BEFORE THE HALDON SOLAR EXPERT PANEL

In the matter of	of the Fast-Track Approvals Act 2024 (the *FTAA*) and the deliberations and decision of the Expert Panel appointed under section 50 and Schedule 3 of the FTAA to consider and decide resource consents for construction, maintenance and decommissioning of a photovoltaic solar farm and battery energy storage system on land at Haldon Station in the Mackenzie District (the *Haldon Solar Farm*).
Expert Panel	Raynor Asher *(Chair)* Matt Baber *(Member)* Stephen Brown *(Member)* Karen Coutts (*Member*) Matthew McCallum-Clark (*Member*)

Record of Decision of the Expert Consenting Panel
under Section 87 of the
Fast-Track Approvals Act 2024

Dated 10 August 2026

Decision: Approval is granted subject to conditions

Date of Decision:	10 August 2026
Date of Issue:	10 August 2026

DECISION MADE BY THE PANEL: HALDON SOLAR

PART A: EXECUTIVE SUMMARY

1 This is an application by Lodestone Energy Limited to construct and operate a solar farm at Haldon Station in the Mackenzie District beside Lake Benmore. Lodestone is seeking all the necessary approvals under s 42 of the Fast-track Approvals Act 2024 (**FTAA**). The Application was included as a listed project in Schedule 2 of the FTAA.

2 On 1 December 2025, an expert panel was appointed to determine the Application (the **Panel**). The Panel has assessed the Application applying the relevant statutory criteria taking into account the purpose and context of the FTAA.[1]

3 The Panel received comments from invitees under s 53 of the FTAA and a response to those comments from Lodestone. In addition, the Panel issued eight Requests for Information and received responses to those requests, including a second round of original information from the Applicant, and comments on ecological information from invited s 53 participants. It also issued Minutes and received responses.

4 The Panel has carefully reviewed all of the information before it. In doing so, the Panel records its concern about the significantly incorrect ecological assessments lodged with the substantive application. The Panel appreciated the Applicant being responsive to this issue and replacing the initial ecological effects assessment, and adding effects management measures through the process. However, on several occasions, this placed all involved invitees, and the Panel, in a difficult position, particularly given the time constraints of this process.

5 Having considered all relevant matters and applied the statutory tests, the Panel has decided that the Project meets the purpose of the FTAA.

6 The solar farm will give rise to adverse impacts. However, for the reasons given in this decision and with the conditions, which have the Applicant's support, that the Panel is imposing, the Panel finds that the impacts are not out of proportion to the regional and national benefits and grants the approvals sought, subject to the conditions set out in Appendices A (Mackenzie DC resource consent conditions) and B (Canterbury Regional Council resource consent conditions), which the Panel considers necessary. Those conditions, offered by the Applicant following Requests for Information from the Panel, comments from s 53 invitees,

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[1] Legislation Act 2019, s 10; and FTAA, ss 10 and Schedules 3 and 5.

and Panel minutes, include a million dollar payment to the Department of Conservation to assist the black stilt/kakī breeding programme, a covenanted 180 ha Compensation Area, and four additional enhancement areas, as well as long term ecological management.

7 The Panel has not been asked to determine every issue that may have to be resolved before the solar farm can operate. In particular, the Panel notes that approval may be required under the Wildlife Act, and possibly under the Resource Management Act 1991 (**RMA**) for structures in the proposed Compensation Area that were included subsequent to the substantive application being accepted by the Environmental Protection Authority (**EPA**).

8 This decision document records the matters addressed in s 87 of the FTAA. This decision document traverses the issues set out in the index.

PART B: OVERVIEW OF THE APPLICATION AND PROCEDURE

Application

9 This is an application (the **Application**) by Lodestone Energy Limited (**Lodestone**) under s 42(4)(a) of the FTAA for all necessary resource consents that would otherwise be applied for under the RMA required to construct, maintain and decommission a photovoltaic solar farm and battery energy storage system on the land referred to above (the **Site**) at Haldon Station in the Mackenzie District (the **Haldon Solar Farm**). Lodestone is the authorised person for the Project in terms of s 42(1) of the FTAA.

10 The legal description of the property is Part Reserve 1358, Record of Title CB427/82. The Applicant has an interest by way of option to lease part of the property.

11 More specifically, Lodestone seeks the following resource consents:

From the Mackenzie District Council (**Mackenzie DC**):

a. A land use consent for the construction, operation, maintenance and decommissioning of the Haldon Solar Farm including the use and storage of hazardous substances, earth works, vegetation clearance and for structures and activities not otherwise provided for in the General Rural Zone in the Mackenzie District Plan (**Mackenzie Plan**).
b. A land use consent for the construction, operation, maintenance and decommissioning of a substation associated with the Haldon Solar Farm.
c. A land use consent for the upgrade of an existing National Grid Transmission Line under Regulation 39 of the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009.

From the Canterbury Regional Council (**CRC**):

a. A land use consent for earthworks over an unconfined aquifer,
b. A discharge permit for the discharge of stormwater to land from earthworks and from the operational solar farm.

12 Lodestone requests:

- 35 year duration for land use activities;[2]
- 10-year duration for any resource consents granted solely for construction activities;
- 35-year duration for any discharge activity; and
- a lapse period of 10 years for any resource consent granted.

Site and surrounding environment

13 The Site is some 500 hectares of relatively flat rural land within the wider Haldon Station. The site is within the southern part of the Mackenzie Basin and is adjacent to the Haldon Arm of Lake Benmore. The Applicant provides a detailed description of the Site,[3] which, incorporating subsequent amendments to the Application,[4] we summarise as:

- The solar farm site is some 320 ha, and the additional Compensation Area[5] is some 180ha, of the 22,000 ha Haldon Station, located approximately 15km southeast of Twizel township.
- The solar farm site is bounded by Haldon Arm Road and a centre pivot irrigation area to the north, the Haldon Campground to the west, Lake Benmore/Te Ao Mārama to the west and south, and the low hills referred to as Mount Maggie/Te Pā-o-Kāti-Kurī to the east. The map below shows (in yellow) five conservation/release[6] areas within the site.
- The Compensation Area is located to the north of Haldon Arm Road and bounded by the property boundary to the north and the Twizel River to the west.
- A Transpower transmission line passes approximately southeast-northwest through the centre of the site.
- The site itself is generally flat, aside from slight natural undulations, sparsely vegetated and, other than the transmission lines, has no structures or fences present. Due to the lack of palatable vegetation, the solar farm site has been very infrequently grazed. The

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2 Initially an unlimited duration was sought, but this was subsequently amended to a 35-year duration.
3 Section 3 of Appendix 7 of the substantive application – *Haldon Solar Project: Ecological Impact Assessment* (AgScience, 2025).
4 Primarily the incorporation of a 180ha off-set area in revised ecology documentation provided to the EPA on 10 April 2026.
5 While this area has had various names in documentation and comments, we refer to it as the "Compensation Area" throughout this decision, except where we are using the term used by another person, and in the conditions.
6 These five areas total some 26.5 ha and were identified and added part-way through the process, prior to the addition of the Compensation Area. They have had various names and been referred to in different ways by the parties. We refer to them as "conservation/release areas" in this decision and the conditions.

Compensation Area is similar in nature to the solar farm site, but appears to have been grazed somewhat more frequently, particularly the northern part of the Compensation Area.

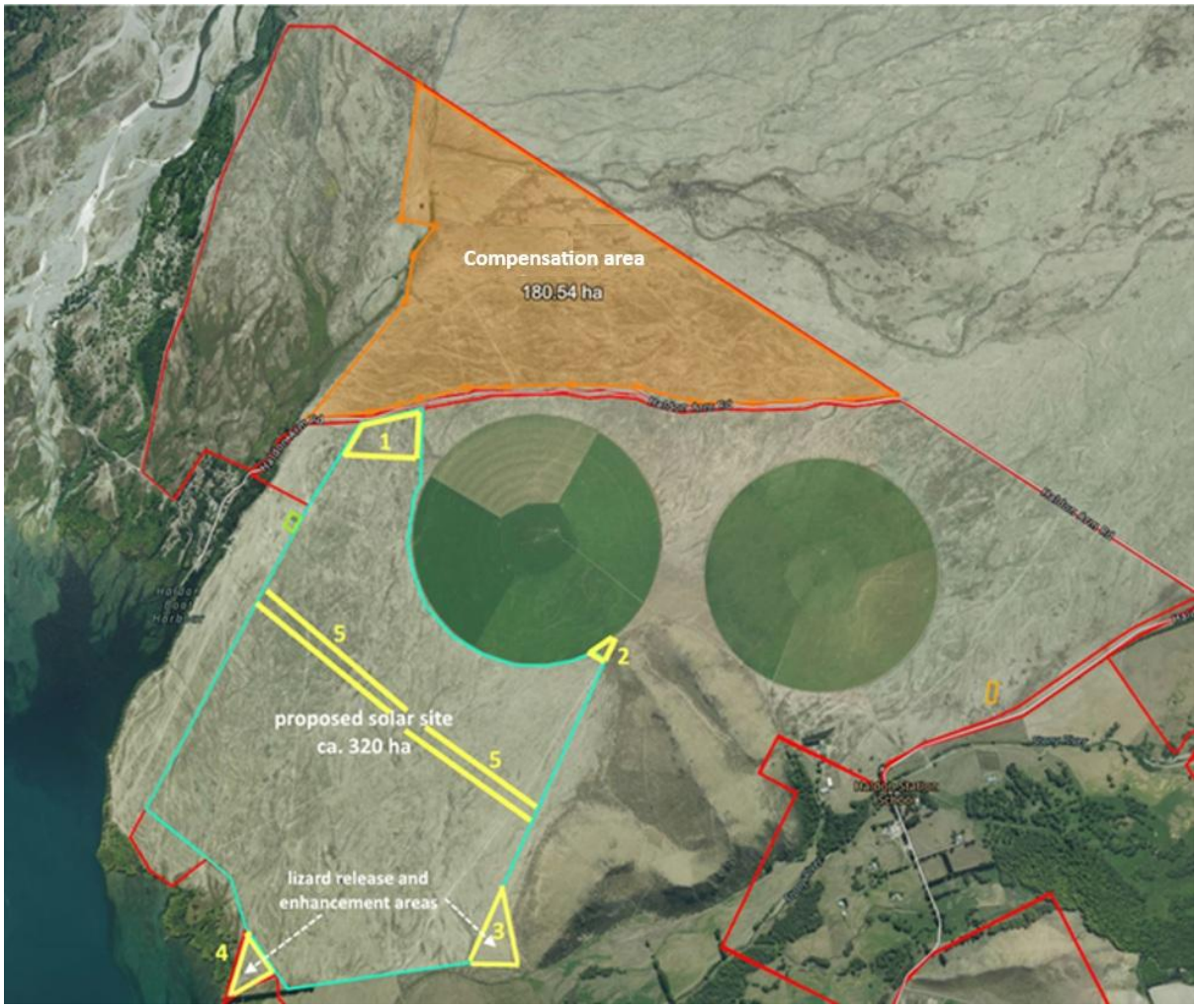

Figure 1: Showing approximate location of the site (green outline) and conservation/release areas (yellow) and Compensation Area (orange)

14 The whole of the site is within a site and area of significance to Māori. The site has a Rural zoning in the Mackenzie Plan. The whole of the site is within an Outstanding Landscape Area, there are areas of Visual Vulnerability on the east and west of the site, and the majority of the site is also within a Lakeside Protection Area overlay. The Mackenzie Plan mapping also shows hydro-lake related inundation and flood hazards, and liquefaction potential, affecting large parts of the site.

15 The site is within the Haldon Zone of the Upper Waitaki FMU in the Canterbury Land and Water Regional Plan (**CLWRP**), and is identified as having an unconfined/semi-confined aquifer present.

Key Factors

16 The Haldon Solar Project comprises a solar farm and electricity substation[7] on Haldon Station. Elements of the proposal have been significantly adjusted over the time the proposal has been before the Panel. At the time of considering whether to grant or decline the Application, the key components of the proposal are:

- Installation of approximately 360,000 solar panels mounted on steel frames that rotate to align with the sun's path.
- Approximately 48 power transformers with a battery electricity storage component, linking to an electricity substation adjacent to the existing Transpower transmission line, with the addition of a new transmission line tower to enable connection to that transmission line.
- Associated accessways, underground cabling, earthworks and boundary fencing. [8]
- Predator-proof fencing, and weed and pest control of approximately 180ha of Compensation Area.[9]
- Five conservation/release areas within the solar farm site.

17 The site will be accessed from Haldon Arm Road.

18 Construction is expected to take 14-18 months, and during that time a temporary storage area, office and amenity area will be established.

Resource consents

19 The resource consents sought have been summarised at paragraph 11.

20 The Panel has reviewed all the documentation and the further information provided by the Applicant and the participants. The Panel agrees with the Applicant that, in terms of the Mackenzie Plan and its various proposed plan changes, overall the Application is a non-complying activity.[10] Further, in terms of the consents required from the CRC, the Panel agrees

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7 Technically, there are two adjoining substations, one operated by the solar farm operator, and one by Transpower

8 Section 4.1 of the Substantive Application AEE.

9 Detailed in updated ecology information received 9 and 10 April 2026 and in updated resource consent conditions (since modified) on 21 April 2026.

10 Section 1.4 of the AEE, and noting s 88A of the RMA, which requires the activity status to remain the same throughout the process, despite some provisions of the Mackenzie Plan now becoming or being

with the range of consents sought by the Applicant, and that when bundled, overall the Application is a discretionary activity.

21 The Panel notes that the proposed 180ha Compensation Area was included in documentation first submitted to the EPA on 10 April 2026, but not in the original application. It includes, among other things, predator proof fencing of at least 1.2m height, vegetation clearance, and likely some earthworks or other structures. Elements of the Compensation Area may[11] require resource consent from Mackenzie DC or the CRC, and, due to the Compensation Area being added following the substantive application being lodged, any consents required are not included in the resource consents granted under this FTAA process.

Procedure

22 The following matters of procedure are relevant for this decision.

Meetings and site visits

23 On 5 December 2025 the Panel issued a Minute inviting the Applicant to provide an on-line briefing to the Panel, so that the Panel might better understand the project. In that Minute the Panel also asked a number of questions. The Applicant briefed the Panel on 10 December 2025 and responded in writing to the questions on 12 December 2025.

24 The Applicant filed a request for a rolling delay on publication of all material provided by the Applicant, until the adjacent solar farm (**the Point Solar Farm**) had reached the same stage in the Panel process.[12] The Panel considered this request and declined it on the basis that it would be impractical and would hinder the involvement of other parties in the FTAA process.[13]

25 The Panel undertook site visits to both the Haldon Solar Farm and The Point Solar Farm over two full days of 29 and 30 January 2025. As the majority of the Panel has also been appointed to decide the Point Solar Farm application, combining site visits was an efficient use of time and resources. The Panel walked over parts of the Haldon Solar Farm site, visited the

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treated as operative. The Panel notes that the Mackenzie DC comments confirm that the application, if lodged at the time the decision is made, would be for a discretionary activity (per paras 100-116 of Boyes for Mackenzie DC, 2 February 2026). The Panel also notes clause 17(1)(b) of the 5th Schedule to the FTAA, which dis-applies the additional test for non-complying activities under s 104D of the RMA.

11 For the avoidance of any doubt, the Panel has not undertaken an assessment of compliance, it merely notes that this may need to be undertaken by the Applicant.

12 Letter from Applicant of 11 December 2025

13 Minute 3, dated 15 December 2025.

immediate surrounds within Haldon Station and adjoining land such as the Haldon Arm Campground. The Panel also observed the site from several public viewpoints, including across Lake Benmore.

26 Much of the Panel's correspondence, deliberations and decision-making occurred over email following review, drafting and commenting on drafts of further information requests, this decision report and the conditions. A number of meetings were held over Teams. Notwithstanding this, the Panel met on the following occasions:

a. 8 December 2025;
b. 12 December 2025;
c. 16 December 2025;
d. 12 February 2026;
e. 5 March 2026;
f. 10 March 2026;
g. 1 April 2026;
h. 1 May 2026
i. 22 May 2026
j. 28 May 2026
k. 29 May 2026
l. 8 June 2026
m. 22 July 2026
n. 28 July 2026.

Invitations to comment

27 The Panel invited comments on the Application by Minute dated 15 December 2025. Responses to this invitation were due on 2 February 2026. Comments were received in response to the initial invitation from the following:

a. Canterbury Regional Council;
b. Department of Conservation;
c. Environmental Defence Society;
d. Mackenzie District Council;
e. Meridian Energy;
f. Minister of Climate Change;
g. Minister for Māori Development;
h. Minister Responsible for RMA Reform;

i. Minister for Infrastructure;
j. Minister for the South Island;
k. Minister for Hunting and Fishing;
l. Minister for the Environment;
m. Minister for Energy;
n. New Zealand Transport Agency Waka Kotahi;
o. Royal Forest & Bird Protection Society of New Zealand;
p. Te Rūnanga o Arowhenua (prepared by Aoraki Environment Consultancy Limited);
q. Te Rūnanga o Moeraki and Te Rūnanga o Waihao (prepared by Aukaha);
r. Te Rūnanga o Ngāi Tahu; and
s. Transpower.

28 As will be discussed further below, due to substantially different ecology information being provided by the Applicant after this initial round of comments, a second round of comments were sought from any invitee who showed an interest in ecology issues. Comments were received in response to this second invitation from the following:

a. Forest and Bird
b. EDS
c. Department of Conservation
d. CRC
e. Mackenzie DC
f. Mana whenua[14]
g. Minister for the Environment
h. NZTA (although NZTA had not been invited to comment, it understood Minute 15 to enable comment on the conditions. The Panel accepts the NZTA comments on that basis.)

29 The Panel would like to thank all invitees who commented for their contributions.

[14] Mana whenua refers to those who have recognised kaitiaki relationships on this land coming from traditional whakapapa links to the land. This is Te Rūnanga o Arowhenua, Te Rūnanga o Waihao, and Te Rūnanga o Moeraki, representing the hapu, and supported by Te Rūnanga o Ngāi Tahu, representing the tribe]. Te Rūnanga o Arowhenua uses Aoraki Environmental Consultancy Limited (AECL) as their environmental adviser, and Te Rūnanga o Waihao and Te Rūnanga o Moeraki use Aukaha as their environmental adviser.

30 While the majority of comments were of a specific nature about the impacts of the solar farm proposal, and are referred to in the respective effects assessment sections, a number of the comments in response to the initial invitation were general in nature, including:

30.1 A number of invitees acknowledged the benefits of the proposal, including in relation to the economy, renewable electricity generation, and climate change. The Ministers Responsible for RMA Reform, Infrastructure, the South Island and Hunting and Fishing expressed support for the proposal. The Minister of Climate Change noted that the proposal was likely to have significant national and regional benefits in terms of climate mitigation, and but only regional benefits for climate adaptation. The Minister for Energy acknowledged the national and regional benefit of the proposal, noting the contribution to security of energy supply, downward pressure on wholesale electricity prices, and the contribution to climate change targets.

30.2 Several other invitees questioned the magnitude of economic benefits presented by the Applicant, and whether they have been overstated, particularly in relation to long term employment opportunities for local residents.

30.3 Forest & Bird, Environmental Defence Society (EDS), Department of Conservation (DOC), CRC and Mackenzie DC provided a detailed assessment against the decision-making framework in the FTAA and/or the relevant policy documents, with Forest & Bird and EDS suggesting that the proposal's benefits are not in proportion to the potential adverse effects and that declining the Application would be appropriate.

30.4 Several invitees, including Forest & Bird, EDS, DOC, Te Rūnanga o Arowhenua (through AECL), CRC and Mackenzie DC, identified that there were information deficiencies with the initial application, and that further investigation and analysis would be required. It was said by the Mackenzie DC in its initial comments prior to the conditions being significantly amended that:

> Overall, the planning assessment as described above has not identified any fundamental issues that cannot be resolved through amendments/additions to the Proposed Conditions and additional work by the Applicant to address the loss of significant indigenous biodiversity values. To date details of any such offset and/or compensation package have not been provided; and as such the Applicant's Proposed Conditions do not currently provide a framework by which to achieve appropriate indigenous biodiversity outcomes in proportion to the national benefit from increased renewable electricity generation.

30.5 The Minister for RM Reform and Infrastructure included an assessment of the proposal against the relevant national policy statements, resource management regulations and

resource management reform documentation, and considered that the proposal was consistent (or not contrary) with the direction they provide.

31 We record that in dealing with submissions and comments relating to the Mackenzie Basin/Te Manahuna, we will use the description of the region adopted by that submitter or commentator. We also record that we have not endeavoured to respond to every submission or point of evidence presented to us, and have exercised our judgment in deciding the points that have warranted explicit consideration.

Applicant's response to invited persons' comments

32 On 10 February 2026, the Applicant provided a response to the comments received on the Application from those persons who were invited to comment under s 53 of the FTAA. This response included:

a. A summary document of comments received and the Applicant's response.
b. Legal submissions, in particular, addressing the decision-making criteria and cumulative effects.
c. Substantive reports and new information on lizards and invertebrates.
d. A report analysing monitoring methodologies and a bird-strike risk literature review.
e. An ecology response summary, including an Ecological Management Plan, which captures detail on the management of flora, invertebrates, lizards and avifauna.
f. Planning commentary, including analysis of the recently updated National Direction documents.
g. Additional commentary on the regional and national benefits of the proposal.
h. A memorandum addressing effects on the landscape, including cumulative impacts.
i. An assessment of cumulative impacts of the proposal, including ecological, landscape and visual, and electricity transmission effects.
j. A response to concerns raised by mana whenua.
k. An updated set of draft consent conditions.

33 The Panel has considered the Applicant's responses to the initial s 53 responses, and, where appropriate, refers to those responses within Section E of this report below.

Appointment of technical advisor

34 On 15 December 2025 the Panel appointed Phil Page as a technical adviser to provide the Panel with legal advice.[15] This appointment was made under clause 10(3) of Schedule 3 of the FTAA.

35 On 16 February 2026 the Panel appointed Mr Gerry Kessels as a technical advisor to provide the Panel with advice on avifauna risks and responses[16]. This appointment was made under clause 10(3) of Schedule 3 of the FTAA.

36 Mr Kessels provided his comments on 11 March 2026.

Requests for further information

37 On 19 December 2025, further information was requested from the Applicant on ecological matters under s 67 of the FTAA. The Applicant responded on 23 January 2026 with a letter explaining the vegetation survey methodology, avifauna risk, potential areas for enhancement, and indicating the further work that was underway to investigate ecological issues.

38 On 16 February 2026, further information was requested from the mana whenua, in order to get their feedback on the Applicant's proffered conditions relating to mana whenua, such as establishing a governance working group and input into management plans. Te Rūnanga o Arowhenua (**Arowhenua**) (through Aoraki Environmental Consultancy Limited (**AECL**)) and Te Rūnanga o Waihao (**Waihao**), and Te Rūnanga o Moeraki (**Moeraki**) (through Aukaha) responded on 23 February 2026, explaining communications to date and a desire for further input.

