted in the conflict register that all Expert Panel members are required to input into that is included on the Fast-track website. Mr Ussher is an experienced environmental decision-maker and has sat on numerous panels, including fast-track panels.

[17] I am satisfied that, collectively, the Expert Panel will hold appropriate expertise in law, planning and ecology, and as required by the Act, te ao Māori and Māori development.

[18] With regards to matters that participants raised, as set out in Minute 3, there have been difficulties getting a specialist in te ao Māori and a civil engineer to sit as panel members, but I note that the Expert Panel has the option of appointing specialist and technical advisors and is more than likely to do this, particularly in relation to the specialist in te ao Māori. In relation the expertise in freshwater fisheries this is a matter that DOC can raise with the Expert Panel who have the option of considering if they need additional expertise in this regard. The Expert Panel will communicate with the participants about these matters in due course

Timeframe

[19] I have carefully considered the matters raised by NZTA and DOC about the decision timeframe.

[20] I consider that it is imperative that the Expert Panel have the opportunity to make a good quality decision which may involve a few steps, such as: requests for further information under s67 FTAA; the potential need for hui in relation to the cultural impact assessments and related matters; expert conferencing or similar;

and conferencing in relation to conditions. It is very clear to me that these processes need time, and I would be remiss if I did not provide that time to the Expert Panel. As I mentioned at the convener conference once I have set the decision timeframe there is no ability for me or the expert panel to amend it. The only participant in the process that has the ability to control the time-frame is the Applicant.

[21] I consider that a timeframe of 90 working days following the receipt of invited comments is appropriate. The Expert Panel commencement date will be 30 June 2026. This means the decision documents will be due on 17 December 2026, subject to processing of the application being suspended for any of the reasons outlined in section 60 of the Act, and to the date specified for inviting comments under section 53 of the Act being 15 July 2026.

In terms of next steps, the participants will be contacted by the Expert Panel after their appointment date.



Helen Atkins

Associate Panel Convener for the purpose of the Fast-track Approvals Act 2024