

BEFORE THE PANEL CONVENERS UNDER THE FAST-TRACK APPROVALS ACT 2024

IN THE MATTER OF an application for resource consents under the Fast-track Approvals Act 2024 (**FTAA**) by Manawa Energy Ltd for activities associated with a listed project, being the Kaimai Hydroelectric Power Scheme Re-Consenting.

MEMORANDUM OF COUNSEL FOR MANAWA ENERGY LIMITED

DATED 18 NOVEMBER 2025



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Introduction

1. This memorandum is filed on behalf of Manawa Energy Ltd (**Manawa**), the applicant for the listed Kaimai Hydroelectric Power Scheme Re-Consenting Project (the **Project**).
2. This memorandum responds to the matters raised in the Panel Conveners' first minute dated 12 November 2025 (**Minute**), and addresses Manawa's position in relation to the appointment of panel members to the expert panel and the timing of that panel's decision in anticipation of the conference on 19 November 2025.
3. Counsel for Manawa (Bridget Bailey) will attend the conference together with Lisa Mead (Environmental Consenting Manager, Manawa), Caleb Sjardin (Head of Environment, Manawa), Rongomai Hoskins (Stakeholder Relations Advisor, Manawa) and Richard Turner (planner, Mitchell Daysh Limited).
4. The matters in Schedule 1 of the Minute have been addressed throughout this memorandum. The table in Schedule 2 of the Minute, which sets out Manawa's proposed timeframe for the FTAA process, has been completed and is attached to this memorandum as Annexure Two.

Approvals sought

5. Manawa has applied pursuant to s 42(4)(a) and Schedule 5 of the FTAA for all necessary replacement resource consents for the damming, taking, diverting, use and discharge of water associated with the continued operation of the Kaimai Hydroelectric Power Scheme (the **Kaimai HEPS**). The resource consents are a controlled activity under the relevant statutory planning documents.¹
6. No new infrastructure, or substantial changes to the operation of the Kaimai HEPS, are proposed as part of the Project.

¹ Rule WQ R20 (47C) of the Bay of Plenty Regional Natural Resources Plan.

Complexity

7. Manawa does not consider that there are any material matters of complexity in respect of the replacement consents sought for the Project, but acknowledges it is for tangata whenua to detail the nature of the cultural effects associated with the Project. Manawa is continuing to work collaboratively with tangata whenua on these matters. The replacement consents seek to authorise the continued operation of the Kaimai HEPS, with no significant changes proposed to the operating regime or new infrastructure. The only change of note to the operating regime of the Kaimai HEPS is the proposed provision of three additional residual flows in certain tributaries of the Wairoa River.
8. Counsel considers the replacement consents sought are relatively straightforward under the FTAA, particularly when compared to other projects being considered under the legislation. In this regard:
 - (a) The replacement consents have a controlled activity status under the relevant statutory planning documents. The matters of control are clearly defined, which establishes the focus of key issues for the Project (refer matters of control at Annexure One);
 - (b) Only one type of approval is sought (resource consents relating to section 13, 14 and 15 of the RMA). No section 9 (land use) consents, wildlife approvals or concessions are required for the Project;
 - (c) The Kaimai HEPS has been in place for a number of years and operating largely in the manner that is proposed under the replacement consents for the Project. As such, the actual effects of the Project on the environment are considered to be well understood;
 - (d) Key regulatory bodies, iwi, hāpu and other agency groups are already familiar with the Project. Manawa has put substantial effort into engagement on key

issues (noting the level of response has varied between groups). Key parties which Manawa has engaged with are:

- (i) Iwi and hāpu;
 - (ii) Ngamanawa Incorporation;
 - (iii) Bay of Plenty Regional Council (**BOPRC**);
 - (iv) Western Bay of Plenty District Council;
 - (v) Eastern Region Fish & Game Council (**Fish & Game**);
 - (vi) Department of Conservation (**DoC**); and
 - (vii) Recreationalist groups.²
- (e) Manawa previously lodged an application for the replacement consents with the BOPRC under the Resource Management Act 1991 in June 2023 (the **RMA Application**), which was subsequently withdrawn when this application was accepted under the FTAA. Manawa resourced BOPRC to obtain peer reviews of the RMA Application, the outcomes of which were incorporated into the proposed consent conditions for the Project. Further detail of this process is set out below at paragraph 11.
- (f) Manawa has been engaging with BOPRC, tangata whenua and recreationalists on the development of a comprehensive suite of consent conditions for the Project.