39 On 16 February 2026, further information was requested from the Applicant on landscape effects, and invertebrate and plant ecology under s 67 of the FTAA. The Applicant responded on 23 February, enquiring if part of the response could be delayed until 31 March 2026. After further correspondence with the EPA, the Applicant sought, and was granted, a suspension of processing until 31 March 2026. In addition, a request for further information was issued on 12 March, based on Mr Kessels' advice, which assisted the Panel to identify the key avifauna information gaps

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15 Minute 2, dated 15 December 2025, [11]–[12].
16 Minute 4, dated 16 February 2026, [3]–[5].

40 The Applicant sought, and was granted, two further extensions of this suspension of processing, such that processing recommenced on 13 April 2026. While we do not need to dwell on the details, these further extensions caused some further changes to due dates for other requests for further information and the revised conditions (as discussed below).

41 The Applicant responded to the further information request on landscape and avifauna issues on 9 April 2026, and with other ecology information on 10 April 2026. The Panel notes that the views of a number of the s 53 invitees about the apparent deficiencies of the ecological information submitted with the Application were recognised by the Applicant, and the information submitted on 9 and 10 April 2026 amounted to a full replacement of some of the original information.

42 On 2 March 2026, the Panels for this Application and for the Point Solar Farm issued a joint Minute, requesting that the two applicants work with each other and the councils, and involve other s 53 invitees in developing a revised set of draft consent conditions. Draft conditions and many draft management plans were received on 21 April 2026. Further details about this request are set out further below.

43 On 2 April 2026, the Panel requested information from mana whenua as to the state of engagement with the Applicant, and whether conditions had been discussed and/or agreed. A joint response from the relevant rūnanga, their consulting agencies and Te Rūnanga o Ngāi Tahu was received on 17 April 2026.

44 On 13 April 2026, the s 53 invitees who had raised ecology issues were given the opportunity to further comment on the updated ecology information provided on 9 and 10 April 2026, by way of a request for further information. Near the conclusion of the deadline for this request, it was extended in time, and in breadth to allow further comment on the draft consent conditions. Comments were received from:

a. Forest and Bird
b. EDS
c. DOC
d. CRC
e. Mackenzie DC
f. Mana whenua
g. Minister for the Environment

h. NZTA (although NZTA had not been invited to comment, it understood Minute 15 to enable comment on the conditions. The Panel accepts the NZTA comments on that basis.)

45 On 24 April 2026 the Panel requested information from the Applicant in relation to the draft conditions and management plans. A response was received on 1 May 2026.

46 On 28 April 2026 the Panel invited the Applicant to respond to the substantial comments from the invited parties on ecology matters, taking into account the Applicant's responses of 9 and 10 April 2026. The due date for submitting a response was 06 May 2026. On 06 May 2026, the Applicant sought a suspension of the processing of the Application under s 64 of the FTAA, which was extended three times at the Applicant's request, finishing on 4 June 2026. A response to the request was received on 27 May 2026 and comprised:

a. A letter from Lodestone with a summary of the response
b. An updated set of Mackenzie DC resource consent conditions
c. An ecology response and updated management plans
d. Planning commentary
e. Legal submissions, in particular, addressing the decision-making criteria in respect of declining an application, and adaptive management and compensation, and weighting of RMA policy documents.

47 The Panel carefully considered this information, and, at that stage, had concerns that the adverse effects on the ecology of the site might be unacceptably high and at risk of outweighing the benefits of the project, even taking into account the proposed effects management measures. The Panel issued Minute 18 on 2 June 2026, setting out this concern and listing several elements that could help assuage the Panel's concerns. The Applicant responded on 5 June 2026.

48 The Panel held some residual concerns about the implementation of one of the Applicant's proposed conditions and issued a further information request to clarify this element on 10 June 2026. The Applicant responded to this request on 12 June 2026.

Conditions

49 The Application included a set of draft conditions with the Application. The Mackenzie DC and CRC, in their capacity as regulatory authorities, provided some feedback in their

comments. Several other s 53 invitees made comments on the adequacy of the draft conditions (noted above in the summary of comments), and some expressed an interest in further involvement in the refinement of the conditions. The Applicant provided a revised set of draft conditions in its response to the comments.

50 Given some overlap in the issues before the Panels for Haldon and the Point Solar Farm, the Panels jointly issued a Minute[17] setting out some parameters for a redrafting of the conditions. The Panels considered it desirable that where conditions for the two applicants covered the same issue, they should be consistent. It was requested that the applicants for both projects liaise with each other, and with the relevant regulatory authorities and other parties, and present a set of conditions that were:

a. Agreed between the parties wherever possible;
b. The same, where there is no justification for differences; and
c. Respect guidance for conditions in case law and in the Panel Conveners' Guidance.

51 The Panels also requested supporting documentation and draft management plans. On 21 April 2026, the Applicant provided a set of draft conditions and many draft management plans to the Haldon Solar Panel. Through correspondence to the Panel and in subsequent comments, it became clear that Mackenzie DC, CRC and DOC had fewer opportunities for involvement, particularly as the draft conditions approached finalisation, than they had expected.[18]

52 Further updates and amendments to the Mackenzie DC condition set were provided by the Applicant on 21 May, 5 June and 12 June 2026.

53 The Panel issued its draft decision and conditions and received comments on the conditions under section 70. The Applicant responded with a further set of amended conditions dated 20 July, following which a conditions workshop with the parties who had made comments was convened on 28 July. Following that workshop, the Applicant lodged a further draft set of conditions dated 30 July.

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[17] Minute 6 of the Haldon Panel and Minute 7 of The Point Panel, dated 2 March 2026.
[18] The Panel also considered that its Minute was clear in expecting a more joint approach with these parties than evidently occurred.

54 The Panel has considered and taken into account the draft conditions proposed by the Applicant, and other conditions that the Panel may have considered imposing, in determining that the regional or national benefits outweigh the Project's residual adverse impacts.

55 Towards the end of this decision, we have added a section addressing the principal issues in contention concerning the conditions we have imposed.

Hearing

56 The Panel has exercised its discretion not to require a substantive hearing on the merits of the proposal under s 56 of the FTAA. The Panel was able to adequately consider all issues based on the information available, including the Application, comments received, responses to comments and the further information provided by the Applicant, the Councils and invited persons. The Panel noted the high level of consensus in several of the technical assessments[19], and while there remained differences of opinion between the Applicant and the s 53 invitees as to how to respond to the issues raised, the Panel considered that the technical issues were comprehensively addressed in the documentation provided. These issues were sufficiently clear for the Panel to consider and make decisions.

57 However, by Minute 21 dated 23 July 2026 we gave notice of a narrowly focussed conditions workshop. The workshop had the status of a hearing under sections 57 and 59 of the FTAA but was limited to three specified topics on the structure and drafting of conditions concerning the role of a Technical Review Panel. The workshop occurred by way of a remote access video conference on 28 July 2026. We have more to say about that in the conditions discussion later in this decision.

58 The Panel is mindful of the emphasis on time limited decision-making in the present process, the purpose of the FTAA in s 3 to facilitate the delivery of infrastructure and development projects with significant regional or national benefits, and the procedural principles in s 10 FTAA that require the Panel to take all practicable steps to use timely, efficient, consistent, and cost effective processes that are proportionate to the Panel's functions, duties or powers.

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[19] With the exception of the original AgScience assessment, which for reasons addressed later, has largely been put to one side by the Applicant, the s 53 invitees and the Panel.

Timing of the Panel decision

59 In accordance with the Panel Convenor's Minute dated 24 November 2025, the time frame for the Panel to issue its decision documents under ss 79 and 88 was 29 May 2026.

60 Due to a number of suspensions that the Applicant requested during the processing of the Application, pursuant to s 60 of the FTAA, the revised final date for issuing the decision document is 13 August 2026.

61 We have granted the Applicant a number of suspensions at the Applicant's request. We have set out our reasons in the Minutes granting the suspensions. We have also issued a number of Requests for Information and Minutes where we set out matters where we think the Applicant should provide further information or consider taking further steps.

62 We consider that these actions have been in accordance with our duty under the FTAA to facilitate the delivery of infrastructure such as solar farms, and our duty to do so as efficiently as possible in accordance with s 10 of the FTAA. That section requires every person performing functions and duties and exercising powers under the FTAA that are "to use timely, efficient, consistent, and cost-effective processes that are proportionate to the functions, duties, or powers being performed or exercised". We are also mindful of cl 10(1) of schedule 3 of the FTAA, which requires the Panel to regulate its own procedures as it thinks appropriate without procedural formality, and "in a manner that best promotes the just and timely determination of the approvals sought in a substantive application."

63 We also note that Requests for Information are provided for in the Act under s 67 and that such requests and associated Minutes are inquisitorial in nature. While we have been sensitive to the need not to derail the FTAA process by granting suspensions too freely, we note that such suspensions are directly contemplated by the FTAA, and that suspensions are limited in duration by ss 65 and 66. We also note that the inquisitorial aspects of the procedures set out in the FTAA warrant, on occasions where applications appear to be deficient, advice by Minute of what may assist the Panel. This will not be appropriate in relation to all applications, but in relation to these applications with their regional and national benefits, and some obvious information lacking, they were warranted.

PART C: LEGAL CONTEXT

Legal context for a listed project under the FTAA

64 In accordance with s 42, an authorised person[20] for a listed project may lodge a substantive application with the EPA. The substantive application is required to follow the process set out in ss 43 and 44. The Applicant lodged the substantive application on 1 September 2025.

65 The EPA decided that the Application was complete and within scope[21] on 22 September 2025. The EPA made a recommendation on whether there are competing applications or existing resource consents for the same activity on 3 October 2025.[22] The EPA then provided the Application to the panel convenor and at the same time requested a report from the Secretary for the Environment as the responsible agency[23] under s 18 on 7 October 2025. A report was received on 7 October 2025.

Scheme of the FTAA

66 This Application was lodged on 1 September 2025. During the Panel's consideration of the Application, the Fast-track Approvals Amendment Act received Royal assent on 16 December 2025. It introduced transitional provisions applying to "live" applications (those not decided prior to 17 December 2025, being the first commencement date, and prior to 31 March 2026, being the second commencement date). Under Schedule 1, Part 2, clauses 6–14, the Application continues to be determined under the principal Act, subject to specified transitional modifications. The new or amended sections 60, 62-66, 68A, 68B, 81, 84A, 88 and clause 20 of Schedule 11 will apply.

67 In this section, the decision-making criteria set out are considered in relation to a solar farm. It is necessary to consider the particular statutory instruments against the scheme of the Act.

68 A general description of the FTAA was given in *Ngāti Kuku Hapū Trust v Environmental Protection Agency*:[24]

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20 FTAA, ss 4 and 42
21 FTAA, s 43
22 FTAA, s 47
23 The Ministry for the Environment is the responsible agency for section 18.
24 *Ngāti Kuku Hapū Trust v Environmental Protection Agency* [2025] NZHC 2453, [2025] 3 NZLR 380 at [7].

> The FTAA is designed to facilitate the delivery of infrastructure and development projects with significant regional or national benefits. It promises to streamline and accelerate the approval process for major projects which may otherwise have spent years navigating the complexities of the RMA. Suitable projects are referred to expert panels. All those who perform functions under the FTAA, including expert panels, are under a statutory duty to act promptly. Panel conveners must set a time frame within which the panel will complete its work; if no time frame is set, the panel must issue its decision within 30 working days of receiving comments on the substantive application from interested parties.

69 The FTAA, in one Act, creates a process for seeking a range of approvals that would otherwise be applied for under separate statutes and by different processes.

70 There were two ways a project might be considered for fast-tracking. The first was where the Government invited promoters of appropriate projects to apply to have them listed in the legislation while the Bill made its way through Parliament. Applications were made, and the second schedule to the FTAA listed a series of projects that the relevant Ministers determined, during the legislative process, were suitable candidates for the new regime. The second was by the promoters of projects not listed in the second schedule being required to make a referral application under s 13 of the FTAA. Such applications were to be referred to the Minister for Infrastructure, who could then decide to refer the project in whole or in part to the fast-track approvals process. As stated above, this Application was listed in the second schedule of the FTAA.

71 This Applicant is seeking resource consents for the solar farm under the Mackenzie Plan and the CLWRP, and no other approvals. Accordingly, the substantive application only sought approvals under s 42(4)(a) of the FTAA. Per s 81(2)(b) and 81(3)(a) of the FTAA, the applicable clauses to be applied are clauses 17 to 22 of Schedule 5.

72 The starting point for the Panel's decision is s 81 of the FTAA. For each approval sought in a substantive application, the Panel must decide whether to grant the approval and set any conditions to be imposed on the approval, or decline the approval.

73 Section 81(2) then says that:

> (2) For the purpose of making the decision, the panel—
>
> (aaa) must, if the substantive application relates to an unlisted project, consider the Minister's reasons for accepting the referral application that are stated in the notice given by the responsible agency under section 28(1):
>
> (aab) must consider a relevant Government policy statement:

(a) must consider the substantive application and any advice, report, comment, or other information received by the panel under section 51, 52, 53, 55, 58, 67, 68, 69, 70, 72, or 90:
(b) must apply the applicable clauses set out in subsection (3) (see those clauses in relation to the weight to be given to the purpose of this Act when making the decision):
(c) must comply with section 82, if applicable:
(d) must comply with section 83 in setting conditions:
(e) may impose conditions under section 84:
(ea) may impose conditions under section 84A:
(f) may decline the approval only in accordance with section 85.

74 Section 85 sets out the requirements that must be met before a panel may decline to grant an approval. Subsections (3), (4) and (5) provide:

Approval may be declined if adverse impacts out of proportion to regional or national benefits
(3) A panel may decline an approval if, in complying with section 81(2), the panel forms the view that—
(a) there are 1 or more adverse impacts in relation to the approval sought; and
(b) those *adverse impacts are sufficiently significant to be out of proportion to the project's regional or national benefits* that the panel has considered under section 81(4), even after taking into account—
(i) any conditions that the panel may set in relation to those adverse impacts; and
(ii) any conditions or modifications that the applicant may agree to or propose to avoid, remedy, mitigate, offset, or compensate for those adverse impacts.
(4) To avoid doubt, a panel may not form the view that an adverse impact meets the threshold in subsection (3)(b) solely on the basis that the adverse impact is inconsistent with or contrary to a provision of a specified Act or any other document that a panel must take into account or otherwise consider in complying with section 81(2).
(5) *In subsections (3) and (4), adverse impact means any matter considered by the panel in complying with section 81(2) that weighs against granting the approval.*
[emphasis added]

75 Clause 17 of Schedule 5 of the FTAA sets out the hierarchy of considerations for resource consent applications:

17 Criteria and other matters for assessment of consent application
(1) For the purposes of section 81, when considering a consent application, including conditions in accordance with clauses 18 and 19, the panel must take into account, giving the greatest weight to paragraph (a),—
(a) the purpose of this Act; and

(b) the provisions of Parts 2, 3, 6, and 8 to 10 of the Resource Management Act 1991 that direct decision making on an application for a resource consent (but excluding section 104D of that Act); and

(c) the relevant provisions of any other legislation that directs decision making under the Resource Management Act 1991.

76 This unambiguously places the purpose of the FTAA at the top of the hierarchy. That purpose of facilitating the delivery of infrastructure and development projects with "significant regional or national benefits" is to be given the greatest weight.

77 However, the direction to "take into account" means that the matters referred to in (b) and (c) must be given genuine consideration. National policy statements issued under the RMA are legislation. This includes directive language used in such policy instruments. When taking the above matters into account, a panel must give the "greatest weight" to the purpose of the FTAA. But this does not require a Panel to grant approval. A merits assessment is required, which includes taking into account the RMA provisions.

78 Section 3 of the FTAA states that the purpose of the Act is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits. Section 81(4) of the FTAA specifically requires the Panel to consider the extent of the project's regional or national benefits.[25] This was described by the Maitahi Village Expert Panel as "essentially a forensic exercise" where Panels must reach their own assessment on the facts. The panel in Maitahi rejected a submission that the panel could rely on the fact that a project is listed in Schedule 2 of the FTAA for any finding that it has significant regional or national benefits.[26] We agree with that approach. There is no presumption.

79 Notably, there are three current FTAA applications for solar farms, one being the application subject to this decision, the Haldon Solar Farm, and nearby is a second application progressing through the FTAA process, the Point Solar Farm, as well as a recently lodged nearby solar farm, Twizel Solar Farm. The three applications may give rise to many of the same issues.

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[25] If the application was a referral application – the panel must treat the stage of the project to which the application relates as constituting the project; but may consider the regional or national benefits of the whole project, having regard to the likelihood that any later stages of the project will be completed (section 81(5) FTAA).

[26] FTAA-2502-1009 Maitahi Village Amended Decision at [84]-[87].

However, they must each be determined on the merits of the evidence put forward by each Applicant and s 53 invitees relating to that application.[27]

80 Each Panel is separately appointed by the Convenor. The function of this Panel is limited by s 81 of the FTAA, to only determining that application referred to it. In doing so, it must consider the matters in s 81(2)(a). We can see no mandate for taking into account evidence received by other Panels on other applications, even where they may be closely related and have common Panel members. However, the findings of other Panels can be relevant, not to prove specific facts but rather to help establish the correct approach to issues that commonly arise.

81 The other side of the coin is that the assessment of adverse impacts in relation to an approval sought is particularly relevant in the context of a decision to decline an approval. An approval can only be declined if the adverse impacts are out of proportion to regional or national benefits.

82 There is no specific definition of "significant regional or national benefits" in the context of listed projects. However, s 22 of the FTAA, which relates to the criteria for assessing a referral application, identifies in s 22(1)(a), as the first of the relevant criteria, that "the project is an infrastructure or development project that would have significant regional or national benefits". The wording of this description is consistent with the purpose set out in s 3. The phrase "significant regional or national benefits" is similar in both, and it can be assumed that it has the same meaning in ss 3 and 22. It can also be assumed that the criteria that are set out in s 22(2)(a) as relevant considerations for the Minister in assessing regional or national benefits may also be used as guidance when applying the phrase elsewhere in the FTAA, in particular s 85, which at s 85(3) sets out the proportionality test.

83 The word "significant" is used in s 85(3), in relation to the extent of adverse impacts to be weighed against benefits. It is a word that does not change the meaning of the phrase regional or national benefits but imposes a quantitative evaluation.

84 The term "significant" is not defined in the FTAA. The panel that determined the Maitahi Village substantive application looked to the ordinary meaning of "significant" and, on that

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[27] We are also understand resource consents have been sought under normal RMA processes for a further solar farm, south of Lake Ruataniwha.

basis, used the meaning "sufficiently great or important to be worthy of attention; noteworthy".[28] The Waihi North panel said:[29]

> [842] "Significant" is a word of indeterminate meaning. It can, for instance, be used in the sense of "game-changing". But it can also have meanings along the lines of "worthy of note".
>
> [843] In the context of "deliver significant economic benefits" and "development of natural resources including mining", it is not particularly likely that any one mining project will produce game-changing effects, certainly across the country as a whole. The same can be said of any one project to "increase the supply of housing". Indeed, in a large city, even a substantial housing project is unlikely to make a material change to the supply of housing. All of this supports the view that "significance" is not to be determined by reference to whether implementation of the project will appreciably change national or regional gross domestic product or the annual tax revenue of the Government. Rather it is an indication of scale.

85 In determining what is relevant in assessing the meaning of "regional or national benefits" in s 85(3), it is appropriate to have regard to the criteria set out in s 22(2)(a) that the Minister may consider, despite the absence of the word "significant".

86 These criteria set out in s 22(2)(a) of the FTAA provide:

> (2) For the purposes of subsection (1)(a), the Minister may consider—
>
> (a) whether the project—
>
> (i) has been identified as a priority project in a central government local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy), or a central government infrastructure priority list:
>
> (ii) will deliver new regionally or nationally significant infrastructure or enable the continued functioning of existing regionally or nationally significant infrastructure:
>
> (iii) will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment (within the meaning of policy 1 of the National Policy Statement on Urban Development 2020):
>
> (iv) will deliver significant economic benefits:
>
> (v) will support primary industries, including aquaculture:
>
> (vi) will support development of natural resources, including minerals and petroleum:
>
> (vii) will support climate change mitigation, including the reduction or removal of greenhouse gas emissions:

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[28] FTAA-2502-1009 Maitahi Village Amended Decision, at [516]
[29] FTAA-2504-1046 Waihi North Decision.

(viii) will support climate change adaptation, reduce risks arising from natural hazards, or support recovery from events caused by natural hazards:
(ix) will address significant environmental issues:
(x) is consistent with local or regional planning documents, including spatial strategies:

87 Of particular relevance to this proposal are ss 22(2)(a),(ii), (iv), (vii), (viii), (ix) and (x).

88 While s 22(2) is a helpful guide for panels to consider whether a project is one with significant regional or national benefits, it is the end, a factual determination by the Panel. As the Maitahi decision points out:[30]

> [515] This list of factors which may be taken into account by the Minister in assessing the criteria for accepting a referral application provides some useful guidance to a panel as to the nature of a project which falls within the purpose section of the FTAA. However, at best for a panel deciding whether a particular project is a project with significant regional or national benefits, s 22(2) can only provide a flavour of, or guide to, what is required. The question of whether a project is indeed one with significant regional or national benefits remains an intensely factual determination turning on the particular circumstances of the Application.

89 Given that there are no strict protocols or considerations that the Panel must follow when finding whether a project is one with significant regional or national benefits, the Panel is free to carry out this factual assessment without applying any strict guidelines.

The role of RMA instruments in decisions under the FTAA

90 This has been referred to earlier. Clause 17(1)(b) of Schedule 5 of the FTAA requires the Panel to take into account:

> the provisions of Parts 2, 3, 6, and 8 to 10 of the Resource Management Act 1991 that direct decision making on an application for a resource consent (but excluding section 104D of that Act); and….

91 Part 6 of the RMA is concerned with the process of applying for and making decisions on resource consent applications. Sections 104 and 104B are relevant because they relate to decisions on discretionary activities.

92 Section 104(1)(b) of the RMA requires the Panel to have regard to:

> (b) any relevant provisions of—

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30 FTAA-2502-1009 Maitahi Village Amended Decision.

(i) a national environmental standard:
(ia) a wastewater environmental performance standard:
(ib) a stormwater environmental performance standard:
(ic) an infrastructure design solution:
(ii) other regulations:
(iii) a national policy statement:
(iv) a New Zealand coastal policy statement:
(v) a regional policy statement or proposed regional policy statement:
(vi) a plan or proposed plan; and

93 The RMA provides for a hierarchy of statutory instruments, with national instruments at the top of the hierarchy, regional policy statements at the second tier, and regional and district plans at the third tier.[31]

94 At each step in the hierarchy, the RMA requires the lower order instrument to give effect to the relevant higher order instruments, which in turn achieve the purpose of the Act expressed in Part 2 of the RMA.[32] If each step of the hierarchy is in perfect alignment, it ought not be necessary to refer to a higher order instrument or to Part 2 of the RMA itself when evaluating a resource consent application. The regional plan and district plan provisions should provide sufficient guidance as to what the higher order provisions and Part 2 of the Act require. In general terms, that is the position set out in the Supreme Court's decision in *King Salmon*.[33]

95 However, it is often the case that the timing of amendments to higher-order instruments causes lower-order instruments to fall out of alignment. Or there may be a lack of clarity in a Plan as to what outcome may be envisaged. These are examples of problems recognised as factors that may lead a consent authority to have direct resort to higher order instruments or Part 2 itself, in the Court of Appeal's decision in *RJ Davidson Family Trust v Marlborough District Council*.[34]

96 In the present case, ten new or amended national direction instruments came into effect on 15 January 2026. Regional and district-level instruments have not had time to be amended to implement the changes. This is also the case for most other national direction instruments with respect to the Regional Policy Statement and the regional planning documents. The Mackenzie Plan is a more recent document, and has a higher level of consistency with national

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[31] *RJ Davidson Family Trust v Marlborough District Council* [2018] NZCA 316; [2018] 3 NZLR 283 at [49]–[50].
[32] At [74]–[75].
[33] *RJ Davidson Family Trust v Marlborough District Council*, above n 31.
[34] *RJ Davidson Family Trust v Marlborough District Council*, above n 31.

instruments. Therefore, where appropriate, we have direct resort to the relevant national instruments.

97 We see our task as requiring us, first, to assess the extent of the project's regional or national benefits, second, to consider adverse impacts that will result from the project and their significance, and third, whether the adverse impacts are "sufficient" to be out of proportion to the project's regional or national benefits after allowing for, among other things, conditions that may be imposed and offsets and compensation that may be agreed to or proposed by the Applicant.

Permitted Baseline

98 The concept of a "permitted baseline" has been developed as an assessment tool under the RMA and stems from the statement by the Court of Appeal in *Bayley v Manukau City Council*:[35]

> Before s 94 [as it stood prior to the 2003 Amendment Act] authorises the processing of an application for a resource consent on a non-notified basis, the consent authority must satisfy itself, first, that the activity for which consent is sought will not have an adverse effect on the environment which is more than a minor effect. The appropriate comparison of the activity for which the consent is sought is with what either is being lawfully done on the land or could be done there as of right by the plan.

99 The concept is to be seen at s 104(2) of the RMA, which states:

> When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.

100 It is accepted that the concept of a permitted baseline can have relevance in an FTAA assessment. In assessing an adverse impact, if that same impact could arise from a permitted use of the site, that impact would have little or no relevance in assessing proportionality. The comparison between what is permitted and what is proposed must not be "fanciful".[36] The effects should also be "broadly the same or similar to" the permitted activity.[37]

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35 *Bayley v Manukau City Council* [1999] 1 NZLR 568 (CA) at 576.
36 *Smith Chilcott Ltd v Auckland City Council* [2001] NZRMA 503.
37 *Auckland Regional Council v Living Earth Ltd* (HC) CIV 2006-404-6659, 19.02.07 and (CA) [2008] NZCA 349.

101 The Applicant, in its Updated Assessment of Ecological Effects of 10 April 2026 (the **UAEE**), stated at page 8:

> We have sought advice from the RMA planner for this project regarding the permitted baseline under the regional and district planning rules for this site. We understand that this site supports semi-arid outwash plain vegetation, habitats and wildlife, not because of District or regional protections, but rather because the landowner has until now decided not to exercise their right to undertake farming activities on this land.
>
> We understand that the permitted farming activities for this land include broadscale herbicide spraying, and ploughing and the planting of crops. If those actions were undertaken as part of farm management, it is likely that there would be fewer ecology values on the site with regard to indigenous vegetation (as most would be killed through spraying).

102 This is strongly contested by DOC. In its Memorandum of Counsel of 29 April 2026, it states that RMA Ecology has misunderstood what is permitted on the site by the District Plan rules. It submits that the applicable vegetation clearance rules are contained in rule 1.1.1 of proposed Plan Change 18 of the Mackenzie District Plan (as notified in December 2017) that came into immediate legal effect upon public notification, following a declaration and order of the Environment Court to that effect. The final decision in relation to those rules (following the Council hearing and subsequent appeals) has not yet been issued by the Environment Court. It submits that the rules as notified in December 2017 are the relevant rules for making an assessment of permitted activities on the site.

103 DOC then states that Rule 1.1.1(6) provides that "vegetation clearance" is permitted "within an area of improved pasture". It has been pointed out that neither RMA Ecology nor DOC's expert Mr Harding have taken the view that the Haldon site falls within the definition of "improved pasture" in the Mackenzie Plan:[38]

> An area of pasture where:
>
> a) Species composition and growth have been modified and enhanced for livestock grazing within the previous 15 years, by clearance, cultivation or topdressing and oversowing, or direct drilling; and
>
> b) Exotic pasture species have been deliberately introduced and dominate in cover and composition. For the purposes of this definition the assessment of dominance shall disregard indigenous vegetation which is growing upon land that has previously been

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[38] Mackenzie Plan, Plan Change 18 – Section 3 Definition

> modified and enhanced for livestock grazing in accordance with clause a) above and is less than 15 years old.

104 We consider this analysis to be correct. There is no evidence of modification or enhancement for livestock grazing within the previous 15 years. The desiccated appearance of the land, the absence of pastoral vegetation and the presence of well-established indigenous vegetation unsuited to grazing, indicates a lack of any recent enhancement.

105 We note that Nick Boyes, the independent planner briefed for Mackenzie DC, disagrees with the RMA Ecology statement, quoted at [101] above. He observes that ploughing, sowing of agricultural crops or herbicide applications fall within the definition of "pastoral intensification" or "agricultural conversion" as defined in the Mackenzie District Plan. Such activities are only permitted where they occur within a defined Farm Base Area. He states:

> To the extent that such activities are located within the proposed solar footprint being located within the identified Lakeside Protection Area, they would be a non-complying activity pursuant to NFL-R3.2 of the District Plan. Furthermore, such reference to the permitted baseline does not accord with my understanding of the rules introduced via PC18 relating to Indigenous Biodiversity, which had legal effect from the date of notification. Based on the ecological assessment/s submitted, the site is included "*Within an area of significant indigenous vegetation or significant habitat of indigenous fauna*". Therefore, the clearance of indigenous vegetation would be a non-complying activity under Rule 1.3.2 (PC18DV[39]).

106 He states that no weight should be placed on the Applicant's permitted baseline argument.

107 It is appropriate to regard the existing environment as it currently is, as the baseline against which we must evaluate potential adverse impacts. In other words, we assume that the indigenous vegetation and endangered species on the site cannot be destroyed by ploughing spraying or sowing as of right.

108 We also note that s 104(2) of the RMA states in relation to the permitted baseline that the consent authority "may" disregard an adverse effect if it is otherwise permitted. Given the ecological effects that we discuss in this decision, the Panel might well disregard a permitted baseline argument, even if RMA Ecology's observations were correct.

109 In this regard, in the FTAA Panel decision of *Ryans Road*, this discretion was applied by an FTAA Panel when it refused to take into account evidence of a permitted baseline. Two of the

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[39] This Decision is subject to Appeal, with the Environment Court having issued an Interim Decision [2025] NZEnvC 125, dated 14 April 2025.

reasons given were that there was no evidence of the practical feasibility of carrying out the alternative permitted use and the financial viability of such an action.[40]

110 We would have applied the discretion if necessary, but in our view there is no need to do so. We regard the existing environment and any permitted baseline as being the present desiccated site of largely sparse indigenous vegetation.

Compensation and Ecological Effects Management

111 Section 85(3)(b)(ii) states that in carrying out the proportionality assessment, the Panel must consider:

> any conditions or modifications that the applicant may agree to or propose to avoid, remedy, mitigate, offset, or compensate for those adverse impacts.

112 This is also something emphasised in the NPS-REG:[41]

> When considering any residual adverse effects of REG assets and activities that cannot be avoided, remedied or mitigated, decision-makers shall have regard to offsetting measures or environmental compensation, including measures or compensation that benefit the local environment and community affected.

113 There are three points to note about compensation. First, the Panel has no power to require compensation from the Applicant, as distinct from it imposing a condition as to compensation that has been offered by the Applicant. We agree with the submission of DOC (29 April 2026) that compensation can only be "proposed or agreed to" by the Applicant; it cannot be imposed on the Applicant without its consent.

114 Second, future increased compensation, should there be a failing to meet standards or requirements, was addressed by the *Waiuku Windfarm* expert consenting panel. We note that the panel observed an arrangement for funding over future years with a provision for top-up raised questions as to whether such an arrangement could be enforceable. If standards have been set and the council sought payments for breaches in the future, there is no guarantee that there would be no challenge to this. The panel said:

> Against a background where the law appears clear that a compensation condition cannot be imposed, and must be proffered by an Applicant, we have difficulty putting weight on this sort

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40 FTAA 2504-1054 Ryans Road Industrial Development Decision at [121].
41 Policy F5.

> of arrangement. We can foresee all too clearly the potential for any attempt by Waikato Regional Council to insist that the revised management plan include provision for greater levels of 'compensation' to be challenged.

115 We also note *Turner v Allison*,[42] where it was held that a consent authority could delegate to an official the role of certifying adherence to a standard, but not permitting the delegation of arbitral or judicial functions that the consent authority should have exercised itself. As the Environment Court said in *Royal Forest and Bird Protection Soc v Gisborne District Council*:[43]

> A condition must also be certain. It can leave the certifying of detail to a delegate, using that person's skill and experience, but cannot delegate the making of substantive decisions.

116 Third, for the particular kinds of effects for which compensation is being advanced by the Applicant, implementation will inevitably require agreement and action by third parties, particularly DOC in respect of species such as the kākī/black stilt. Evidence that arrangements with any relevant third parties are in place or are pending may affect the Panel's views about the efficacy of any compensation proposed. The compensation package now proposed by the Applicant is aligned with that sought by DOC so we can be satisfied that it will be implemented.

117 The Supreme Court's comments in *Sustain our Sounds Inc v The New Zealand King Salmon Company Limited* are relevant:[44]

> As to the threshold question of whether an adaptive management regime can even be considered, there must be an adequate evidential foundation to have reasonable assurance that the adaptive management approach will achieve its goals of sufficiently reducing uncertainty and adequately managing any remaining risk. The threshold question is an important step and must always be considered. As Preston CJ said in Newcastle, adaptive management is not a "suck it and see" approach (citing *Newcastle & Hunter Valley Speleological Society Inc v Upper Hunter Shire Council* [2010] NSWLEC 48 at [184]).

118 These comments were made in the context of the RMA, where the decision-making process is different, and the proportionality in s 85(3) of the FTAA does not apply. However, the Panel has not treated adaptive management as a standalone answer to the most material ecological uncertainties, particularly the residual collision risk to kakī/black stilt. Rather, ecological

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42 *Turner v Allison* [1971] NZLR 833 (CA).
43 *Royal Forest and Bird Protection Society Inc v Gisborne District Council* [2013] NZRMA 336 at 356.
44 *Sustain Our Sounds Inc v New Zealand King Salmon Co Ltd* [2014] NZSC 40, [2014] 1 NZLR 673 at [125].

management forms part of a broader conditions package that also includes upfront avifauna compensation, avoidance requirements for Nationally Threatened plants, establishment and legal protection of the Compensation Area, long-term monitoring, applied research, and further compensation responses where required. On that basis, the Panel is satisfied that the residual ecological risks are capable of being addressed for the purposes of the FTAA proportionality assessment.

119 With those preliminary observations made, we will return to the issue of environmental compensation later when we discuss the conditions. As we will explain, the question of how compensation might be lawfully framed turned out to be one of the most important and difficult issues that we had to grapple with.

Other legal issues

NPS-IB has been disapplied in relation to Renewable Energy Generation projects

120 No party submitted that the National Policy Statement for Indigenous Biodiversity 2023 (the **NPS-IB**) is a matter that we must have regard to. We accept that it is not. The Courts at all levels have grappled with tensions between planning instruments that appear to pull in opposite directions. The Supreme Court's decision in *Port Otago* is a case in point,[45] as is the later decision in the *East West Link* case.[46] There might be expected to be a tension between the outcomes envisaged by the NPS-REG and the NPS-IB where indigenous biodiversity values are adversely affected by a REG activity. The Government has anticipated that situation by explicitly disapplying the NPS-IB for REG activities:[47]

> Nothing in this National Policy Statement applies to the development, operation, maintenance or upgrade of renewable electricity generation assets and activities and electricity transmission network assets and activities. For the avoidance of doubt, renewable electricity generation assets and activities, and electricity transmission network assets and activities, are not "specified infrastructure" for the purposes of this National Policy Statement.

121 One important consequence is that the strictness of the last step of the effects management hierarchy does not apply to REG activities: "(f) if biodiversity compensation is not appropriate, the activity itself is avoided." That is an important point to keep in mind in the present case.

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45 *Port Otago Ltd v Environmental Defence Society Inc* [2023] NZSC 112; [2023] 1 NZLR 205.
46 *Royal Forest and Bird Protection Society of New Zealand Inc v New Zealand Transport Agency* [2024] NZSC 26; [2024] 1 NZLR 242 [*East West Link*].
47 NPS-IB, clause 1.3(3)

122 We must still apply the NPS REG, including Policy F, but that is not in the nature of an environmental bottom line that requires some adverse effects on indigenous biodiversity to be avoided no matter what benefits might accrue from the proposal. The weighing or relevant matters is left to the Panel.

The s 85(3) test

123 The Panel has been invited by Royal Forest and Bird and EDS to decline this Application. The Panel under s 85(3) may decline an approval if there are one or more adverse impacts, and those adverse impacts are sufficiently significant to be out of proportion to the project's regional or national benefits. It may only do so if it has reached that conclusion even after taking into account any conditions that the panel may impose in relation to those adverse impacts, and any conditions or modifications that the applicant may agree to or propose to avoid, remedy, mitigate, offset or compensate for those adverse impacts.

124 An adverse impact is stated at s 85(5) as meaning any matter considered by the Panel in complying with s 81(2) that weighs against granting the approval.

125 As stated, in carrying out this exercise the Panel must take into account any conditions that it may set in relation to adverse impacts, and any conditions or modifications agreed or proposed by the Applicant to avoid remedy mitigate offset or compensate for the adverse impacts, a matter of particular focus in our consideration of this Application. The Panel must also bear in mind s 81(2)(d) which requires the Panel to comply with s 83 in setting conditions. Section 83 provides that the Panel "must not set a condition that is more onerous than necessary to address the reason for which it is set in accordance with the provision of this Act that confers the discretion." Onerous is not defined by the FTAA but its ordinary meaning as defined in the New Zealand Oxford dictionary is "burdensome" or involving heavy obligations, and "unduly" involved the concept of disproportionality.

126 The Panel must under s 81(2)(a) consider the substantive application, and all information received by the Panel under various sections which includes s 53 (invitees) and s 67 (responses to RFIs).

127 We have already commented on the hierarchy of factors that we are to take into account in carrying out our assessment. As will be seen we have determined that there are adverse impacts that will result from the granting of this application. There are also clear regional and national benefits. The Panel has to make a proportionality judgment, weighing those adverse impacts, and the mitigating conditions that it can impose, against those benefits. There is no

formula or mathematical calculation that can assist. It is in the end a matter of judgment, informed by the relevant provisions of the FTAA and the information supplied.

PART D: IWI AUTHORITIES

Section 18 Report for a listed project

128 The Ministry for the Environment (**MfE**) provided a report on Treaty settlements and other obligations as required under s 18 of the Act, in accordance with s 49. Section 18(2) requires that a list of relevant iwi authorities and Treaty settlement entities must be identified and those identified must be invited to comment under s 53(2) of the Act.

129 The MfE identified Te Rūnanga o Ngāi Tahu (TRONT), Te Rūnanga o Arowhenua, Te Rūnanga o Waihao, and Te Rūnanga o Moeraki (the mana whenua collectively also known as the Waitaki rūnanga) as relevant Treaty settlement entities to this project. TRONT is the recognised tribal body of Ngāi Tahu Whanui (s 15 TRONT Act). The Papatipu Rūnanga represent mana whenua and have the expertise on the cultural values within their takiwa. Aoraki Environmental Consultancy Limited (AECL, owned by Arowhenua) and Aukaha (owned by Waihao and Moeraki) were recognised as other Māori groups with relevant interests in the application.

130 The Ngāi Tahu Settlement Act 1998 includes a statutory acknowledgement and deed of recognition over Te Ao Mārama (Lake Benmore) which may be relevant to this project due to its proximity (approximately 200 metres) of the project area. Therefore, TRONT had to be invited to comment under s 53 of the FTAA.

131 The MfE asked the Panel to consider the nohoanga (ie. temporary camp) entitlement (also recognised in the Ngāi Tahu Act) and the association of certain taonga species on the site that reflect the cultural relationship of the tribe with the project area. Five taonga bird species are associated with the site.

132 The MfE noted all historical Te Tiriti o Waitangi claims have been settled in the project area. The area does not include a taiāpure-local fisheries area, mātaitai reserve, or area subject to a bylaw or regulations made under Part 9 of the Fisheries Act 1996. There are no Mana Whakahono ā Rohe or joint management agreements that are relevant to the project area nor is the project area within a customary marine title area, protected by customary rights area, or within or adjacent to ngā rohe moana o ngā hapū o Ngāti Porou.

PART E: EVALUATION OF EFFECTS

133 Schedule 5 clause 5(4) requires a consent application to provide an assessment of an activity's effects on the environment covering the information in clauses 6 and 7. These matters include:

(a) an assessment of the actual or potential effects on the environment:
(b) if the activity includes the use of hazardous installations, an assessment of any risks to the environment that are likely to arise from such use:
(c) if the activity includes the discharge of any contaminant, a description of—
  (i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and
  (ii) any possible alternative methods of discharge, including discharge into any other receiving environment:
(d) a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect of the activity:
(e) identification of persons who may be affected by the activity and any response to the views of any persons consulted, including the views of iwi or hapū that have been consulted in relation to the proposal:
(f) if iwi or hapū elect not to respond when consulted on the proposal, any reasons that they have specified for that decision:
(g) if the scale and significance of the activity's effects are such that monitoring is required, a description of how the effects will be monitored and by whom, if the activity is approved:
(h) an assessment of any effects of the activity on the exercise of a protected customary right.

…

(a) any effect on the people in the neighbourhood and, if relevant, the wider community, including any social, economic, or cultural effects:
(b) any physical effect on the locality, including landscape and visual effects:
(c) any effect on ecosystems, including effects on plants or animals and physical disturbance of habitats in the vicinity:
(d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations:
(e) any discharge of contaminants into the environment and options for the treatment and disposal of contaminants:
(f) the unreasonable emission of noise:
(g) any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.

134 The AEE provided an assessment of these matters in s 6. Participants who commented also raised a range of actual and potential effects.

135 This decision focuses on the major effects in some detail, and deals more briefly with lesser effects. The following main categories of actual and potential effects on the environment exist:

a. Vegetation
b. Avifauna
c. Lizards
d. Terrestrial invertebrates
e. Cultural
f. Landscape, natural character and visual amenity
g. Construction (including noise and dust)
h. Traffic and transport
i. Natural hazards and
j. Discharges and contaminated land

136 The Panel has addressed these effects thematically throughout our discussion below. The Panel has also had regard to the relevant planning provisions in evaluating the effects of the Project, as noted in Part H: Planning Framework. As cumulative effects were raised by a number of s 53 invitees, these effects are considered first, to provide some context to the Panel's approach when considering the effects thematically.

137 In terms of the relevant receiving environment, the Panel has considered the existing environment and permitted baseline, as discussed in Part C of this decision. From the Panels' perspective, after visiting the site and the surrounding area, and noting that it has had an exceedingly low level of farming activity on the site for up to 40 years,[48] the Panel considers the relevant receiving environment to be the site as it presently exists. Given the landscape and other planning overlays on the site, and the lack of feasible permitted activity development opportunities, no alternative permitted activity future state is apparent to the Panel.

Cumulative effects

Introduction

138 Te Rūnanga o Ngāi Tahu, in its comments, considers that cumulative effects could arise at a time within Te Manahuna, particularly if multiple large-scale solar farms are built in the future. Of nine possible solar farms, TRONT identifies at least five of the proposals as having a high likelihood of progressing to a substantive application stage under the FTAA. If all nine solar

[48] Pers. Comm, Station Manager during the Panel's site visit.

farm projects were built, it is estimated that more than 3,550 hectares of Te Manahuna could be occupied by solar development.[49]

139 Te Rūnanga o Arowhenua makes a similar comment.[50]

140 It is contended by Forest and Bird in its comments that the effects of the Haldon project, in conjunction with the effects of other solar farms that are proposed to be located in the Mackenzie Basin/Te Manahuna, should be a matter that is assessed and considered by the Panel in its decision on the project.[51]

141 EDS has also made a similar comment, urging that cumulative effects are relevant to the project by virtue of the RMA definition of 'effects' which the FTAA adopts.[52] DOC has devoted considerable effort in their comments to addressing the issues of cumulative effects, observing that the legal considerations are complex.[53]

142 Legal submissions were made by Forest and Bird. While conceding that the first-in-time principle under the RMA was confirmed by the Court of Appeal in the decision of *Fleetwing Farms Limited v Marlborough District Council*,[54] it sought to distinguish that case. Relying on the provisions of the FTAA it was pointed out that the touchstone of the FTAA is the assessment of significant regional or national benefits of projects, including a proportionality assessment of those benefits against any adverse impacts. That invited a broader consideration of the way in which limited resources should be used in the context of competing applications. It was submitted that the Panel should not necessarily only focus on a single application and that a strict application of a first-in-time principle would not help to achieve the purpose of the FTAA.[55] For the reasons that we now set out, we cannot accept that submission.

Assessment

143 The terms 'cumulative effects' and 'effects' are not defined in the FTAA, although the word 'effects' is used throughout the Act. 'Effects' are to be taken into account specifically under cl 17(2)(b) of Schedule 5.

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49 Te Rūnanga o Ngāi Tahu comments at [3.23-3.25].
50 Te Rūnanga o Arowhenua comments at [63]–[67].
51 Forest and Bird comments at [51]–[58].
52 EDS comments at [46].
53 DOC comments at [5.33-5.47].
54 *Fleetwing Farms Ltd v Marlborough District Council* [1997] 3 NZLR 257 (CA); [1997] NZRMA 385.
55 Forest and Bird comments at [51]–[58].

144 In considering the definition of cumulative effects, it is appropriate to start with the definition in the RMA. This is because it is stated in s 4 of the FTAA that terms that are not defined in the FTAA have the meanings given in the RMA if they are defined in that Act:

> 4 Interpretation
>
> (2) Unless the context otherwise requires, terms used and not defined in this Act have the meanings given in—
>
> (a) the Resource Management Act 1991, if they are defined in that Act:
>
> (b) the relevant specified Act, if they are not defined in the Resource Management Act 1991 and are defined in the specified Act.