² Being Kaimai Canoe Club, Raftabout and River Rats, Riverbed NZ, Kaituna Cascades, Waimarino Adventure Park, Waimarino Kayak Tours.

9. Given the above, Counsel respectfully considers that there does not need to be a substantial amount of time added to the standard statutory timeframe for decisions to be made under the FTAA.

Issues

10. In light of the level of prior engagement set out above, Manawa understands the principal matters to be resolved as part of the consideration of this application and further drafting of consent conditions are:
 - (a) The effects of the infrastructure associated with the Project, including the take / diversion, damming and discharge of water on the aquatic ecology and water quality of the tributaries of the Wairoa River;
 - (b) The provision for native fish passage upstream and downstream of infrastructure associated with the Project, and how this is managed into the future between Manawa and tangata whenua;
 - (c) Cultural effects, particularly the relationship of tangata whenua with the waters of the Wairoa River catchment and their role as kaitiaki.
 - (d) Continuing provision of recreational releases of water in response to recreational effects; and
 - (e) The monitoring of sediment, erosion and river geomorphology in key areas of the Wairoa River catchment over the life of the replacement consents.
11. In terms of the specific matters raised in the Minute, Manawa advises:
 - (a) **The issues that have arisen during pre-lodgement and post-lodgement consultation and engagement.** As noted above, Manawa has been engaging with regulators, iwi and hāpu, and other agency groups as part of the RMA

application and through the development of this current application under the FTAA. This has included the provision of the technical assessments to parties and feedback from peer reviewers on behalf of the BOPRC to Manawa. The matters that have arisen have primarily been focused on those matters set out above in paragraph 10.

- (b) **If the application concerns an activity the same or similar to one previously lodged with a consent authority, state how requests for information pursuant to section 92 of the RMA have been addressed in this application.** BOPRC's processing of the RMA Application did not reach the point of formally issuing any requests for further information under s 92 of the RMA. Manawa resourced BOPRC to undertake expert reviews of technical assessments lodged with the RMA Application. The outcomes of those peer reviews resulted in further engagement with BOPRC which then informed the proposed consent conditions for the Project under the FTAA, specifically through the inclusion of a Sediment Monitoring Plan and Native Fish Management Plan. In addition, there has been discussions with BOPRC regarding the drafting of the consent conditions, and the provision of monitoring data, to ensure that compliance can be readily assessed into the future.
- (c) **Any statutory process that coincides with the 30 working day period (if proposed).** Manawa is not proposing a 30 working day period for all actions post the provision of comments it receives on the application. Counsel notes that the closest statutory timeframe relevant to the Project is that the existing resource consents for the Kaimai HEPS expire on 1 October 2026.

Panel membership

12. Manawa considers that a three-four member panel would be sufficient for the application and that there are no factors to warrant the appointment of more than four panel members.

13. Schedule 3, Clause 7(1) FTAA requires panels to have the collective skills, knowledge, and expertise relevant to the approvals being sought and expertise in environmental matters. There is also a statutory requirement that at least one panel member has an understanding of te ao Māori and Māori Development. Manawa supports the appointment of a panel member with understanding of te ao Māori and Māori Development. Counsel consider that to meet these requirements, the panel should comprise of the members with the following experience:
 - (a) Legal and/or planning;
 - (b) Aquatic ecology; and
 - (c) Te ao Māori and Māori development.
14. Counsel notes that the Project, the Applicant and Counsel are all located in Tauranga and that many of the local experts with the above experience have long-standing prior professional relationships with the Applicant (or TrustPower, its prior entity). Counsel suggests that consideration should be given to appointing panel members who do not reside in the wider Tauranga area to avoid any potential for conflicts in the decision-making process.

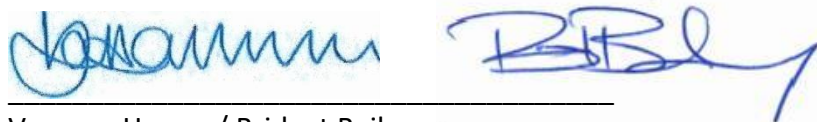
Procedural requirements

15. Counsel confirms that Manawa is willing to engage directly with the panel, including partaking in briefings, meetings, and conferencing as necessary.
16. Manawa is willing to provide an overview of the Project with a presentation, as has happened at through other projects in the FTAA. While Manawa considers that the issues for the Project are straightforward, the Kaimai HEPS itself extends over a large geographical area and consists of four stations linked via a network of nine diversions dams/weirs, 15 rivers and streams, canals and tunnels. It may therefore be helpful to the Panel to understand the physical extent of the Kaimai HEPS and its operating

regime at the outset of the process. Manawa can also facilitate a site visit for the Panel.