145 Under the RMA, a cumulative effect is expressly included within the definition of "effect" in s 3:

> 3 Meaning of effect
>
> In this Act, unless the context otherwise requires, the term effect includes—
>
> (a) any positive or adverse effect; and
>
> (b) any temporary or permanent effect; and
>
> (c) any past, present, or future effect; and
>
> (d) any cumulative effect which arises over time or in combination with other effects—
>
> regardless of the scale, intensity, duration, or frequency of the effect, and also includes—
>
> (e) any potential effect of high probability; and
>
> (f) any potential effect of low probability which has a high potential impact.

146 The definition of "effect" in s 3 of the RMA describes a range of effects, including cumulative effects, which are those that arise over time or in combination with other effects.

147 The submissions and comments received by the Panel, and the memorandum filed by the technical advisor, all refer to the decision of *Fleetwing Farms Limited v Marlborough District Council*. In that case, the Court of Appeal, in its overview of the statutory scheme of the RMA, dealt with the issue of priorities of the hearing of competing appeals. The decision stands for the general proposition that the application that is first is considered as if the second application did not exist.[56] Only if another application has been granted is it to be taken into account. The Court considered the provisions of the RMA, in particular ss 102–104, and held that:[57]

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[56] *Fleetwing Farms Limited v Marlborough District Council*, above n 54.
[57] At 264.

> Clearly the statute requires each applicant's application or applications to be determined on their own merits. It does not allow for a comparative assessment of competing claims to the same resource.
>
> The conclusion that the statute requires the Council to judge each case on its merits also accords with the primacy attached to s 5. If the relevant statutory criteria infused with the underlying objective of sustainable management are met in a particular case there is nothing in the Act to warrant refusing an application on the ground that another applicant would or might meet a higher standard than the Act specifies.

148 In *Dye v Auckland Regional Council*,[58] the Court of Appeal took a strict approach to cumulative effects. Cumulative effects were things that "will occur" rather than something which may occur in the future. A cumulative effect relates to the gradual buildup of consequences as a result of the combination of effects and does not include potential 'precedent' effects.[59]

149 The same approach was adopted by the Court of Appeal in *Central Plains Water Trust v Synlait Limited*:[60]

> [4] Secondly, it follows that, at present, individualised applications have to be made for a resource consent under the Resource Management Act 1991 (RMA). In *Fleetwing* this Court inferred from the structure of the RMA that a "first come first served" approach should be adopted. That starting point was refined by this Court in the Ngai Tahu case (*Central Plains Water Trust v Ngai Tahu Properties* Ltd [2008] NZRMA 200 (CA)). We held that the test of entitlement to priority of hearing should be "first to file a complete application".

150 It has been held that the cumulative effects include the effects of a proposed activity in combination with the effects of activities already forming part of the existing environment.[61] In *Queenstown Lakes District Council v Hawthorn Estate Limited* it was held that the existing environment includes the future environment as modified by what is permitted in the relevant plan, and what would arise from resource consents likely to be implemented.[62] Cumulative effects are those which are already part of the existing environment that is being considered,

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58 *Dye v Auckland Regional Council* [2002] 1 NZLR 337.
59 At [38].
60 *Central Plains Water Trust v Synlait Limited* [2009] NZCA 609, [2010] 2 NZLR 363 at [4].
61 *Outstanding Landscape Protection Society Inc v Hastings District Council* ENV-2006-WLG-000477, W24/2007, at [50], applied in *Yaldhurst Quarries Joint Action Group v Christchurch City Council* [2017] NZEnvC 165, at [18]–[19]
62 *Queenstown Lakes District Council* v *Hawthorn Estate Limited* [2006] ELHNZ 226, CA 45/05 12 June 2006, at [82], [84].

not those which may accumulate at a later date. They do not include the effects of the proposed activity in combination with proposed activities where resource consent has not been granted.

151 It is our interpretation of the cases cited that while "cumulative effects" in the sense of the cumulative position of the existing environment at the time of the application can be considered, "cumulative effects" in the sense of potential effects if similar applications are granted in the future, cannot.

152 The practicalities of the situation support the conclusion that in relation to other possible solar farms, it is not possible for the Panel to undertake any comparative assessment against other projects. Those projects are not before this Panel, and as stated, it is not at all certain whether they will go ahead and be constructed. A resource consent or Fast-track application would need to be filed and approved. The details of these projects are entirely unknown to this Panel[63]. No party has provided evidence about other projects that might assist the Panel in making a comparative assessment. There would have to be a considerable element of speculation and assumption before any comparison could be undertaken. Such an assessment would be intrinsically unreliable given that it rests on a whole swath of hypotheses.

153 The Panel accepts that it has to consider cumulative effects in the sense of all effects that are part of the environment that will accumulate with the proposal. Thus, if there was another approved application which had not yet been built, that approved application, if it had a reasonable prospect of proceeding, would be taken into account. All the other unknown, unapproved and, indeed, unapplied-for projects will not offer such a sure measure of comparison and assessment. It was held in *Royal Forest and Bird Protection Society Inc v Buller District Council* that the RMA does not allow applications to be considered contemporaneously or 'as a package'.[64] It was stated in *Queenstown Lakes District Council v Hawthorn Estate Limited* that the word "environment" "include[s] the environment as it might be modified by the implementation of resource consents which have been granted at the time a particular application is considered, where it appears likely that those resource consents will be implemented."[65]

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63 Save for the application of Far North Solar Ltd relating to the Point. However, it is not known whether this will go ahead.

64 *Royal Forest and Bird Protection Society Inc v Buller District Council* [2013] NZHC 1324 at [50].

65 *Queenstown Lakes District Council v Hawthorn Estate Limited* [2006] ELHNZ 226, CA 45/05 12 June 2006 at [84].

154 In our view, considering other solar farms would be an exercise in hypothesis, because of the complexity of making any assessment about an undecided application, where the evidence is still being adduced. This would be highly speculative and therefore dangerous. It is more in accord with the spirit of the FTAA and its tight timeframes that when there are applications on similar nearby projects, applications are considered on a standalone basis, and a first-in-time application should not include assumptions about what will happen with later applications. If cumulative effects become relevant in the second application because the first has been granted, then those effects will have to be considered on their merits at the time that the second application is being considered by a panel.

155 Further, the Panel should not get concerned with the precedent effect of allowing or disallowing this application. As will be apparent, this particular site is unique with a range of issues, some of which will be the same as those that arise in applications in the area, and some of which will be different. Given the broad judgment that needs to be made under s 85 of the FTAA on the basis of proportionality, the balance may fall one way on one application, and another on a different but similar application. It would be wrong to take into account, for instance, a potential proliferation of solar farms in the area as a reason to decline an application that, if judged on its own merits, should be granted. If there are more applications in the area, they will have to be dealt with on their merits at the time of consideration accepting the presence of any approved solar farms. This Panel does not have a planning function akin to that of a district or regional council.

Ecology overview and reporting evolution

156 The ecological values of the site were originally summarised in section 3.13 of the substantive application, and the effects assessment was summarised at section 6.5. The ecological values of the site and effects assessment were more fully set out in Appendix 7 titled *Haldon Solar Project: Ecological Impact Assessment* (AgScience, 2025).

157 The AgScience assessment described the 320 ha site as being located within a "threatened environment" (semi-arid outwash), but considered it to be heavily degraded, with correspondingly low ecological values. This conclusion was based primarily on quantitative field surveys of vegetation, supported by bird and fauna observations, pitfall traps and sand strips. Invertebrates were not formally assessed. Avifauna surveys by AgScience (2025) recorded 16 bird species, of which eight were indigenous. The only indigenous species recorded with a threatened conservation status was black-fronted tern, classified as Threatened

– Nationally Endangered, which was observed flying over the site. Overall, the effects on avifauna were considered negligible (section 6.5 of the substantive application).

158 AgScience (2025) concluded that the magnitude of effects on terrestrial ecology arising from the Project would be negligible, as direct disturbance/ vegetation clearance would be approximately 13 ha, and open space would generally be maintained beneath and between the solar arrays.

159 On that basis, AgScience (2025) assessed the overall level of ecological effect associated with Project activities as 'very low'. It also considered that the proposed rabbit-proof fence and cessation of stock grazing within the site would provide ecological benefits for grazing-sensitive species. No offsetting or compensation was put forward by the Applicant.

160 In contrast, a number of s 53 invitees, including CRC, Forest & Bird, DOC and EDS, expressed significant concerns regarding the characterisation of ecological values, the assessment of effects, and the absence of proposed effects management, including offsetting or compensation to address residual adverse effects. Expert terrestrial ecology evidence, including vegetation assessments, was initially provided by Mr Harding (DOC) and Mr Head (Forest & Bird), with technical advice provided by Dr Jack (representing CRC and Mackenzie DC). Expert avifauna evidence was provided from Dr McClellan (Forest & Bird) and Dr O'Donnell (DOC), along with technical advice on lizards from Dr Tocher (CRC) and invertebrates from Dr Barratt (also CRC).

161 Mana whenua also raised ecology-related concerns. Te Rūnanga o Arowhenua, through AECL, considered that the application provided a limited assessment of effects on indigenous taonga species, including birds, fish, invertebrates and plants. Te Rūnanga o Ngāi Tahu similarly raised concerns about effects on taonga species, including kākī/black stilt, and sought further avifauna and fish assessment. Te Rūnanga o Moeraki and Te Rūnanga o Waihao, through Aukaha, supported the Arowhenua and Ngāi Tahu comments.

162 Collectively, the technical experts representing s 53 invitees identified a number of threatened and at risk species on the site and several were strongly of the view that the site had significant indigenous biodiversity values. For example, Mr Head, who provided evidence for Forest & Bird, considered the conclusion by AgScience (2025) that the site is not ecologically significant to be 'scientifically indefensible' and inconsistent with CRPS criteria.

163 Dr O'Donnell advised that at least 18 Threatened and At-Risk bird species[66] have been recorded on or near the Site and are potentially affected, including three Nationally Critical species. Similarly, Dr McClellan noted that the proposed solar farm will be located on the edge of nationally and internationally important bird habitats that support 33 indigenous bird species, of which six are Nationally Threatened and eight are At Risk.

164 In contrast to the AgScience (2025) report, the technical experts for the s 53 invitees considered there to be substantial adverse effects, including habitat loss, fragmentation, and modification of ecological processes.

165 In particular, technical experts representing DOC and Forest & Bird considered that significant adverse effects on Threatened or At Risk vegetation and avifauna may occur, which cannot be addressed through offsetting or compensation. Effects management for invertebrates or lizards was not substantively addressed by s 53 invitees, as further survey work was incomplete at that time.

166 In response to comments from s 53 invitees, the Applicant stated that the Project aims to achieve 'no net loss' outcomes for biodiversity and ecology,[67] and proposed an Ecological Management Plan framework to support this. The framework also included ecological restoration, enhancement, 'offset', monitoring and adaptive trial areas within five 'conservation areas' around the periphery of the site or under the existing transmission lines, totalling approximately 26.5 hectares. In terms of avifauna, the Applicant provided a literature review of avifauna risks from solar farms and a technical statistical analysis of monitoring options for identifying mortality outcomes[68].

167 Given the significant differences in opinion, and the Panel's awareness of ongoing technical assessment observed and discussed during the site visit, the Panel:

a. Issued a request for further information on terrestrial ecology effects and mitigation responses

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[66] The number of Threatened and At Risk species was later refined in the subsequent avifauna material; Dr McClellan's further evidence dated 24 April 2026 referred to 20 such species in close proximity to the Site.

[67] Addendum 3, Part A, s1.1.

[68] Statistical advice for a solar power installation at Haldon Station (Proteus, 2026)

b. Appointed a technical expert on avifauna[69], who reviewed the available information and provided written advice to the Panel

c. Following receipt of the avifauna advice, issued a request for further information on avifauna effects and mitigation responses

168 Due to the significance of the issues raised, on 23 February the Applicant sought a suspension of processing of the application for approximately one month, in order to provide further technical analysis and reporting. This suspension was subsequently further extended.

169 Updated ecology assessments were received on 9, 10 and 13 April[70]. Comments on the updated assessments were provided by invited s 53 participants on 29 April and are summarised in the topic-specific ecology sections below.

170 These assessments and the recommendations in them appear to be a complete replacement of the earlier ecology components of the substantive application, in particular, the AgScience (2025) assessment. Therefore, in the subsequent parts of this decision, the AgScience report and its recommendations are generally not referenced.

Updated Applicant assessment

171 The updated ecological assessments are detailed in technical reports prepared by RMA Ecology (botanical assessment and updated avifauna and overall ecological effects assessments), Blueprint Ecology Ltd (lizards), and SLR Consulting Ltd (invertebrates). The Panel treats those assessments, and the recommendations in them, as replacing the ecological components of the substantive application, including the AgScience assessment, except where the earlier material remains relevant to the reporting history or to matters raised by s 53 invitees.

172 The updated ecological effects assessment (RMA Ecology, 2026a) was prepared in response to the Panel's request for further information, in accordance with the Environment Institute of Australia and New Zealand (EIANZ) Ecological Impact Assessment guidelines.[71] It identifies

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69 Mr Kessels

70 Avifauna assessment (RMA Ecology), Botanical values and effects assessment (RMA Ecology), Updated ecological effects assessment (RMA Ecology), Invertebrate survey (SLR), Lizard Assessment (Blueprint Ecology), Offset site survey (SLR)

71 Roper-Lindsay et al, 2018

the ecological values of the Site and assesses potential effects of the proposal on those values and associated ecological features. The assessment materially revises the ecological characterisation in the substantive application, identifying significant indigenous biodiversity values associated with the outwash gravel ecosystem, including the presence and importance of the site for a number of Threatened and At Risk species.

173 Residual effects after proposed onsite avoidance and mitigation are assessed as ranging from 'Very Low' for some values to 'High' or 'Very High' for others. Applying the EIANZ guidance framework, RMA Ecology (2026a) notes that residual effects assessed as Very High indicate a need to reconsider project design or demonstrate a net gain outcome for the affected species or ecosystems, while those Moderate or higher are typically regarded as more than minor in an RMA context and warrant consideration of offsetting or ecological compensation.

174 The updated effects management package also differed materially from that described in the substantive application. It comprised a mix of mitigation, measures incorrectly described by the Applicant as 'offsetting', monitoring, adaptive management and potential ecological compensation. The package included peripheral conservation/release areas, a larger c.180 ha area to the north of the Site now referred to as the Compensation Area, species salvage and relocation or repatriation, habitat enhancement, pest and weed control, long-term monitoring, and an Ecological Management Plan. Later material clarified that the c.180 ha Compensation Area, rather than the conservation/release areas, became the main focus for addressing residual terrestrial invertebrate effects.

175 The Panel recognises that the ecological information for the Compensation Area is less complete than for the solar farm site, and that earlier technical reports did not always map the proposed offset/enhancement area in precisely the same way as the c.180 ha Compensation Area now secured by conditions. The botanical assessment provides information on parts of the then-proposed offset area, and the invertebrate material records that a larger area than the final c.180 ha Compensation Area was surveyed. The Panel therefore treats that material as relevant, but not as a comprehensive values assessment of every part of the final Compensation Area. The conditions address that limitation by requiring baseline surveys, habitat assessment, monitoring, pest management, and adaptive management within the Compensation Area before and during its use for plant repatriation, invertebrate release, assessment as a potential lizard release site, and wider ecological compensation.

176 Against that background, the ecological effects-management package continued to evolve after the updated ecology assessments and invited party responses were received. In particular,

following Minute 18 from the Panel, the Applicant further amended its proposed conditions to address matters that remained of concern to the Panel, including kakī / black stilt compensation funding, pre-construction surveys and avoidance measures for Nationally Threatened plants, the specification of the Compensation Area fencing, rabbit-permeable perimeter fencing for the solar farm, and a long-term applied ecological research programme. The Panel has assessed the residual ecology effects on the basis of that final package of conditions, rather than the package as originally lodged or as described in the earlier ecology assessments.

177 The Panel addresses ecological effects by reference to vegetation, avifauna, lizards and invertebrates. Within each topic and where relevant, the Panel considers ecological values, potential effects, proposed effects management, comments received, and its findings. Legal issues raised by s 53 invitees, including application of the permitted baseline, potential future increases to proposed compensation, and cumulative ecological effects from solar farms, are addressed in Parts C and E of this decision.

Tekapo outwash plain ecosystem and associated vegetation

Tekapo outwash plain ecosystem

178 The Site is located on a glacial outwash plain within the Mackenzie Basin. RMA Ecology's Botanical Assessment (2026b) records that glacial outwash gravels are a Naturally Uncommon ecosystem and are classified as Critically Endangered[72] and Critically Underprotected, reflecting historical decline in ecological function over the past 500 years and limited legal protection of this ecosystem type.

179 RMA Ecology describes the outwash ecosystem as being associated with a particular combination of substrate, climate and microtopographic conditions. The assessment records that glacial outwash plains are characterised by subtle changes in topography, including terraces, shallow channels and low channel bars, together with coarse substrates, thin highly drained soils, low nutrient content, low rainfall, high summer temperatures, cold winter temperatures, wind erosion and frost heave. It also records that subtle variation in microtopography, soil moisture and fertility is characteristic of the ecosystem and provides compositional diversity and niches for native plants.

[72] Under the Holdaway et al IUCN-based threat classification.

180 RMA Ecology records that the Site lies at the lowest altitude and southern extent of the Tekapo Outwash, retains a functioning physical connection to the rest of the Tekapo Outwash to the north, and is large, with a low edge-to-interior ratio. Those features informed RMA Ecology's assessment of the Site's ecological context. RMA Ecology's overall ecological value assessment is addressed in the vegetation values section below.

Vegetation values

181 Vegetation values at the Site are described in the RMA Ecology Botanical Assessment (2026b), based on desktop assessment and five days of field survey. RMA Ecology considered the survey effort reasonable, but not comprehensive, and acknowledges that some species, particularly spring annuals, may not have been detected due to seasonal limitations.

182 The site is exotic-dominated but retains indigenous vascular plants, mosses, and lichens associated with degraded outwash gravel communities and localised microhabitats. Despite modification, RMA Ecology records that these communities remain representative of outwash gravel ecosystems in the Pukaki ecological district and meet both the operative and proposed Mackenzie Plan definitions of indigenous vegetation.

183 Two Threatened and nine At Risk plant species were recorded across the Area of Investigation (Site and surrounds), including *Lepidium solandri* (Nationally Critical), recorded at the Site, and *Pimelea sericeovillosa* subsp. *pulvinaris* (Nationally Vulnerable), recorded at the proposed offset site. As stated above, RMA Ecology also identifies the potential for additional Threatened and At Risk plant species to be present but undetected including the possible presence of nationally threatened or At Risk Spring Annual species.

184 RMA Ecology (2026b) assesses the Site and surrounding Area of Investigation as having High ecological value overall, having regard to representativeness, rarity and distinctiveness, diversity and pattern, and ecological context. In particular, the outwash gravel ecosystem is nationally rare and classified as Critically Endangered, supports multiple Threatened and At Risk plant species, and forms part of the wider Takapō/Tekapo outwash system.

185 RMA Ecology concluded that the outwash plain vegetation communities are ecologically significant under the CRPS criteria, particularly in relation to rarity and distinctiveness, representativeness, and ecological context. It recorded that many of the values within the Area of Investigation (site and surrounds) are sensitive to change and not demonstrably replaceable, including Nationally Threatened and At Risk plant species and the vegetation community as a whole, which is dependent on specific environmental conditions and subtle variations contributing to biological diversity. RMA Ecology also considered that the limited extent,

pervasive threats and inherent vulnerability of those species and the community indicate limited resilience and limited capacity for recovery or replacement if those values are compromised.

Effects identified by the Applicant

186 RMA Ecology's botanical assessment (2026b) identifies both direct construction effects and wider operational effects on vegetation and outwash ecosystem values. It assesses 13.19 ha of the outwash gravel ecosystem as subject to complete and irreversible loss of extent through direct permanent impacts, including roads, inverter stations, piles, the substation footprint, laydown areas and trenching.

187 The botanical assessment also identifies a further 290.81 ha is potentially subject to loss of ecosystem extent as a result of operational effects, including vehicle and pedestrian movements, shading, altered soil moisture deficit, rainfall interception and redistribution, modification of wind patterns and frost conditions, fragmentation, and weed introduction or spread. The more substantial effects are anticipated to occur indirectly through shading and associated changes to the moisture regime and microclimatic conditions beneath panels. RMA Ecology considers these changes may disadvantage indigenous dryland species and favour exotic grasses, creating a risk of decline in indigenous vegetation communities and Threatened and At Risk plant species across a broader area of the Site.

188 RMA Ecology records uncertainty as to the precise nature and outcome of those effects, because solar panels have not previously been installed at scale in a Mackenzie Basin outwash gravel ecosystem. However, applying a precautionary approach, it assumes loss of that 290.81 ha when assessing the magnitude of effect. Overall, RMA Ecology considered that the Project has the potential to result in extensive and uncertain adverse effects on outwash gravel ecosystem extent and value, vegetation composition, and the persistence of Threatened and At Risk plant species.

Proposed effects management

189 In the April updated ecology material, the Applicant proposed construction methods intended to limit earthworks and ground disturbance, thereby reducing direct effects on the outwash plain. It also proposed a pre-construction survey, avoidance where practicable, and salvage, propagation and staged replanting of Threatened and At Risk plant species into suitable habitat, with ongoing monitoring. However, RMA Ecology noted that these measures are experimental for the species concerned, and that their effectiveness remains uncertain.

190 After proposed avoidance and mitigation, RMA Ecology assessed residual vegetation effects as remaining High or Very High for several values, including potential loss of outwash gravel ecosystem extent or function, loss of *Lepidium solandri* (Nationally Critical) and its habitat, reduction in ecological value of outwash gravel ecosystem, loss or decline of At Risk plant species, and potential loss of Threatened spring annual species whose distribution and response to disturbance remain uncertain.

191 The Applicant proposed to manage residual vegetation effects through measures described as offsetting and compensation, including restoration and management of about 180 ha of outwash plain, long-term monitoring, and a Technical Review Panel process to determine whether further actions and compensation is required.

Comments received

192 Expert evidence on vegetation/terrestrial ecosystems was provided by Dr Walker for EDS, Mr Harding for DOC, and Mr Head for Forest & Bird. Technical advice was provided by Dr Jean Jack for CRC. Additional comments were received from MfE, Mackenzie DC and a joint response on behalf of mana whenua, Te Rūnanga o Ngāi Tahu and Aoraki Environmental Consultancy Ltd, with Aukaha's views incorporated.

193 The vegetation experts and technical advisors broadly accept that the updated botanical assessment confirms high ecological values and ecological significance, including as part of a Critically Endangered naturally uncommon outwash gravel ecosystem and as habitat for Threatened and At Risk plant species. However, Dr Walker, Mr Harding, Mr Head and Dr Jack identify limitations in survey timing, coverage and effort, particularly for seasonally expressed and cryptic species such as spring annuals. They consider the recorded botanical values are likely to be a minimum baseline and that a precautionary approach is required.

194 Mr Head considers the AEE understates the scale and magnitude of effects by focusing on the earthworks footprint and treating site-wide operational effects as "indirect". In his view, the relevant effects are not confined to direct clearance, but include widespread shading, sheltering, altered frost, soil moisture and surface temperature regimes, fragmentation, weed pressure and ongoing disturbance. He considers these effects would result in long-term to permanent functional loss or severe degradation of ecosystem integrity across most of the outwash area.

195 Mr Harding also considers the solar farm would result in loss of ecological integrity and widespread loss of distinct dryland vegetation and Threatened and At Risk plant species. He identifies a material misalignment between the botanical assessment and the updated

ecological effects assessment: the botanical assessment states that microclimatic changes will occur, vegetation composition will change, native dryland species will be less suited to the modified conditions, and most individual Threatened and At Risk plants within 290.81 ha will be lost, whereas the updated ecological effects assessment presents the ecological trajectory as materially uncertain. He also disputes the updated ecological effects assessment's reliance on unsupported assumptions about ongoing ecological decline at the Site and its use of a permitted baseline.

196 Dr Jack raises a similar concern. She agrees with the updated ecological effects assessment, stating that significant residual ecological effects would remain for indigenous vegetation and outwash plain habitats. However, she considers that assessment over-emphasises uncertainty about whether adverse ecological effects will occur, given native dryland species are likely to be less suited to the altered conditions. Dr Walker and Mr Head also consider that uncertainty has not been applied precautionarily, but has instead contributed to understatement of effect magnitude and residual risk.

197 Mackenzie DC raises a related concern regarding whether the proposed 180 ha Compensation Area is capable of achieving ecological outcomes commensurate with the affected values. It considers, having regard to the concerns raised by other invitees, that more appropriate options may be available to secure permanent protection, through reserve status or covenant, and enhancement of outwash gravel ecosystem elsewhere.

198 In terms of effects management, Dr Walker, Mr Harding, Mr Head and Dr Jack each consider that effects of this nature and scale should be avoided. Dr Walker considers avoidance is the appropriate response under the mitigation hierarchy because the proposal would affect irreplaceable and vulnerable values that cannot be replaced, recreated or restored. Mr Harding similarly considers avoidance could be achieved only by avoiding the Site. Dr Jack recommends further exploration of alternative locations, including already developed areas. Mr Head also considers avoidance is the only appropriate response where the proposal would result in permanent loss of a Critically Endangered and effectively irreplaceable ecosystem.

199 Dr Walker, Mr Harding, Mr Head and Dr Jack also raise concerns regarding recognised limits to offsetting. Dr Walker considers the ecological values are highly irreplaceable and vulnerable, that the ecosystem cannot demonstrably be replaced, recreated or readily restored, and that recognised offsetting principles indicate the effects breach limits to offsetting. On that basis, she considers offsetting is not possible or appropriate, and that compensation cannot achieve no net loss, much less a net gain. Mr Harding and Mr Head raise similar concerns. Dr

Jack also identifies significant constraints on offsetting, noting that like-for-like replacement and additionality may be very difficult, if not impossible, and that the package may more properly fall to be considered as compensation.

200 In summary, Dr Walker, Mr Harding, Mr Head and Dr Jack variously raised concerns that the proposed residual effects measures would not address the loss of ecosystem extent, geomorphic context, ecological processes or landscape-scale integrity. They also identify uncertainty in the proposed reliance on salvage, propagation, translocation, pest control and enhancement of rare dryland plant habitats. Mr Head considers the package is mismatched to the scale and nature of effects because it focuses on individual plants, plot-level interventions and managed persistence within the development footprint, rather than maintaining ecosystem processes and landscape integrity. Mr Harding considers the proposed conservation area is not like-for-like, is substantially smaller than the impact area, and is based on insufficient ecological information. Dr Jack identifies the 35-year management term for the conservation area as a key concern, because it would not provide the enduring biodiversity gain in perpetuity that is a core principle of biodiversity offsetting.

201 The Minister for the Environment raised related concerns about reliance on monitoring and adaptive management to address uncertain and potentially long-term effects on significant indigenous biodiversity. The Minister noted that mitigation would generally be expected to be clearly defined and secured upfront rather than deferred, and considered this reduces confidence that impacts on Threatened and At Risk dryland plant species will be adequately managed. The Minister also identified uncertainty as to whether the proposed conservation area and associated pest management would achieve no net loss or deliver enduring biodiversity gains, including beyond the consent period.

202 The April joint response from mana whenua, Te Rūnanga o Ngāi Tahu and Aoraki Environmental Consultancy Ltd generally supported the scale and intent of the proposed conservation area and pest management programme as being more commensurate with the potential loss of outwash plain ecosystem values. However, it noted that the success of key restoration components, including salvage and propagation of rare plants and habitat enhancement, is not guaranteed and will require ongoing involvement through the proposed Kaitiaki Governance Group. It also considered that, while recent revisions provide a more structured and hierarchical response to effects, uncertainty remains regarding the effectiveness of some enhancement measures, particularly for rare plant species.

Applicant's response to comments

203 RMA Ecology (Mr Milner) responded to the comments of Dr Walker (EDS), Mr Harding (DOC), Mr Head (Forest & Bird) and Dr Jack (CRC) in a memorandum dated 27 May 2026. On survey adequacy, RMA Ecology acknowledged that coverage was limited by the late stage in the FTAA process at which it was engaged, and that spring annuals in particular may not have been detected. With that exception, it considered that a reasonable survey effort had been expended, that all or almost all vascular plant species were likely to have been detected, and that the survey was adequate to assess effects and design effects management provided its limitations were acknowledged. It recorded that the population of *Lepidium solandri* is likely to be larger than detected, a matter already reflected in the High magnitude of effect it had assessed (with low certainty). On the permitted baseline, RMA Ecology accepted the s 53 invitees' characterisation of what the Mackenzie Plan permits, but noted that the assessment had conservatively adopted the current state of the Site as the ecological baseline, so that a revised planning interpretation would not alter its values or effects assessment.

204 RMA Ecology (Mr Milner) accepted that the Site's position on the relevant environmental gradients elevates its importance, and that its limited native species composition may reflect that extreme environment. RMA Ecology assessed the proposal as resulting in 13.19 ha of complete and irreversible loss of ecosystem extent, with a further assumed 290.81 ha potentially subject to loss through microclimatic change, and provided a cumulative-effects analysis indicating the Site represents around 0.5% of the remaining outwash gravels in the Mackenzie Basin and 0.8% in the Pukaki Ecological District, while cautioning that percentage loss is not an appropriate metric in isolation. On mitigation, RMA Ecology considered that caging, salvage, propagation and translocation of threatened plants are worthwhile to trial and have some support in the literature, but that their outcome is too uncertain to reduce the residual level of effect below High or Very High. It concluded that the effects are most appropriately addressed through avoidance of the Site, and that if they are not avoided endeavours to achieve a net biodiversity gain for each affected value is appropriate.

205 Dr Ussher separately responded on the overall effects assessment and effects-management package. He did not accept that the Site is irreplaceable in the offsetting sense, or that complete loss of ecological values across the 320 ha Site is inevitable, noting that only part of the Site would be covered by roads, buildings or panel arrays. He nevertheless accepted that outwash plain cannot be recreated de novo, that strict no-net-loss for loss of outwash plain extent may not be achievable unless permanent protection of equivalent outwash gravel plain is accepted as part of the response, and that the conservation area should not be described as an "offset" in

the absence of quantitative no-net-loss analysis. Overall, Dr Ussher considered that the mitigation, enhancement and compensation package, including the Technical Review Panel mechanism, would provide a proportionate and appropriate response to the ecological losses that may occur, by securing protection and enhancement of the same or similar biodiversity.

206 Following the Panel's Minute 18 of 2 June 2026, the Applicant responded on 5 June 2026 and committed through conditions to a materially strengthened package directed at the vegetation effects management. In summary, the Applicant committed to: pre-construction surveys for all Nationally Threatened plant species, timed to optimise detection of spring annuals and developed in consultation with DOC; exclusion from the array, supporting infrastructure and construction footprint, together with an appropriate ecological buffer, of any area where a Nationally Threatened plant is located, so that direct loss of, and shading effects on, those plants are avoided; a mammalian predator-exclusion fence around the c.180 ha Compensation Area, together with legal protection of that area in perpetuity for nature conservation purposes by covenanting or similar registered title instrument; a rabbit-permeable solar farm perimeter fence to assist in maintaining the open/bare ground conditions on which the outwash flora depends; and a funded applied ecological research programme to improve understanding of solar-development effects in dryland environments, test uncertain management actions, and inform future ecological management and review processes.

207 The conditions also provide a mechanism for mana whenua involvement in ecological management through the Kaitiaki Governance Group, including advice on draft management plans, participation in the Strategic Cultural Programme, and representation on the Technical Review Panel.

Panel evaluation

208 The Panel records at the outset its commendation of the updated botanical assessment prepared by RMA Ecology (Milner and Roper), which the Panel considers to have been robust, transparent and objective in its analysis and conclusions notwithstanding the constraints (including limited survey windows and incomplete seasonal coverage) under which it was prepared. With that acknowledgement, the Panel has carefully considered the evidence on vegetation values and effects, and the positions advanced by RMA Ecology on the one hand, and Dr Walker (EDS), Mr Harding (DOC), Mr Head (Forest & Bird) and Dr Jack (CRC and Mackenzie DC) on the other. The gulf between the original AgScience (2025) conclusion that the Site had minimal or low ecological values and the conclusion in the updated reporting that the Site supports significant indigenous biodiversity values is attributable to the limited scope and rigour of the original assessment rather than to any genuine difference in the underlying

ecology. Even the updated assessment is, as the s 53 invitees' experts consistently advise, a minimum baseline: the five-day field survey would not have reliably detected seasonally expressed species (in particular spring annuals) or cryptic species in coarse outwash gravels, and further Threatened or At Risk species are likely to be present but undetected. A cautious interpretation of the recorded values is warranted.

209 The Panel considers the Site to be ecologically significant and to support significant indigenous biodiversity in terms of the CRPS and s 6 of the RMA: the outwash gravel ecosystem is part of a Critically Endangered, Critically Underprotected naturally uncommon ecosystem, supports multiple Threatened and At Risk plant species, and forms part of the wider Takapō/Tekapo, Pūkaki and Ohau outwash system. The Panel understands that no party, including the Applicant, disputes that the Site meets the criteria for significant indigenous biodiversity under the CRPS.

210 The Panel gives weight to the evidence that the Site sits at the extreme end of Mackenzie Basin gradients of aridity, temperature and rainfall, and those abiotic extremes are themselves a defining ecological characteristic of the ecosystem. The Panel accepts that those abiotic extremes sustain a particular indigenous flora and microhabitat assemblage, and that ecological significance attaches to that assemblage and the processes that maintain it, not merely to the underlying landform. It also accepts that the proposal would replace that regime with a fundamentally novel pattern of shading, runoff and altered frost, soil moisture and surface temperature regimes, operating across most of the 320 ha Site rather than only the 13 ha construction footprint.

211 The Panel has weighed RMA Ecology's emphasis on the existence of approximately 22,000 ha of broadly similar outwash gravel landform in the surrounding landscape against the emphasis of Dr Walker, Mr Harding, Mr Head and Dr Jack on the Site's position at the extreme end of the relevant environmental gradients. The Panel finds the Site to be highly important for the affected vegetation values. It is not necessary, however, for the Panel to resolve whether the Site is uniquely important relative to outwash gravel habitats in the surrounding landscape. What matters for present purposes is that the Site is plainly important, the affected values are sensitive to change, and there remains a dispute as to the degree of irreplaceability and the extent to which residual effects can be meaningfully offset or compensated.

212 The presence of broadly similar outwash gravel landforms elsewhere in the Basin does not, of itself, establish that the affected values are readily replaceable, and the Panel accepts that the wider outwash resource is itself part of the same Critically Endangered, Critically

Underprotected naturally uncommon ecosystem. The Panel records the s 53 experts' concern that the recognised limits to offsetting may be engaged for values of this kind. That said, the threatened status of the wider resource does not, of itself, determine the outcome under the FTAA. It heightens the importance of scrutinising whether the residual adverse effects can be appropriately addressed through the effects-management package now secured, and, ultimately under s 85, whether those residual effects, compensated as proposed, are sufficiently significant to be out of proportion to the Project's regional and national benefits.

213 The Panel finds that the affected vegetation values are ecologically significant under the CRPS criteria, support significant indigenous biodiversity for the purposes of s 6(c) of the RMA, and include values assessed by RMA Ecology as High or Very High. The Panel also accepts the s 53 experts' concern that some of those values are irreplaceable and vulnerable and may be difficult to offset or compensate in full. The Panel acknowledges Dr Ussher's evidence that there is some relevant experience with propagation, caging, planting and translocation of *Lepidium solandri*, and Mr Milner's view that those measures provide a meaningful basis for trialling planting and/or translocation. However, the Panel does not consider that the evidence demonstrates that *L. solandri*, comparable Mackenzie Basin spring annuals, or the affected dryland plant assemblages can certainly be re-established at scale, or that the structural and process attributes of a Critically Endangered outwash gravel ecosystem can be created de novo or restored within ecologically meaningful timeframes so as to replace the affected values with full confidence. Viewed through the orthodox ecological effects-management framework, avoidance remains the response that would best protect these values. Under the FTAA, however, the Panel's task is to assess the residual adverse impacts after taking into account the conditions imposed and the Applicant's agreed or proposed measures to avoid, remedy, mitigate, or compensate for those impacts.

214 As set out in the Applicant's response above, the effects-management package now secured by conditions differs materially from that originally proposed. Of particular relevance to vegetation and outwash ecosystem effects, it includes pre-construction surveys for Nationally Threatened plants, including spring annuals, developed in consultation with DOC and a Technical Review Panel; exclusion from the array, supporting infrastructure and construction footprint, together with appropriate ecological buffers, of any areas where Nationally Threatened plants are located; a predator-exclusion fenced Compensation Area, with the area protected in perpetuity for nature conservation by an enduring legal mechanism; a rabbit-permeable solar farm perimeter fence to help maintain the sparsely vegetated bare ground outwash conditions; and long-term monitoring and an applied ecological research programme to improve understanding of vegetation and outwash ecosystem responses, test uncertain

management actions, and inform any adaptive management or compensation required over time.

215 The Panel has taken into account Mr Milner's further memorandum, which records that, from an ecological perspective, the botanical effects are most appropriately addressed through avoidance of the Site and that, after mitigation, the residual level of effect remains High or Very High for key vegetation and outwash ecosystem values. The Panel also acknowledges Dr Ussher's view that the broader mitigation, enhancement and compensation package may balance ecological losses in a beneficial or commensurate manner, and may potentially produce a net-positive outcome for values overall. The Panel further acknowledges that the final conditions now incorporate important elements of the pathway identified by Dr Ussher, including permanent legal protection of the Compensation Area, objectives directed at no net loss for Threatened and At Risk dryland plants, pre-construction survey and avoidance requirements for Nationally Threatened plants, and a Technical Review Panel process with power to require further compensation commensurate with actual residual impacts, including an additional compensation area of up to 170 ha if required.

216 However, the Panel does not treat those mechanisms as demonstrating no net loss at the time of approval. No quantitative no-net-loss assessment has been provided for the affected vegetation and outwash ecosystem values; the long-term success of salvage, propagation and repatriation remains uncertain; and the extent and ecological significance of operational effects on the outwash ecosystem will only be known through monitoring over time. The Panel therefore proceeds on the basis that some significant residual adverse effects on vegetation and outwash ecosystem values must be assumed, certainly in the short-term.

217 The final conditions are nevertheless materially relevant to the Panel's assessment of those residual effects. They secure avoidance of Nationally Threatened plants where detected, provide enduring legal protection and active management of a substantial area of outwash plain habitat, and establish a process for further response if monitoring identifies residual effects that have not been avoided, mitigated or otherwise addressed. Those measures do not prove no net loss, particularly of the outwash plain habitat itself, but they provide a more certain and durable effects-management and compensation framework than was previously proposed.

218 Taking that framework into account, and for the reasons given in the overall ecological evaluation and conclusion below, the Panel finds that the residual adverse effects on vegetation, although significant with no net loss outcomes not certain to be achieved, are not sufficiently significant to be out of proportion to the Project's regional and national benefits.

Avifauna

Avifauna values

219 The Avifauna Effects Assessment by RMA Ecology identifies avifauna values and potential effects. Due to seasonal constraints, no comprehensive site-specific avifauna survey was undertaken; instead, the assessment relies on desktop analysis, available bird tracking data provided by DOC for the wider area, and limited survey information from the earlier AgScience Ltd assessment.

220 RMA Ecology identified eighteen Threatened or At Risk species within 5–10 km of the site (with later material referring to 20 such species[73]), including three Nationally Critical species (kakī/black stilt, matuku-hūrepo/Australasian bittern, and kōtuku/white heron), the Nationally Endangered black-fronted tern, and four Nationally Vulnerable species (Australasian crested grebe, grey duck, New Zealand falcon, and Caspian tern). The panel also notes that five taonga bird species are associated with the site: black-fronted tern, paradise shelduck, pied stilt, southern black-backed gull, and harrier).

221 RMA Ecology further notes that the Site provides foraging and/or breeding habitat for several Threatened or At Risk species, particularly New Zealand pipit and banded dotterel. It records occasional foraging and/or intermittent breeding by South Island pied oystercatcher and black-fronted tern; possible occasional foraging by black-billed gull and New Zealand falcon; and that up to 16 species may fly over the site.

222 Kakī / black stilt are addressed in more detail below in the summary of invited party comments and evaluation because, although RMA Ecology did not identify the Site itself as suitable feeding or breeding habitat for the species, its Nationally Critical status, very small population, and the Site's location within or near flyways and habitat linkages used by indigenous braided-river and wetland birds, make it a particular focus of the avifauna assessment.

223 Mr Kessels, the Panel's independent avifauna expert, advises that the site lies at the confluence of the Takapō, Ōhau, and Pūkaki braided rivers where they enter Lake Benmore, and is adjacent to, and possibly within, bird flyways connecting breeding colonies, nesting and feeding habitats, and night roosts. He also records that the locality is internationally recognised for indigenous birds.

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[73] Dr McClellan identified royal spoonbill and pied shag as additional At Risk species. R McClellan Further Statement of Evidence – Freshwater Birds: Comments on New Assessment, 24 April 2026, at [11]–[12].

Effects identified by the Applicant

224 RMA Ecology (2026c) identifies potential adverse effects on avifauna from the loss or modification of open foraging and nesting habitat within the solar farm footprint, injury or mortality of nests and chicks during construction, and injury or mortality from interaction with solar panels and associated infrastructure.

225 In relation to habitat effects, RMA Ecology considers that installation of the solar farm will reduce the availability of open habitat for ground-foraging and ground-nesting species, particularly New Zealand pipit and banded dotterel, and also South Island pied oystercatcher. However, it assesses these effects as limited by the relatively low habitat value of the Site compared with nearby braided river, lake margin and wetland environments, and by the possibility that some species may continue to use parts of the Site following development.

226 RMA Ecology identifies collision risk as the principal operational uncertainty. Solar arrays may pose a risk including through mechanisms such as the "lake effect hypothesis", whereby reflected light is perceived as water. However, RMA Ecology notes that empirical support for that mechanism is limited, that risk is highly context-dependent, and that the proposed design includes features intended to reduce reflectivity and visual continuity across the array.

227 RMA Ecology also identifies potential injury or mortality risks from associated infrastructure, including perimeter fencing, transmission lines, towers, substations and electrical components. It considers those risks to be capable of mitigation through infrastructure design, visibility treatments and bird-safe electrical measures, although electrocution risk is identified as most relevant to the New Zealand falcon.

228 RMA Ecology states that available tracking data indicates key flyways for threatened braided river species align primarily with the Takapō/Tekapo and Ōhau Rivers rather than across the Site. However, in the absence of detailed site-specific movement data, bird strike risk cannot be quantified with certainty or ruled out. Overall, RMA Ecology assesses potential collision effects prior to mitigation as varying by species, with higher consequence for highly threatened species because of their small population sizes.

Proposed effects management

229 RMA Ecology (2026c) identifies proposed mitigation for avifauna effects including pre-construction nest surveys with setbacks from active nests, anti-reflective panel coatings, 3.4 m panel-row spacing, and stowing panels at 60 degrees overnight to reduce panel collision risk. It also relies on bird-safe design measures for new electrical infrastructure and visibility

treatments for perimeter fencing and new transmission connection lines. Measures relating to existing transmission infrastructure are identified as potential further mitigation options and would depend on Transpower approval.

230 Following mitigation, RMA Ecology assessed most residual avifauna effects as Low or Low–Moderate[74]. Low–Moderate residual effects remain for some Threatened or water-associated species, including black-fronted tern, kakī/black stilt, matuku-hūrepo/Australasian bittern, kōtuku/white heron, grey duck, Australasian crested grebe and Caspian tern, reflecting their conservation status, behaviour, population vulnerability, and uncertainty about low-frequency collision events. In his later response, Mr Lurling accepted that royal spoonbill and pied shag should be added to the species list and effects assessment, and assessed the predicted level of effect for those species as Low-Moderate.

231 The Applicant proposed bird-collision mortality monitoring and adaptive management through the Bird Collision Monitoring Plan and Avifauna Management Plan, including triggers for further mitigation or compensation if specified mortality thresholds were met.

Comments received

232 Expert evidence on avifauna was provided by Dr McClellan on behalf of Forest & Bird and Dr O'Donnell, Principal Science Advisor for DOC. Technical advice was provided by Dr Jean Jack for CRC. Additional comments were received from the Minister for the Environment and from mana whenua.

233 In relation to avifauna values, Dr McClellan accepts that the updated avifauna assessment improves on the limited bird assessment lodged with the application. However, she considers that the assessment still does not provide an accurate or sufficiently complete description of bird habitats and values. In particular, she identifies additional At Risk species recorded from nearby habitats, including kōtuku ngutupapa/royal spoonbill and kāruhiruhi/pied shag, and notes that 20 Threatened and At Risk species are known from habitats in very close proximity to the proposed solar farm. She also considers that the extent of site use remains unresolved, particularly for nesting by pohowera/banded dotterel and pīhoihoi/New Zealand pipit, and that the site provides ideal non-riverine nesting habitat for pohowera/banded dotterel.

234 Dr McClellan emphasises the Site's proximity to nationally and internationally important bird habitats associated with Lake Benmore, the Takapō/Tekapo delta, the Ōhau C Ponds and

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[74] With very low levels of effect on certain species.

nearby braided rivers. She considers this proximity "cannot be overemphasised", given the mobility of braided river and wetland birds, including black-fronted tern and black-billed gull.