17. Manawa has continued to engage in collaborative consultation with key parties post-lodgement of the Project under the FTAA and intends to continue this engagement directly in parallel with the FTAA process. Consultation and engagement is both ongoing and well advanced, including discussions on conditions, with workshops scheduled with BOPRC, DoC and hāpu and iwi in December.
18. Accordingly, Manawa does not consider a hearing is required for the Project. At this stage, Manawa also does not consider expert conferencing is necessary, but acknowledges that this may be useful after the invitees provide their comments to the Panel. If directed by the Panel, Manawa can ensure its experts are available to conference or other process.
19. Manawa wishes to express its desire that the application be processed promptly and efficiently. It considers that a decision timeframe of 60 working days from receiving comments to issuing a decision would be appropriate and reasonable.
20. As requested, Manawa's suggested timeframe is set out in Annexure Two of this memorandum.

DATED at Tauranga this 18th day of November 2025



Vanessa Hamm / Bridget Bailey
Counsel for Manawa Energy Limited

Annexure One

Rule WQ R20 (47C) of the Bay of Plenty Regional Natural Resources Plan – matters of control

The matters of control under Rule WQ R20 (47C) are:

- (a) Measures to provide for the passage of fish, both upstream and downstream.
- (b) (Upstream and downstream water levels, residual flows and water quality.
- (c) Screening of intake and diversion structures.
- (d) Intake velocities
- (e) Measures to manage erosion effects (including destabilisation of beds and banks or river).
- (f) Measures to identify and manage the risk of dam failure.
- (g) Stability of the land bordering the dam.
- (h) Measures to manage discharges to water from the use or alteration of the dam structure.
- (i) Measures to avoid, remedy or mitigate any adverse effect on aquatic ecosystems, areas of significant indigenous vegetation, significant habitats of indigenous fauna.
- (j) The quantity and flow rate, outstanding natural features and natural character.
- (k) Measures to avoid, remedy or mitigate any effects on other lawfully established users of the river or stream of water released from the dam.
- (l) Volume and rate of any take or diversion.
- (m) Techniques for ensuring the safe passage of flood water.
- (n) Effects on the relationship of tangata whenua and their culture and traditions with the site and any waahi tapu or other taonga affected by the activity.
- (o) Effects on the ability of tangata whenua to exercise their kaitiaki role in respect of any waahi tapu or other taonga affected by the activity.
- (p) Measures to avoid, remedy or mitigate adverse effects of the operation on downstream sediment transport processes.
- (q) Measures to avoid, remedy or mitigate adverse effects on lawfully established downstream infrastructure.
- (r) The range, or rate of change of levels or flows of water.
- (s) The structural integrity and maintenance of the structure.
- (t) Measures to avoid, remedy or mitigate adverse effects on amenity values (including recreation), and existing public access to and along the margins of rivers and lakes.
- (u) Information and monitoring requirements.
- (v) Administration charges under section 36 of the Act.

Annexure Two

Suggested timeframe for fast-track process

Task	Working days	Date
Panel commencement	N/A	12 January 2026 (nominal)
Invite comment from relevant parties	10 W/D later	26 January 2026
Comments close (ss 53 & 54)	20 W/D later	24 February 2026
Comments close for applicant's response (s 55)	5 W/D later	3 March 2026
Any other procedural step and evaluation	0 W/D (say)	N/A
Draft decision is to approve		
Draft conditions to all participants (s 70)	10 W/D (say)	17 March 2026
Participant and applicant comments on draft conditions (s70(2))	5 W/D later	24 March 2026

Applicant response to participant's comments on conditions (s 70(4))	5 W/D later	31 March 2026
Draft decision to Ministers (s 72)	10 W/D (say)	16 April 2026
Response from Ministers (s 72)	10 W/D later	1 May 2026
Applicant response to Ministers (allow)	3 W/D later (say)	6 May 2026
Evaluate	6 W/D later (say)	14 May 2026
Any other procedural step and evaluation.	0 W/D later (say)	N/A
Decision release	6 W/D later (say)	22 May 2026.