235 Dr O'Donnell raises similar concerns about the adequacy of the information base for assessing avifauna effects. He considers that the updated assessment relies on desktop information and predicted flyover rates rather than comprehensive site-specific surveys, including nocturnal surveys, despite the likelihood that a significant proportion of waterbird movement occurs at night or in low light. He also considers that the assessment underestimates the number of Threatened and At Risk species likely to fly over the Site and therefore potentially exposed to collision risk.

236 A common issue raised by Dr McClellan, Dr O'Donnell, Dr Jack and mana whenua is uncertainty regarding avifauna effects, particularly collision-related mortality risk. Dr Jack agrees with RMA Ecology that there is considerable uncertainty in the assessment of potential avifauna effects, particularly bird strike, and generally agrees that Low–Moderate adverse effects may remain with mitigation in place. However, she considers that further development and confirmation of the adaptive monitoring approach is required, including the adequacy and longevity of any compensatory actions.

237 Dr McClellan's principal concern is collision risk for Threatened and At Risk species, particularly kākī/black stilt. She notes that kākī is Nationally Critical, is largely restricted to the Mackenzie Basin, and has a very small population, including only about 25 breeding pairs. She considers RMA Ecology's assessment of a Low magnitude of effect for kākī prior to mitigation insufficiently precautionary, given the species' population vulnerability, year-round dependence on the Mackenzie Basin, and the Site's proximity to braided-river and wetland habitats. Dr O'Donnell raises related concerns, including the absence of site-specific movement data for kākī, the lack of a population viability analysis, and the difficultly of relying on post-construction monitoring where the loss of even one individual may be ecologically significant.

238 Dr McClellan considers that available information on flight paths and flight heights is insufficient to support the assessment with confidence, and that the mechanisms driving collisions with photovoltaic infrastructure remain poorly understood.

239 Dr O'Donnell similarly questions the basis for assessing collision effects for many Threatened and At Risk species as Negligible or Low. In his view, those ratings are difficult to support given the absence of appropriate field data, uncertainty regarding collision mechanisms, and limited evidence that measures such as anti-glare or anti-reflective panels and stowing panels

at specified angles would materially reduce collision risk for the relevant species. DOC, relying on Dr O'Donnell's advice, also identifies the absence of population viability analysis as a material deficiency for understanding the consequences of additional mortality for Threatened species such as kākī.

240 In relation to effects management, Dr McClellan accepts that some proposed measures for fences and other infrastructure are appropriate, but remains concerned that the primary response to panel collision risk relies on post-construction fatality monitoring and adaptive management. She considers the proposed monitoring methodology incomplete, noting that drone- and AI-based carcass detection has not been demonstrated for a site of this sensitivity, and because low-frequency mortality of highly threatened species may not be reliably detected or addressed. She is also concerned that, if unacceptable mortality is detected, there is limited evidence that further measures would be available to reduce impacts.

241 Dr Jack raises related concerns. She recommends that monitoring protocols be established and tested before construction, including testing the feasibility of drone-based carcass detection against trained human searchers and considering canine-assisted searches. She also considers that monitoring should continue for the duration of consent, with more intensive monitoring in the initial years and any later step-down dependent on results being stable and mortality remaining below agreed thresholds.

242 The Minister for the Environment raises broader concerns about reliance on monitoring and adaptive management where effects on significant indigenous biodiversity are both significant and uncertain.

243 Mana whenua also raise concerns about uncertainty around collision-related mortality risk, particularly for Threatened and Nationally Critical species such as kākī. They seek clarification on the probability of mortality events, the potential population-level consequences of those events, and whether the proposed mitigation and compensation responses would be sufficient if losses occur.

Applicant's response to comments

244 RMA Ecology (Mr Lurling) responded to the comments of Dr O'Donnell (DOC), Dr McClellan (Forest & Bird), Dr Jack (CRC) and mana whenua in a memorandum dated 27 May 2026. It acknowledged that comprehensive site-specific surveys, including nocturnal, seasonal and flight-path surveys, were not undertaken, owing to the constraints of the FTAA process and the post-breeding timing of its engagement, and accepted that overflights of the Site by many or all of the 20 Threatened and At Risk species in the wider area are likely, adding royal

spoonbill and pied shag to the species list (at a Low–Moderate level of effect). RMA Ecology maintained, however, that the principal uncertainty is not species presence but how birds behaviourally respond to photovoltaic infrastructure, such that further survey would refine data on occurrence and breeding use but would not remove that key uncertainty.

245 RMA Ecology concurred that there is considerable uncertainty in collision risk and considered a qualitative, precautionary assessment to be the most appropriate approach given the absence of New Zealand-specific quantitative data, with overseas studies useful for identifying mechanisms but not directly predictive of mortality at Haldon. It accepted that additional collision mechanisms, including disorientation by polarised light and collisions in low light, cannot presently be excluded, while maintaining that modern arrays incorporating anti-reflective coatings, tracker panels with wider spacing and night-time stowing are likely to substantially reduce strike risk. In relation to kakī/black stilt, RMA Ecology agreed the species warrants particular consideration given its Nationally Critical and taonga status and small Mackenzie Basin population, and that a precautionary approach and a population viability analysis are appropriate (RMA Ecology not having been instructed to prepare the latter). It considered kakī behaviour likely reduces susceptibility to lake-effect collisions, but that low-light collision risk cannot be excluded, and that ecological compensation directed to the kakī recovery programme has demonstrated efficacy and is likely capable of countering residual mortality effects.

246 On monitoring and management, RMA Ecology expressed confidence that the proposed monitoring can meet the 95% carcass-detection standard, with human or canine-assisted searches as a fallback, and supported pre-construction trials, calibration and alignment of the conditions with the Proteus statistical report. It addressed the appropriate duration of intensive monitoring, and the Applicant's later condition set, now reflected in the final conditions, requires bird-collision monitoring for not less than five years or five full seasonal monitoring periods. It agreed to adopt the more conservative adaptive-management trigger framework proposed for The Point Solar Farm, including per-survey thresholds and the inclusion of injured birds, and that further consultation with DOC is required to refine the compensation response. Overall, RMA Ecology considered the assessment appropriately precautionary, concluding that the available evidence neither supports a finding of high mortality nor excludes adverse effects for highly threatened species such as kakī, and that, subject to the proposed monitoring, adaptive management and compensation, the residual avifauna effects are capable of being appropriately managed.

247 Following the Panel's Minute 18 of 2 June 2026, the Applicant materially revised its avifauna effects management. The Panel's Minute 18 had recorded its provisional view that residual avifauna effects, in particular the collision risk to kakī/black stilt (Nationally Critical), were at risk of being unacceptably high, and that a substantial, upfront and secured funding commitment directed to kakī recovery—rather than compensation deferred to, or contingent upon, post-construction bird-strike monitoring and triggers—could alleviate that concern. In its response of 5 June 2026, and as amended in its response to RFI#6 of 12 June 2026, the Applicant agreed to provide a fixed avifauna compensation contribution of $1,000,000, paid in full and upfront in a single tranche and secured by conditions. Responding to Minute 18 on 5 June 2026, the Director-General of Conservation advised, in relation to the kakī/avifauna contribution specifically, that a contribution of this order is appropriate and broadly commensurate with the residual collision risk to kakī, being consistent with the upfront contribution accepted for a comparable solar proposal in the same locality; that the funding could be directed to the measures DOC considers most worthwhile for avifauna recovery (and need not be limited to kakī); and that DOC is willing to be involved in implementation. The Department also noted the absence of a population viability analysis and the consequent need for a precautionary approach to residual risk.

Panel evaluation

248 The Panel has carefully considered the avifauna evidence, including the contrasting positions advanced by RMA Ecology, the technical advice of the Panel's independent expert Mr Kessels, and the expert evidence of Dr McClellan (Forest & Bird) and Dr O'Donnell (DOC), with the technical advice of Dr Jack (CRC and Mackenzie DC). The Panel agrees with Dr McClellan and Dr O'Donnell that the avifauna information base remains materially incomplete, particularly in relation to site-specific and nocturnal movement data.

249 The updated assessment proceeds primarily by desktop analysis and predicted flyover rates, and was not supported by comprehensive site-specific or nocturnal survey work, despite the recognised likelihood that significant proportions of waterbird and shorebird movement occur at night or in low light. The Panel accepts Dr O'Donnell's evidence that this approach underestimates the number of Threatened and At Risk species likely to be exposed to collision risk.

250 The Panel accepts the evidence of Dr McClellan, supported by Mr Kessels and consistent with Dr O'Donnell, that the Site lies on the edge of nationally and internationally important bird habitats associated with Lake Benmore, the Takapō/Tekapo delta, the Ohau C ponds and the lower reaches of the Takapō/Tekapo, Ohau and Pūkaki braided rivers, all within an

internationally recognised Important Bird Area. That proximity cannot be overemphasised given the mobility of braided-river and wetland avifauna, including kakī/black stilt, black-fronted tern, black-billed gull and Caspian tern.

251 On the assessment of effects, the Panel prefers the more precautionary evidence of Dr McClellan and Dr O'Donnell. RMA Ecology's assessment of magnitude of effect as Low for kakī/black stilt prior to mitigation is not adequately supported, having regard to the species' Nationally Critical status, very small population, year-round dependence on the Mackenzie Basin, and the proposed permanent and large-scale habitat alteration. Information on flight paths, flight heights, nocturnal movement and species-specific responses to photovoltaic infrastructure is insufficient to support the ratings with confidence, and the absence of population viability analysis is a material deficiency. Even on RMA Ecology's own assessment, Low-Moderate residual effects remain after proposed mitigation for several Threatened species; applied to species with very small populations and statuses up to Nationally Critical, residual effects of that order are properly more than minor.

252 The Panel does not consider that the earlier reliance on post-construction fatality monitoring and adaptive management, without an upfront compensation response, was adequate. That is because the monitoring methodology and detection technology have not been demonstrated as reliable on a site of this complexity; the empirical evidence base for the principal mitigation measures materially reducing collision risk is limited; and the proposed adaptive management triggers treat the loss of a Nationally Critical bird as an acceptable starting point rather than something to be avoided.

253 As set out in the Applicant's response above, the Applicant has, in response to the Panel's Minute 18, secured a fixed, upfront avifauna compensation contribution of $1,000,000 directed to DOC for the loss of avifauna habitat and residual risk of avifauna collision with solar farm infrastructure. The Director-General of Conservation advised that a contribution of this order is appropriate and broadly commensurate with the residual collision risk to kakī/black stilt, and that DOC is willing to be involved in implementation.

254 The Panel accepts that the avifauna information base remains less complete than it would prefer, and that material uncertainty remains as to the collision risk to Nationally Threatened avifauna using or moving across the Site, in particular kakī/black stilt. Consistent with DOC's advice and the absence of a population viability analysis, the Panel adopts a precautionary approach and proceeds on the basis that residual adverse effects on kakī and other Nationally Threatened avifauna may be more than minor.

255 The Panel is, however, now satisfied that those residual effects have been brought within acceptable limits by the Applicant's recent compensation and monitoring, management and research proposals. The compensation contribution is no longer deferred or contingent on monitoring triggers, but is fixed, secured and payable upfront; it is directed, with the support and intended involvement of DOC, to measures reasonably expected to deliver tangible, population-level benefits for kakī commensurate with the residual collision risk; and it is reinforced by the Bird Collision Monitoring Plan, the Avifauna Management Plan and the long-term applied research programme committed in response to Minute 18, which together provide for the detection of, and response to, any collision effects. The Panel also notes the specific conditions advanced by the Applicant to empower a Technical Review Panel to oversee monitoring and applied research, consider whether residual adverse effects are occurring, and determine actions and further compensation to address those effects. The Panel therefore finds that, while residual avifauna effects remain and are treated as potentially significant, the effects management now secured reduces them to a level that is acceptable when weighed against the Project's regional and national benefits.

256 In reaching the conclusions above, the Panel has taken into account the further memorandum from RMA Ecology (Mr Lurling, 27 May 2026) responding to the invitees' comments on avifauna. The Panel considers that memorandum candid as to the limitations of the information base and the irreducible uncertainty in collision risk, and notes RMA Ecology's support for a precautionary approach and a population viability analysis, its adoption of the more conservative trigger framework proposed for The Point Solar Farm, and its reliance on compensation directed to the kakī recovery programme. Those positions are consistent with, and support, the precautionary and compensation-based approach the Panel has adopted in relation to residual risk to kakī/black stilt and other Nationally Threatened avifauna.

257 The Panel recognises that there is limited New Zealand-specific empirical information on bird-strike risk at modern photovoltaic solar farms, and that the available evidence does not establish that such facilities necessarily result in levels of avifauna mortality. However, nor does the evidence exclude collision risk, particularly for Threatened braided-river and wetland species in the Mackenzie Basin context. The Panel accepts that birds will fly over the Site, and that the Site provides some feeding and/or breeding habitat for species such as New Zealand pipit and banded dotterel, while also accepting RMA Ecology's assessment that the Site has relatively limited habitat value compared with the nearby braided-river, lake-margin and wetland habitats. The Panel's conclusion therefore rests not on an absence of avifauna values or risk, but on the strengthened mitigation, monitoring, adaptive-management and both upfront and top-up compensation packages now secured by conditions.

Lizards

Lizard values, effects and effects management

258 Blueprint Ecology identified one indigenous lizard species on site, McCann's skink (Not Threatened) based on desktop review and surveys in January 2026. Other species are considered unlikely to be present, with only a low likelihood for Southern grass skink and Southern Alps gecko, and a very low likelihood for a further additional species.

259 RMA Ecology assesses the level of adverse effect on lizards (prior to mitigation) as Very Low, with salvage, relocation, pest control, habitat enhancement and monitoring expected to result in a net gain outcome.

Invited party comments:

260 Dr Tocher provided technical advice on behalf of CRC and Mackenzie DC. Her principal concern is that uncertainty regarding species identification, particularly the possible presence of southern grass skink, an At Risk – Declining species, reduces confidence in the baseline assessment and the adequacy of proposed mitigation. She also identifies aspects of the Lizard Management Plan that require strengthening, including rodent monitoring, release-site capacity, contingency mitigation and residual effects management.

261 Mr Head (Forest & Bird) notes that detection probability for lizards in coarse outwash gravels is low without repeated seasonal sampling, and that survey results should therefore be treated as a minimum baseline requiring a precautionary interpretation.

Applicant's response to comments

262 In response to comments from CRC on the Lizard Management Plan, Blueprint Ecology noted that the identification issue did not materially affect the assessment outcomes, that the Lizard Management Plan remained appropriate for either McCann's skink or southern grass skink, and that residual effects on lizards were expected to be positive.

Panel evaluation

263 The lizard values identified to date are materially lower than those for vegetation, avifauna and invertebrates. The Panel accepts Dr Tocher's advice that the January 2026 survey was limited to a single-season and that the possible presence of southern grass skink (At Risk – Declining) cannot wholly be excluded. It also accepts Mr Head's advice that lizard detection in coarse outwash gravels is difficult without repeated seasonal sampling. The recorded baseline should therefore be treated as a minimum.

264 The Panel accepts the Lizard Management Plan would require strengthening, including in relation to release-site capacity, rodent monitoring, contingency mitigation and residual effects management. One issue that has arisen with the improvement to the Compensation Area is whether this is now a preferable site for relocation, compared with the two small sites on the southern edge of the solar farm. The Panel is satisfied that the Lizard Management Plan can further assess the best site for relocation. Overall, the Panel is satisfied that lizard-related effects and uncertainties are capable of being addressed through, salvage and relocation (likely) into the Compensation Area within which mammalian predators will now be kept to near zero-densities (functional eradication), release-site confirmation, monitoring and adaptive management.

Invertebrates

Invertebrate values

265 Targeted invertebrate surveys by SLR Consulting Ltd (2026), including a follow-up February 2026 survey identified, Nationally Threatened and At Risk species include the robust grasshopper and Tekapo ground wētā (both Nationally Endangered), the minute grasshopper (Nationally Vulnerable), and the Otago short-horned grasshopper (At Risk-declining), with New Zealand mantis (At Risk) detected at the proposed enhancement (offset) site. The robust grasshopper is an absolutely protected species under the Wildlife Act 1953, and the Applicant intends to seek a wildlife authority separately from this FTAA process. SLR Consulting expect that the site also supports populations of a diverse range of other invertebrates.

266 Target species were patchily distributed across the Site. Robust grasshopper was recorded in very low numbers, while minute grasshopper and the At Risk – Declining Otago short-horn grasshopper were recorded more widely across the solar farm site. The February 2026 survey did not identify additional Threatened or At Risk taxa at the solar farm site. SLR Consulting (2026) considered the Site to be significant habitat of indigenous fauna under the RMA. Overall, RMA Ecology (2026a) assess the rare invertebrate values at the Site as High (At Risk species) to Very High (Threatened species).

Effects identified by the Applicant

267 SLR Consulting Ltd (2026) identified potential effects on invertebrates from construction and operation of the solar farm, including mortality from vehicles, pile-driving and other construction or maintenance activities; damage to, or reduction in, habitat through earthworks,

compacted surfaces and building pads; and microclimate and vegetation changes from solar panel shading that may reduce habitat suitability for some species.

Proposed effects management

268 The Applicant proposed to manage these effects through the Ecological Management Plan framework and the Terrestrial Invertebrate Management Plan (TIMP). The proposed measures included pre-works surveys and habitat mapping, construction controls, salvage and relocation of target species, habitat enhancement, monitoring and adaptive management. In the April 2026 updated ecological effects assessment, RMA Ecology summarised the core invertebrate measures as salvage prior to works, relocation to a predator-controlled compensation area, and monitoring, while acknowledging uncertainty as to the success of translocating rare invertebrates.

269 RMA Ecology (2026) expect the level of residual effect (following mitigation measures) to range from Very High to net gain for each of the five Threatened or At Risk invertebrate species. Residual adverse effects are proposed to be addressed through a c.180 ha Compensation Area adjacent to the Site, managed through fencing, sustained mammalian predator control, weed removal, and targeted restoration planting, including host plants for some invertebrate species. Salvaged invertebrates will be relocated to this area.

270 These earlier versions of the effects-management package also referred to habitat enhancement within peripheral conservation/release areas. However, SLR's later response clarified that the c.180 ha compensation area, rather than those peripheral zones, is the main focus for addressing residual effects on terrestrial invertebrates. Further options presented by RMA Ecology (2026), which were not yet fully developed, included financial support for rare invertebrate protection in the Mackenzie Basin, or acquisition and covenanting of alternative outwash plain habitat if invertebrate populations decline.

Invited party comments

271 Expert evidence relevant to terrestrial invertebrates was provided by Mr Head for Forest & Bird as part of his broader terrestrial ecology evidence. Expert technical advice on terrestrial invertebrates was provided by Dr Barratt for CRC, and by Mr Chinn for DOC. Further comments were provided by EDS, informed by Dr Walker's terrestrial ecology evidence. Additional comments were received from MfE, Mackenzie DC and mana whenua.

272 Mr Chinn (DOC) considers the SLR survey provides an appropriate basis for assessing invertebrate values and potential effects at the solar farm site. Dr Barratt (CRC) similarly

considers the desktop review and December 2025 field surveys were well conducted, while noting the limited survey timeframe. Both comments support the identification of high terrestrial invertebrate values at the Site, including Threatened and At Risk species characteristic of open, stony Mackenzie Basin dryland habitats. On this basis, Dr Barratt agrees with the conclusion in the TIMP that the site should be considered a significant habitat of indigenous fauna under the RMA. Mr Head notes that detection probability for invertebrates in coarse outwash gravels is low without repeated seasonal sampling, and that survey results should therefore be treated as a minimum baseline requiring a precautionary interpretation.

273 In relation to effects, Mr Head considers the updated ecological assessments underestimate the scale and permanence of effects on endemic dryland invertebrate assemblages. He considers that shading, altered microclimatic conditions and vegetation change associated with the solar infrastructure are likely to affect specialist open-habitat taxa across much of the solar array footprint, rather than only in areas of direct physical disturbance.

274 Dr Barratt and Mr Chinn raise concerns about the certainty and adequacy of effects management. Dr Barratt considers uncertainty regarding the proposed offset area to be material, noting that reducing it[75] from approximately 236 ha to about 180 ha would exclude habitat identified by SLR as suitable for four of the five Threatened or At Risk invertebrate species and "compromises the validity" of comparisons between the solar and offset sites.

275 Dr Barratt and Mr Chinn also identify uncertainty regarding salvage and relocation. Dr Barratt agrees with the Applicant's assessment that there is little information or experience to support the likelihood of success, although she considers the considers the proposed salvage and relocation protocol to be appropriate and supports translocation if carried out by trained personnel. Mr Chinn describes the relocation proposal as "entirely experimental", noting uncertainty as to whether the recipient site is already at carrying capacity, and recommending that a relocation trial be undertaken before any salvage operation.

276 Mr Chinn also raises concerns regarding the size, shape and edge effects of the proposed offset area, including whether it would provide sufficient habitat and ecological resilience for relocated or retained invertebrate populations. In his view, shifting invertebrates from the solar farm site to the offset area may amount to a reduction in available habitat, notwithstanding the proposed predator control and enhancement measures. Based on Mr Chinn's review, DOC

[75] Noting that the SLR reporting identifies a larger 236ha offset area, whereas the updated ecology effects assessment and draft conditions identify a c.180ha offset area.

considers that the proposed approach to invertebrates would also not qualify as offsetting - the outcomes are uncertain, it would not achieve ‘no net loss’, and the enhancement measures would only be temporary while the loss of habitat would be permanent.

277 Dr Barratt and Mr Chinn both identify a need for longer-term monitoring and research. Dr Barratt considers that annual monitoring for five years is unlikely to be adequate to understand the impacts of the solar farm installation, ongoing habitat change and relocation success, and that 10 years would be more realistic for post-installation monitoring at the solar farm site. Mr Chinn also recommends research into the effects of shading on basking insects, which he considers a highly significant issue not yet fully addressed in Mackenzie Basin solar proposals. The Panel also notes the Minister’s concern about the long-term certainty of biodiversity gains from the proposed compensation area and pest management regime.

Applicant’s response to comments

278 SLR Consulting responded to the comments of Mr Chinn (DOC) and CRC in a memorandum dated 19 May 2026. They confirmed that the c.180 ha Compensation Area, rather than the peripheral conservation/release areas, is the main focus for addressing residual effects on invertebrates, and that a larger area had been surveyed in February 2026. On relocation success, SLR acknowledged that research on grasshopper and wētā translocation in the Mackenzie Basin is limited, but considered that existing work has identified suitable relocation habitat and suggested that mammalian predator control improves habitat quality for minute grasshopper, robust grasshopper and wētā, such that, combined with the adaptive-management framework in the Terrestrial Invertebrate Management Plan, further pre-salvage trials are not considered necessary. SLR noted that the Plan requires assessment of invertebrate abundance and habitat quality at the offset site before any relocation, and that mammalian predator control and fencing are expected to increase its carrying capacity.

279 On the configuration of the Compensation Area, SLR accepted that the Compensation Area is less compact than the solar farm site but considered edge effects likely only adjacent to pivot irrigators, from which the compensation area is separated. On fencing, SLR advised that excluding mice with fine (<6 mm) mesh is not feasible, as mice persist even in predator-fenced sanctuaries, and that exclusion of Norway rats is not warranted given their low abundance in dryland Mackenzie Basin habitats relative to hedgehogs. On monitoring, SLR advised that the Plan requires monitoring at both the solar farm and Compensation Area and Conservation sites until closure criteria are met, namely no net loss of invertebrate values sustained for five consecutive years. The final conditions now require invertebrate monitoring for 20 years following commencement of operation, or until consistency with the relevant condition of the

resource consent has been demonstrated, whichever is longer. SLR maintained that, with minimisation, remediation and enhancement under adaptive management, the package is directed at achieving no net loss of invertebrate values, with the Compensation Area capable of being enlarged if monitoring indicates it is required.

280 Following the Panel's Minute 18 of 2 June 2026, and in its responses of 5 June 2026 and 12 June 2026 (RFI#6), the Applicant materially strengthened the invertebrate effects management. The peripheral pest-control fencing originally proposed was replaced by a genuine mammalian predator-exclusion fence around the c.180 ha Compensation Area, designed to achieve near-zero densities of all mammalian predators (including mice, by means of fine mesh of 6 mm or less), with rabbits retained within the fence (with population densities subject to annual review) to maintain the open, bare-ground conditions on which the threatened invertebrate fauna depends, and the fenced area secured in perpetuity for nature conservation purposes by covenant, reserve status or equivalent enduring legal mechanism. That commitment overtakes SLR's earlier view that mice could not feasibly be excluded. The Panel accepts that mice are unlikely to be permanently excluded but that the mammalian pest exclusion fence coupled with a sound surveillance and incursion response will enable zero-density of mice conditions to be achieved and maintained. The Applicant also committed to baseline surveys of invertebrates and a funded, long-term applied ecological research programme addressing, among other things, the effects of panel shading on basking and other open-habitat invertebrates and the efficacy of salvage and relocation. The Panel also notes the role of the Technical Review Panel and its ability to require 'course corrections' and further actions and compensation, particularly after 10 years of solar farm operations, if no net loss outcomes for invertebrates are not achieved.

Panel evaluation

281 The Panel accepts that the SLR Consulting Ltd (2026) survey provides an appropriate, although time-limited, baseline. Having regard to the presence of Threatened and At Risk invertebrate species, including robust grasshopper and Tekapo ground weta (both Nationally Endangered), minute grasshopper (Nationally Vulnerable) and Otago short-horned grasshopper (At Risk), the Panel finds the Site to be significant habitat of indigenous fauna for the purposes of s 6(c) of the RMA and the CRPS.

282 On effects, the Panel accepts that the solar farm is likely to affect specialist open-habitat invertebrate taxa across much of the solar farm footprint through shading, altered microclimate and associated vegetation change, rather than only through direct physical disturbance. The Panel also accepts the concerns identified by Dr Barratt and Mr Chinn regarding the reduced

size and configuration of the proposed Compensation Area, the uncertainty of salvage and relocation success, and the adequacy of the package as a response to permanent habitat loss. Those matters reduce the Panel's confidence that the proposed response would achieve a no net loss or otherwise adequate compensatory outcome for invertebrate values.

283 The Panel finds residual effects on Nationally Threatened invertebrate species to be significant, particularly in the short to medium term. The affected Threatened and At Risk dryland taxa have specialist open-habitat requirements and depend on highly important and vulnerable Mackenzie Basin outwash habitat, and the salvage and relocation on which the response relies remains largely untested. As with vegetation, the Panel must assume a residual net loss for these values and does not find that no net loss is demonstrably achieved.

284 The measures committed in response to the Panel's Minute 18, and further enhanced through subsequent iterations of draft conditions, nonetheless materially improve the position assessed above. As set out in the Applicant's response above, those measures—the mammalian predator-exclusion Compensation Area achieving near-zero predator densities, the retention of rabbits within the fence, the funded long-term research programme, and the Technical Review Panel's role in considering further actions and compensation—respond directly to the concerns about the durability, configuration and permanence of the Compensation Area, and to the risk of perverse outcomes from suppressing larger predators without excluding mice. On that basis, and recognising that comparable outwash habitat in the surrounding landscape remains available to these patchily distributed species, the Panel is satisfied that the residual effects on Nationally Threatened invertebrate species, although significant, are not such as to be out of proportion to the Project's benefits.

285 In reaching the conclusions above, the Panel has taken into account the further memorandum from SLR Consulting (19 May 2026) responding to the invitees' comments on terrestrial invertebrates. The Panel accepts that the response addresses several of the matters raised by Dr Barratt and Mr Chinn, including the focus of the compensatory response, the configuration and intended carrying capacity of the Compensation Area, and the duration of monitoring. The final conditions now require invertebrate monitoring for 20 years following commencement of operation, or until consistency with the purpose of the Terrestrial Invertebrate Management Plan has been demonstrated, whichever is longer. The Panel does not consider, however, that the response removes the underlying uncertainty in the largely untested relocation of Threatened invertebrate species, and its findings above as to the assumed residual net loss are unchanged.

286 However, the Panel is satisfied that the invertebrate-related effects and uncertainties have been sufficiently addressed through the conditions and the broader effects-management package traversed above. While the Panel accepts that some residual uncertainty remains, it is satisfied that the adverse impact on invertebrates is not out of proportion to the Project's regional and national benefits.

Overall ecological evaluation and conclusion

287 The Panel records the importance, in FTAA processes, of robust ecological information being provided at lodgement. Where substantial gaps or understatements are identified only after lodgement, the Panel and s 53 invitees must address those gaps within compressed statutory timeframes. In this case, the AgScience (2025) Ecological Impact Assessment wrongly characterised this Site as heavily degraded with low ecological values and concluded the overall level of ecological effect would be 'very low' with no offsetting or compensation required. Those assessments were materially contradicted by the Applicant's own subsequent assessments, in particular the RMA Ecology botanical assessment by Milner and Roper, and the SLR Consulting Ltd report, and very much by the technical advice received from s 53 invitees. The Panel also has reservations about the extent to which the AgScience assessment drew conclusions across multiple specialist taxonomic disciplines without clearly identifying the specialist input relied on. The Panel has therefore placed no independent weight on the AgScience assessment for the purpose of its final ecological evaluation, except to the extent that it was referred to or superseded by later specialist assessments.

288 By contrast, the Panel places substantial weight on the updated RMA Ecology botanical assessment by Milner and Roper, and the SLR Consulting Ltd invertebrate surveys and values assessment. These were provided by the Applicant after various requests for further information from the Panel querying the AgScience information, and after the initial responses of the s 53 invitees strongly criticising its conclusions. Despite the constraints under which each was prepared, including limited survey windows and incomplete seasonal coverage, both assessments were robust, transparent, and appropriately circumscribed in their analysis and conclusions.

289 For the purposes of s 6(c) of the RMA, the Panel finds that the Site supports both significant indigenous vegetation and significant habitats of indigenous fauna. That finding is based on the CRPS significance criteria, the updated RMA Ecology botanical assessment, the SLR invertebrate survey and values assessment, the avifauna evidence, and the technical evidence

received from s 53 invitees. The significant values include the indigenous vegetation communities associated with the Critically Endangered and Critically Underprotected outwash gravel ecosystem, habitat for Threatened and At Risk plant species, habitat used or likely to be used by Threatened and At Risk avifauna, and significant dryland invertebrate habitat supporting Nationally Endangered and Nationally Vulnerable species. The Panel has therefore treated the ecological effects of the proposal as effects that under the RMA would be on s 6(c) values. The Panel understands that no party, or the Applicant, disputes that the Site meets the threshold to be recognised as supporting significant indigenous vegetation and significant habitats of indigenous fauna.

290 Having made that finding, the Panel considers that the proposal would result in the long-term to permanent functional alteration or loss of that ecosystem across some of the approximately 320 ha Site, with consequential adverse effects on vegetation, avifauna and invertebrates. The Panel finds those effects to be significant.

291 The Panel records the further memorandum from RMA Ecology (Dr Ussher, 27 May 2026) responding to the invitees' comments on ecological effects and their management. RMA Ecology disputed the contention that the Site is "irreplaceable" in the sense used in the limits-to-offsetting literature, applying the definition in Pilgrim et al. (2013) by reference to the proportion of the regional resource affected: on his analysis the Site comprises roughly 0.6–1.1% of the remaining outwash gravels in the Mackenzie Basin and is of "Medium" conservation concern, such that he did not consider the limits to offsetting to be breached, while accepting that the Site's values are Very High and that outwash plain cannot be recreated de novo. He accepted that the proposed "Offset Enhancement Site" does not meet the test for a biodiversity offset, supported its re-description simply as an "Enhancement Site" (subsequently termed Compensation Area), and noted the Applicant's commitment to secure it in permanent legal protection. He also considered that loss across the Site would not be complete, since roads, buildings and panel arrays would cover only about 40% of the 320 ha and much of the literature relied on by Dr Walker measured effects beneath arrays rather than across the wider site, which in his view justified reliance on monitoring and adaptive management.

292 Dr Ussher further disagreed that the Site's values are stable or recovering, considering it more likely that they are in decline through woody-weed expansion, proximity to intensive land use, and rabbit browse on *Lepidium solandri*, and set against the s 53 experts' evidence a body of literature and conservation experience indicating that propagation, translocation, caging and herbivore management of threatened dryland plants are demonstrably feasible. He summarised the changes the Applicant had made to the draft conditions, including fencing standards,

demonstrated engagement with DOC, formation of a Technical Review Panel reviewing monitoring in Years 2, 5 and 10, provision for permanent protection of the Compensation Area, a Pest Animal Management Plan, a 95% carcass-detection standard, revised bird-strike triggers, and an avifauna compensation payment. He concluded that, with careful management, the package of mitigation, offsetting and compensation could achieve a no net loss and potentially net-positive outcome on values overall, although 'no net loss' of outwash plain extent could not be achieved for the area physically removed unless permanent protection of an equivalent area of outwash gravel elsewhere were accepted as meeting that standard.

293 The Panel has considered Dr Ussher's response to the extent that effects on vulnerable or difficult-to-replace values must be assessed by reference to their magnitude, context and likely ecological consequences, rather than, in the context of this application, on the basis that any adverse effect on such values is necessarily incapable of management or necessarily unacceptable. For the reasons given in the vegetation evaluation above, the affected outwash gravel ecosystem and associated Threatened and At Risk plant values are of high importance, vulnerable and not readily replaceable, and the Panel is not satisfied that the residual effects on those values can be fully offset or compensated for. Taking the evidence as a whole, including Dr Ussher's evidence that comparable outwash gravel habitat persists in the surrounding landscape, and the conditions now requiring further surveys and avoidance of direct works affecting Nationally Threatened plants, the Panel considers that the loss is unlikely to materially exacerbate the risk of local or national extinction of the affected Threatened and At Risk plants. That conclusion does not remove the adverse effect, but identifies its likely ecological consequence and carries it forward into the Panel's overall assessment under s 85 of the FTAA, including the compensatory measures now secured.

294 Having reached that point in its evaluation, and recognising both the significance of the affected ecological values and the significant regional and national benefits of the Project, the Panel issued Minute 18 on 2 June 2026. In that Minute the Panel recorded its provisional view that the adverse ecological effects were at risk of outweighing the benefits of the Project even taking into account the effects management then proposed, and identified the specific elements of a response that could alleviate that provisional view. Those elements were: a substantial, upfront and secured funding commitment for kakī/black stilt recovery; further pre-construction surveys for Nationally Threatened plants, with avoidance of any such plants located; a genuine mammalian predator-exclusion fence around the Compensation Area, secured in perpetuity; conversion of the solar farm perimeter fence to a rabbit-permeable fence; and a funded, long-term applied ecological research programme.

295 By its response of 5 June 2026, and its further response to RFI#6 of 12 June 2026, and further iterations of draft conditions, the Applicant accepted each of those elements and has proposed or accepted conditions giving effect to them. In summary, the Applicant has now committed to: avifauna compensation contribution of $1,000,000 for kakī recovery, paid in full and upfront and secured by condition; pre-construction surveys for all Nationally Threatened plant species (timed to optimise detection of spring annuals and with input from DOC botanists), together with exclusion of any located Nationally Threatened plants, and an ecological buffer, from the development footprint; a mammalian predator-exclusion fence around the c.180 ha Compensation Area achieving near-zero predator densities, with the fenced area secured in perpetuity for nature conservation purposes by covenant, reserve status or equivalent enduring legal mechanism; baseline surveys for terrestrial invertebrates and lizards; a rabbit-permeable solar farm perimeter fence; a funded, peer-reviewed, long-term applied ecological research programme; and an enhanced role for a Technical Review Panel that will review outcomes and direct further actions and compensation. These measures, proposed or agreed to by the Applicant, mitigate, offset or compensate for the adverse impacts. The Panel records its appreciation of the Applicant's constructive and timely response, and of the assistance provided by DOC and mana whenua.

296 Across the affected vegetation, avifauna and invertebrate values, the Panel does not find that the effects management package demonstrably achieves no net loss, and for the most sensitive values—in particular the Critically Endangered outwash gravel ecosystem, the Nationally Threatened plants, Threatened or At Risk invertebrates and kakī/black stilt—the Panel proceeds on the basis that for these values a residual net loss or residual risk of at least high magnitude must be assumed. The Panel has reached that position having regard to the irreplaceability and vulnerability of the affected values, the scale and permanence of the effects, and the experimental nature of key elements of the response. Nevertheless, the Panel also notes that the Applicant has committed to a no net loss outcome for some taxa through the conditions it has advanced. The relevant question under the FTAA, however, is not whether the residual effects can be eliminated or fully offset, but whether they are sufficiently significant to be out of proportion to the regional and national benefits of the Project, even after taking into account the conditions now offered.

297 The Panel considers that the measures secured in response to Minute 18 and subsequently improved through iterations of the draft conditions, materially influence its evaluation. The pre-construction surveys and avoidance buffers reduce the direct loss of, and effects on, Nationally Threatened plants; the upgrading of the Compensation Area to a genuine predator-exclusion regime, with the area secured in perpetuity for nature conservation, provides a

durable and enforceable mechanism capable of delivering measurable gains for threatened plants, invertebrates, lizards and ground-nesting birds; the rabbit-permeable perimeter fence avoids the perverse outcomes the s 53 experts had identified; the fixed, upfront kakī contribution provides certain and timely compensation for residual avifauna risk; and the long-term research programme which, has the potential to improve understanding of solar-development effects in dryland environments, test uncertain management actions, and inform future ecological management, by scheduled check-ins by a Technical Review Panel.

298 The Panel is satisfied that the package now secured is a proportionate and adequately certain response to the residual effects. The Panel supports the proposed research programme in principle, and gives it some positive weight, although it has strengthened and further specified the requirements for that programme to better address existing uncertainties and demonstrate that the residual vegetation effects will be offset or compensated.

299 The temporal and legal mismatch the Panel had earlier identified—between the permanent nature of the effects and the non-permanent nature of the proposed enhancement—has been addressed to a material extent, although not eliminated entirely. The final conditions now require the Compensation Area to be protected in perpetuity for nature conservation by covenant or similar enduring legal arrangement, rather than relying only on management for the 35-year consent term. The predator-exclusion fence, associated inspection, maintenance and repair obligations, and pest-management regime are secured for the duration of the consent or life of the solar farm, rather than in perpetuity. The Panel nevertheless regards the in-perpetuity legal protection of the Compensation Area as a significant improvement, and as giving materially greater confidence in the durability of the compensatory framework.

300 The Panel records the principal matters it has identified, in the course of its evaluation and in its Minute 18, as relevant to whether the residual effects could be brought within acceptable limits, and the extent to which the Applicant has now addressed them. The principle matters are:

a. avoidance through re-positioning of all or substantially all of the solar farm to locations supporting significantly lower ecological values;

b. comprehensive and statistically robust, site-specific surveys for vegetation (including spring annuals), avifauna (including nocturnal surveys), lizards and invertebrates, to inform project design, effects assessment and effects management;

c. as to the residual risk for avifauna potentially affected, in particular kākī/black stilt, compensation is proposed in response. That compensation needs to be defined and secured at the time of consent, and directed to measures reasonably expected to generate tangible benefits commensurate with the residual risks; and

d. enforceable certainty, at the time of consent, so that any proposed compensation measures requiring third-party participation or access to third-party land would be capable of implementation and would deliver the intended ecological outcomes.

e. adaptive management responses (in the ecological management sense of that term) that are supported by monitoring capable of identifying relevant effects with sufficient confidence and in time for management responses to avoid or otherwise address those effects before they become unacceptable or irreversible. This requirement is particularly relevant to bird strike monitoring, which the Panel has not relied on as a complete response in itself, but has considered alongside the upfront avifauna compensation now proposed.

301 The Applicant has not pursued avoidance through relocation. While avoidance is the option that would best guarantee the protection of the affected values, having regard to the strengthened conditions now secured in response to Minute 18, the Panel is satisfied that the absence of relocation does not, of itself, make the residual ecological effects sufficiently significant to be out of proportion to the Project's regional and national benefits

302 In the Panel's assessment, the second to fifth of those matters (b-e above) have now been addressed to varying degrees through the Applicant's response to Minute 18. The Applicant has committed to pre-construction surveys for Nationally Threatened plants and to avoidance of any such plants located; compensation for residual risk to kakī/black stilt is now defined, secured and payable upfront, directed to measures DOC considers worthwhile and is willing to help implement; the predator-exclusion fenced Compensation Area is secured in perpetuity for nature conservation purposes (with the fence maintained for the life of consent/duration of the solar farm); and a funded, long-term applied research programme will improve understanding of solar-development effects in dryland environments, test uncertain management actions, and inform future ecological management and review processes. The Panel does not regard the residual matters of uncertainty, in particular the avifauna information base and the experimental nature of plant and invertebrate translocation, as displacing those commitments, given the precautionary and upfront basis on which compensation has been proposed.

Overall ecological conclusion

303 Applying s 85 of the FTAA, the Panel has considered whether the adverse impacts identified above, taking into account the conditions the Panel will set and the conditions and modifications the Applicant has agreed to and proposed to avoid, remedy, mitigate, and compensate for those effects, are sufficiently significant to be out of proportion to the Project's regional and national benefits. As we have made clear, the Panel was far from satisfied that the application as originally presented could be approved. However, there was then a process of the Panel seeking information and indicating matters of concern, and receiving of informed and helpful opinions from experts of the s 53 invitees and new experts appointed by the Applicant. Critically, significant effects management and compensation conditions have been developed. This has resulted in the Panel, after an exhaustive analysis, concluding that the s 85(3)(b) proportionality test points against approval being declined. The adverse ecological effects are real and, for the most sensitive values, some are not able to be fully offset or compensated for; but the effects management now secured—in particular the avoidance of direct works affecting nationally threatened plants, the predator-exclusion Compensation Area, secured for nature conservation purposes in perpetuity, the fixed upfront kakī compensation, and the long-term research programme. These bring the residual effects to a level that, in the Panel's overall judgment, is not out of proportion to the substantial benefits of the Project.

304 On the ecological grounds set out above, the Panel acknowledges that the Project will not avoid all significant adverse effects on significant indigenous vegetation and significant habitats of indigenous fauna, and that it is in tension with directions in the CRPS and the operative and proposed Mackenzie Plan that seek to protect indigenous biodiversity. Two matters of particular concern are recognised. The first is the residual collision risk to kakī/black stilt, where uncertainty is high but is now addressed by a precautionary, fixed and upfront compensation commitment supported by DOC and reinforced by monitoring and adaptive management (in the ecological management sense of the term). Essentially, the programmes that will be financed by the Applicant should produce extra adult kakī and provide insurance against the risk of bird strike loss. The second is the effect on Nationally Threatened plants, where the Site is of high importance and effects management is experimental, such that a net loss of at least high magnitude must be assumed. This is now addressed by a multiplicity of preventative effects management and compensation measures set out above.

305 The Panel is satisfied that the loss outlined, when taking into account the significant mitigatory conditions, is unlikely to exacerbate the risk of local or national extinction of the affected species. The decisive question under the FTAA is not whether every adverse effect can be

avoided or fully offset or compensated for, but whether, after the measures now secured by conditions, the residual adverse effects are sufficiently significant to be out of proportion to the Project's regional and national benefits.

306 Taking into account the mitigatory conditions as required by s 85(3)(i) and (ii) and Policy F of the NPS-REG, the Panel is satisfied that the residual adverse effects have been reduced or counter-balanced to an acceptable level and are not sufficiently significant to be out of proportion to the Project's regional and national benefits, including the renewable electricity generation benefits recognised by the NPS-REG, when weighed under s 85. The ecological evaluation accordingly does not preclude a grant of the application, subject to the conditions set out in the Appendices.

Cultural Effects

Introduction and key issues

'Wāhi tūpuna are protected and the relationship mana whenua have with these landscapes is enhanced"

307 The site of the project is within the Waitaki Catchment, an area of cultural significance. The Mackenzie District (Te Manahuna) is rich in Kāi Tahu[76] stories passed on from their tupuna (ancestors) who lived on this land. Those stories link these mountains and rivers (i.e. landforms) to the world of the gods. These stories explain how Kāi Tahu descend from the gods and are stories passed down through generations. Such stories are key to tribal identity.

308 Te Rūnanga o Ngāi Tahu (Te Rūnanga) confirmed that through their Treaty of Waitangi Settlement, that the Crown recognises Ngāi Tahu as the tangata whenua holding rangatiratanga within the takiwā. Those commitments remain fundamental through the FTAA process.

309 A Statutory Acknowledgement for Te Ao Mārama and traditional associations for Ngāi Tahu culturally, spiritually and historically is recognised in the Ngāi Tahu Claims Settlement Act 1998 (Schedule 59). The protection of the mauri of Te Ao Mārama is central to the spiritual

[76] This term is a local dialect term to refer to the tribe of Ngāi Tahu.

relationship of Ngāi Tahu whanui with the lake. It recognises Te Ao Mārama supports mahika kai fishery and raupō along the lake.

310 Te Rūnanga is the iwi authority but it is the Papatipu Rūnanga that are the legal entities to represent mana whenua and are the experts on cultural values within their takiwā. The mana whenua are Te Rūnanga o Arowhenua, Te Rūnanga o Waihao and Te Rūnanga o Moeraki. These rūnanga are collectively known as the Waitaki Rūnanga.

311 Te Rūnanga o Arowhenua consider their takiwā to extend from the Rakaia River to the Waitaki River and from the coast to the Main Divide. They use Arowhenua Environmental Consultancy Ltd (AECL) to provide their responses. Te Rūnanga o Waihao centres on Wainono, sharing interests with Arowhenua and extending inland to the Main Divide. Te Rūnanga o Moeraki centres on Moeraki and extends from the Waitaki to the Waihemo (Shag River), and inland to the Main Divide. These two rūnanga use Aukaha to provide their responses.

Policy Context

312 The Panel notes that all relevant planning documents recognise the interests of mana whenua in relation to the activity or in relation to the specific area. This includes the NPS-REG, the CRPS, the Mackenzie Plan and the relevant iwi management plans. In particular, the Panel notes Policy E of the NPS-REG, which states:

> Policy E: Recognising and providing for Māori interests
>
> 1. Decision-makers must recognise and provide for Māori interests in relation to REG assets and activities, including by:
>   a. taking into account the outcome of any engagement with tangata whenua on a relevant resource consent, notice of requirement or private plan change;
>   b. recognising the opportunities tangata whenua may have in developing and operating their own REG activities at any scale or in partnership; and
>   c. local authorities:
>   i. providing opportunities for tangata whenua involvement where REG assets and activities may affect a site of significance or issue of cultural significance to Māori; and
>   ii. operating in a way that is consistent with any relevant iwi participation legislation or Mana Whakahono ā Rohe.

313 This policy concisely sets out expectations on the Panel, and inherently expectations for the Applicant and mana whenua, particularly in terms of consultation and further involvement to

address cultural effects. The Panel has been mindful of these expectations in considering processes, cultural effects and potential resource consent conditions.

Section 53 Comments on Application

314 The Minister of Conservation and for Māori Development, Minister Tama Potaka, supported the application, subject to any comments received from the relevant Māori groups identified in the s 18 report and invited to comment under s 53 of the FTAA.

315 The Panel was encouraged to have regard to the statutory acknowledgment provisions for Te Ao Marama/Lake Benmore and any cultural matters raised by the papatipu rūnanga.

316 Te Rūnanga and mana whenua all took a neutral position on the Application. None were opposed to solar farms as they support renewable energy rather than ongoing use of fossil fuels or more dam structures that flood unique ecological, social, economic and cultural landscapes. However, they want the activities of the project to be in areas where the impacts of that infrastructure is avoided or appropriately mitigated, including the visual and physical impacts, the impact on the mana whenua relationship with wāhi tūpuna landscapes, and the impact on cultural redress returned through the Ngāi Tahu Settlement.

317 Given possible future solar farm applications in the Mackenzie Basin and the similarity of response across Te Rūnanga and mana whenua, these groups discussed their responses to this Application together, including consideration of The Point Solar Farm Application. Te Rūnanga and mana whenua worked on where they would agree and jointly respond on issues to raise with the Application and their expectations of mitigation or compensation in response. This grouping also worked jointly, where in agreement, on potential consent conditions.

318 Te Rūnanga and mana whenua (through AECL and Aukaha) support the responses made by each other and also made separate submissions to complement or expand on comments made by the others. Te Rūnanga supported the mana whenua if issues needed consideration at tribal level.

Consultation

319 Lodestone had initiated contact with mana whenua prior to formally lodging their Application. Lodestone's initial contact with the rūnanga and site visits with their representatives occurred in 2024 and 2025. These site visits gave mana whenua the opportunity to clarify their cultural, historical and current land uses. For instance, on site visits, raupō was identified and its uses explained as was the nohoanga and ongoing practices relating to mahika kai.

320 This initial contact allowed the mana whenua to raise concerns they had, and have worked on, since the Application was lodged. These concerns were focused on their ongoing connection to the whenua and specific sites in the project area but also to raise potential future cultural responses of the Applicant such as pou installation and having a joint Cultural Monitoring Plan (CMP).

321 Mana whenua held concerns regarding the Project's adverse impacts on ecology, the landscape, and cumulative effects. Therefore, mana whenua made it clear their expectation was that Lodestone would enter into a meaningful, enduring and sustained long-term relationship with them in good faith, that would continue beyond the consent conditions and would respond to their concerns, including agreement on mitigations.

Mana whenua comments on the Application

322 Te Rūnanga and mana whenua emphasised a long history of active engagement of Kāi Tahu with the Waitaki over eight centuries. Their concerns regarding the Application is not confined to maintaining the existing environment as mana whenua believe the whenua and waters of the Upper Waitaki and Te Manahuna need to be restored, enhanced and protected. Mana whenua state that their right, now and in future generations, is to benefit from mahika kai sourced from the catchment, which depends on the protection of the Waitaki as a mahika kai pātaka. The mana whenua take an integrated approach to management and enhancement of the environment.

323 The nohoanga entitlement provides Ngāi Tahu whanau opportunity to experience the landscape as did their tupuna and use traditional practises of gathering food. The nohoanga site supports mahika kai activity and maintains cultural connection to the wider landscape, i.e. to not be limited to the experience of the footprint of the nohoanga site. There is concern regarding access to the site and to areas near the site which could be constrained by infrastructure protection (health and safety) requirements.

324 Mana whenua comments identify that pre-European settlement, the Waitaki and Te Manahuna were key to seasonal food gathering for Kāi Tahu. Seasonal gathering was of weka, kakapo, kiore and tuna along ancient trails that followed food and freshwater resources. The trails were arteries of economic trade and social relationships. European settlement brought land acquisition but Kemp's Deed then prevented Kāi Tahu from accessing large portions of Te Manahuna and rapidly lead to profound impacts on the economic, social and cultural wellbeing of Kāi Tahu due to the severe reduction in traditional mahika kai practices occurring.

325 More modern impact occurred between 1920 to 1970 when eight hydroelectric power stations associated with Waitaki River and the creation of Lakes Aviemore, Ohau, Pukaki, Takapo, Te Ao Marama/Benmore, Ruataniwha and the Takapo, Ohau and Pukaki canals. Traditional hunting expeditions were blocked and ended the historical mahika kai economic trade. Additionally, numerous permanent and temporary nohoanga, urupa, wahi tapu and wahi taonga and Māori rock art were destroyed when valleys were flooded to create the storage lakes.

326 More recently agricultural intensification and conversion to dairy have created a culture barrier for mana whenua to access urupa, wahi tapu and wahi taoka sites. Agriculture and tourism have advanced soil erosion, draining of high-country wetlands, and use of animal pests for hunting. The mass spread of pest plants are contributing to a degradation of Te Manahuna.

327 Mana whenua state that they now hold concerns that another iteration is occurring with large scale electrical infrastructure, permanent security fencing, new access roads and consents for decades, permanently altering the landscape and further eroding the ancestral connections mana whenua have with Te Manahuna.

328 Mana whenua noted concerns that the AEE does not provide an informed assessment of potential adverse effects on historic, heritage and cultural values, which the Applicant considers will be negligible due to having an accidental discovery protocol condition. Mana whenua state that potentially the establishment of solar farms may alienate Kāi Tahu and rūnanga from ancestral lands which would sever links of current whanui from their whakapapa which would negatively impact on the identity of the tamariki. Already diverted braided rivers have been transformed by manmade stop banks and hydro weirs which have impacted negatively on the unique habitats of indigenous plants, bird and fish species as well as incurring a loss of unique landforms and vistas traditionally used for navigation and territory defence.

329 Mana whenua recognise that planning instruments such as outstanding landscape, natural feature and sites and areas of significance to Māori policy overlays within the Mackenzie Plan exist to protect the whenua from further land intensification. These protections have and will allow mana whenua to visualise the landscape as did their tupuna and support the passing on of whakapapa, knowledge of traditional trails, mahika kai sites and other taonga to pass onto future generations.

330 During consultation, Lodestone confirmed the construction and operation of the solar farm would not interfere with iwi access to, enjoyment of, or cultural use of the nohoanga site and

the wider landscape. It confirmed that ongoing customary access to the lakeshore will be maintained subject to health and safety protocols.

SASM

331 Mana whenua contend that the Application does not provide a detailed assessment of the Site and Area of Significance to Māori (SASM) chapter, including its objectives and policies. The concerns that the mana whenua held were acknowledged by the Applicant, as it has not provided an assessment of the cultural values associated with the SASM. It has assumed the Kaitiaki Governance Group will ensure cultural values for the site are provided for and agreed through the Strategic Cultural Programme that there would be assessment of SASM cultural landscape values and mitigation/enhancement measures needed.

332 The Panel note that Rule SASM-R6 does not apply to a renewable energy facility.

Taonga species

333 The Ngāi Tahu Settlement also acknowledged the special association of Ngāi Tahu with taonga species. Mana whenua are concerned that the application has a limited assessment of potential effects on indigenous taonga species within the project site and the surrounding environment. The ecological assessments lodged with the substantive application had a limited evaluation of potential effects on taonga species. Earthworks, vegetation clearance, and so on may adversely affect taonga birds, fish, invertebrates, and plant species. Avifauna may face increased risks.

334 Mana whenua identify that up to 17 taonga bird species may be present on or near the site including the critically threatened kakī (black stilt). Ngāi Tahu whanui are actively engaged in kakī recovery efforts and are particularly concerned about the project's impact on avifauna.

335 Within the context of taonga plant species, it is the stand of raupō along the lake edge that especially needs to be noted. Taonga fish species have not been considered in the application but are likely to be present within the ecosystem of Te Ao Marama. Mana whenua contend that there are potential impacts of the activity on taonga fish species and their habitats in Te Ao Marama.

336 Mana whenua recommend more avifauna surveys and understanding of fish species to provide more understanding of potential impacts of the proposal on taonga species.

337 Lodestone states it is aware of the profound cultural sensitivity of the project area and there was significant concern that the project could further alienate Kia Tahu from the edge of Te Ao

Marama and the wider Te Manahuna cultural landscape. The project layout avoids the lakeshore and has setbacks to protect lakeshore cultural and ecological values. For instance, access to Te Ao Marama and particularly for customary mahika kai activities such as raupō harvest would be protected.

338 Through the Kaitiaki Governance Group there will be iwi involvement and restoration investment to avoid further cultural disconnection for mana whenua.

Earthworks

339 Mana whenua are concerned the implications of establishing and operating the solar farm near significant indigenous species habitats and mahika kai food sources are not clearly understood by the Applicant. Earthworks and operations may generate sediment and stormwater run-off that could impact on taonga species (birds, fish, invertebrates, plants). Avifauna may incur increased risk injury or mortality when in or over the project site.

Contaminants

340 Mana whenua are also concerned about potential contaminants associated with the lubricants and oils in the substation and sediment-laden runoff from soil disturbance and erosion under the solar panels. There seems to be limited research on such impacts which could result in insufficient mitigation being required through the conditions. Therefore, mana whenua consider it is unclear if the erosion and sediment control, dust management and stormwater management plans will mitigate potential stormwater effects.

Flooding Risk

341 Mana whenua and Te Rūnanga have concerns regarding surface flooding from stormwater runoff volumes, water quality and erosion during construction and operation. It is understood that large setbacks of the site from Te Ao Marama are proposed but are concerned about management of stormwater, and potential changes in runoff volumes, water quality and erosion effects. There is little comment in the application about this possibility.

342 Other issues relevant to flooding risk are dealt with in the assessment of hazards below.

Landscape and Cumulative effects

343 The Conference Convenor asked Lodestone, Kāi Tahu and the rūnanga to consider the cumulative effects of the project on Kāi Tahu values with the potential construction of multiple

solar farms. Mana whenua are concerned that Lodestone determine they do not need to consider cumulative effects since they are the first solar proposal. Mana whenua disagree with this view.

344 Mana whenua and Te Rūnanga are aware there are currently up to nine solar farms proposals for Te Manahuna. At least five have a high likelihood to progress to substantive applications under Fast-Track. If all succeed, it is possible Te Manahuna could be occupied by solar which would mean an open landscape would change into an industrial type landscape and reduce habitat availability and ecological connectivity for taonga species. This would have a large negative impact on rūnanga connection with the cultural landscape including important landforms and waterbodies. The Expert Panel are asked to consider the cumulative effects that may arise from two solar farms as well as the existing hydro infrastructure as well as potential future solar farm projects occurring.

345 Mana whenua contend a lack of screening will result in the solar farm being visible from Te Ao Marama and Falston Road on the far side of the lake. Lodestone have not proposed any planting to screen the solar farm and state the existing trees on the lake edge will provide screening. Mana whenua response is that those trees are exotic and invasive willow and poplar trees on land not owned by Lodestone meaning those trees could be removed at any time. Relying on those trees would not be an effective mitigation measure. Additionally, the preference of mana whenua would be for any planting on site to be indigenous species rather than exotic species.

346 Given their concerns and their environmental management approach, mana whenua and Te Rūnanga request an integrated assessment of cumulative effects of the project. For instance, if the application is granted there needs to be more information gathered on the potential impacts on identified cultural and landscape values to help clarify or narrow down issues of concern. This information needs to be considered in an integrated manner. The focus of this assessment on potential effects is sought to be on:

a. Ecological values and taonga species
b. Stormater generation, flooding and groundwater including effects on Te Ao Marama catchment.
c. Further visualisations re potential cumulative landscape and visual values
d. Further avifauna assessments with a focus near the lake.

Applicant's response to comments

347 Lodestone recognises the considerable concern raised by Te Rūnanga and mana whenua in relation to ecology, especially effects on taonga species and the initial absence of clear restoration or biodiversity 'giveback' measures. For mana whenua, ecological restoration and enhancement, including extension of existing wetland initiatives, were put forward. Lodestone notes that, subsequent to the initial s 53 comments, further investigations have been undertaken, conservation/release areas and compensation areas have been extended, and adaptive management and compensation proposals have been advanced, as discussed in the ecology section of this decision.

348 The responses to ecology effects are dealt with elsewhere in the Decision. Those concerns and responses are consistent with matters raised by mana whenua. Their issues about rabbit management are also dealt with elsewhere in the Decision.

349 Lodestone states it is aware of the profound cultural sensitivity of the project area and there was significant concern that the project would further alienate Kāi Tahu from the edge of Te Ao Mārama and the wider Te Manahuna cultural landscape. The project layout avoids the lakeshore and has setbacks to protect lakeshore cultural and ecological values. For instance, access to Te Ao Marama and particularly for customary mahika kai activities such as raupō harvest would be protected.

350 Through direct engagement between Lodestone and mana whenua, iwi involvement and restoration investment to avoid further cultural disconnection for Kāi Tahu it is proposed a Kaitiaki Governance Group will be established for the duration of the solar farm construction and operation. The Kaitiaki Governance Group will also have representation on the proposed Technical Review Panel.

351 The Kaitiaki Governance Group will provide a mana whenua lens through a specific management framework to ensure cultural effects are identified, monitored and addressed. It will support an adaptive management approach should monitoring identify a need for a change in response measures or additional mitigation. The proposed framework includes key enhancements actions where success is not guaranteed, for instance in relation to rare plant species.

352 For mana whenua, potential avifauna collision or mortality (associated with the solar farm) has uncertainty. Concerns remain at the population level consequences where the loss of even a single Threatened or Nationally Critical species will be focused on especially the kakī.

353 The planting approach including species selection and placement of planting can also be considered by the Kaitiaki Governance Group.

Panel findings

354 The Panel appreciates the direct engagement between the Applicant and mana whenua, and the presentation of an agreed set of conditions in relation to the Kaitiaki Governance Group. The Panel is also aware that the assessment of several of the concerns of mana whenua are, at least partially, addressed elsewhere in this decision, including in relation to ecology, hazards, landscape, and cumulative effects. The Panel notes that mana whenua and Te Rūnanga are aware of the national and regional benefits of this project and appear to have had constructive engagement with the Applicant since October 2025. The Panel is satisfied that establishing a Kaitiaki Governance Group, secured through conditions of the consent, to provide oversight and enable mana whenua to engage with the Applicant through the project's life will ensure cultural values are actively considered in operations and long-term project outcomes.

355 The Panel is aware that the neutral position of mana whenua and Te Rūnanga is reached on the understanding of mana whenua and Te Rūnanga that the Applicant is committed to building a positive long-term relationship with mana whenua. While this is outside of the control of a FTAA process or resource consent conditions, the Panel notes the constructive relationship that appears to have been established, and agreement on resource consent conditions to establish expectations around that long-term relationship.

356 The Panel is aware Te Rūnanga o Arowhenua supports this approach but notes their takiwa has again been targeted for the benefit of the rest of the country. The Panel also notes the Te Rūnanga o Arowhenua view that commercial businesses profiting from the solar projects but not residing in Te Manahuna should give back to the strengthening and development of the biodiversity of Te Manahuna and to the local residents and mana whenua for the permanent loss of the land.

357 The conditions agreed between the Applicant and mana whenua (and imposed by the Panel) envisage mana whenua and Te Rūnanga, through the Kaitiaki Governance Group, developing a Strategic Cultural Programme to provide a framework to monitor and assess cultural and environmental effects of the solar farm (consistent with mātauranga Māori and kaitiaki responsibilities).

358 The Panel notes that the Applicant has acknowledged the range of concerns raised by Te Rūnanga and mana whenua including governance, cultural values, access to culturally

significant places, ecological effects, cumulative impacts and project management risks. As a result, it has refined the application and strengthened proposed consent conditions including what has been agreed with Te Rūnanga and mana whenua to establish a Kaitiaki Governance Group and the Strategic Cultural Programme to oversee cultural and ecological effects and guide mitigation and enhancement over time.

359 For mana whenua, the criticality of the Kaitiaki Governance Group developing a robust Strategic Cultural Programme will be an effective mechanism to fulfil their kaitiaki responsibilities and provide suffice protection for the indigenous plant species and avifauna populations, alongside agreed consent conditions.

360 The conditions agreed between Te Rūnanga and mana whenua and the Applicant seek to formalise their agreements to ensure that cultural effects will be mitigated for the duration of the consent and to assist in the preparation of the Strategic Cultural Programme. These conditions have been imposed by the Panel and address:

a. establishing a Kaitiaki Governance Group for ongoing engagement and feedback on the solar project and ensure tikanga and kawa practices are adhered to
b. establishing a methodology for mana whenua to monitor and report on cultural values of the natural environment (mātauranga Māori) within and around the site for the duration of the solar farm
c. ensuring mana whenua have an opportunity to participate in the development of an ecological restoration plan that builds on the wetland enhancement project commenced and explore options for further enhancement on adjoining land
d. ensuring mana whenua feedback on relevant management plans to ensure the ongoing protection of taonga species
e. ensuring appropriate archaeological discovery requirements are in place during the construction phase of the project
f. ensuring mana whenua have ongoing access to the lake shore to enable the harvest of mahika kai (e.g. raupō) for the duration of the solar farm
g. ensuring mana whenua are informed of all incidents at the same time as Councils and relevant authorities
h. ensuring all monitoring reports (required by relevant conditions of consent) are provided to mana whenua in a timely manner.

Landscape, natural character and visual amenity

Introduction and key issues

361 The site is located in the Mackenzie Basin Outstanding Natural Landscape, and the Benmore Character Area. The former acknowledges the vast, open and largely coherent landscape, with enclosing mountain ranges, tussock grasslands, a lack of structures and undeveloped lakesides. The latter is described as being the least typical of the Mackenzie Basin. A Lake Protection Area is identified over a large part of the site, whose purpose is to retain the natural character of the lake margins.

362 The site is bordered to the east by Te Pā-o-Kāti-Kurī / Mt Maggie, to the west and south by Te Ao Marama / Lake Benmore and Stony Creek and to the north by Haldon Arm Road and the margins of Tekapo River.

363 The Ōhau River, Tekapo/Pukaki Rivers and Te Ao Marama / Lake Benmore are identified as Sites of Natural Significance in the District Plan. Te Ao Marama / Lake Benmore is a key feature in this context, being New Zealand's largest artificial lake with a high level of scenic amenity.

364 There are several campgrounds located around the northern arm of Te Ao Marama / Lake Benmore, and the lake and associated canal are popular for a range of recreation activities.

365 The site itself is a gravel outwash plain, with sparse vegetation and large areas of bare stoney soil. Exotic vegetation is visually dominant. Pivot irrigation is located immediately north of the site, while Te Pā-o-Kāti-Kurī / Mt Maggie separates the site from the Haldon Station homestead area (1.3 km east of the site), which houses a cluster of buildings and well-established trees.

366 A steep terrace separates the site from the lake and river to the northwest, with the change in elevation reducing towards the southwest, such that the site boundary is relatively close to the lake. Willows, poplars and pines line the lake and river margins, with a tall pine shelterbelt inland from the lake at the southwest corner of the site.

367 In terms of viewing locations, the nearest publicly accessible views of the site are from Haldon Arm Road, and from the lake and its margins. Further afield, the site may be seen from the Pukaki, Ōhau and Tekapo Rivers, Falston Road and the campgrounds, McAughtries Road, State Highway 8, a section of the Alps to Ocean Trail, Haldon Road, and the Benmore Range.

368 A Landscape Effects Assessment (LEA) for the solar project has been prepared by Boffa Miskell Limited, and was attached as Appendix 6 to the application. The LEA considered both landscape and visual effects of the solar farm and associated infrastructure, including visual amenity effects.

369 This LEA is supported by a similarly comprehensive series of aerial images, interpretative plans, photos of the site and its surrounds, photos towards the site from the key viewpoints described above, and photo simulations depicting the proposed solar farm in the same viewpoint images.

370 Some key sensitivities are identified in the LEA, in relation to the proposed solar farm and its site, including the following:

a. The Mackenzie Basin, which is identified as an Outstanding Natural Landscape (ONL) at both the district and regional levels;
b. Its location with the Benmore Character Area identified by Graham Densem in his 2007 study of the Mackenzie Basin (p.13): "*as the least typical of the Mackenzie: 'the driest and lowest part of the basin, 20-40km from the SH on a no-exit road'*[77].
c. Its location next to and near three Sites of Significance to Maori (p.13): "SASM9: Tauwharekura and adjoins SASM19: Teo Ao Marama / Lake Benmore and SASM48: Te Pā-o-Kāti-Kurī / Mount Maggie which form Sites and Areas of Significance to Māori identified through Plan Change 24 to the Mackenzie District Plan in 2024". The values of these SASM are addressed in more detail in Boffa Miskell's report.
d. The Canterbury Regional Landscape Study's description of Lake Benmore / Te Ao Mārama in 2010 as a man-made feature that has 'high aesthetic, shared and recognised and tangata whenua values', which "*warrant its identification as outstanding*" even though "*the shoreline within Mackenzie District is gentler and less dramatic than much of the rest of the lake*"[78].
e. The Site's immediate proximity to Lake Benmore / Te Ao Mārama, which is described as being (p.15) "popular for a wide range of recreation activities - boating, fishing, kakaying, water-skiing, swimming – and camping. The nearby canal contains a salmon farm, café and 'catch-a-fish' experience" (although the café and catch-a-fish experience appear to now be closed down).

[77] Densem Study (2007), p24, paragraph 3.59
[78] Canterbury Landscape Study, p142

f. The Site's proximity to a number of camping grounds, including those at the Haldon Arm, the Lake Benmore – Ohau C campground, and the Benmore Views camping area next to Falston Road.

371 Overall, Boffa Miskell's conclusions are:

Landscape Effects:

The change to the Haldon Solar Project Site is primarily a change in the scale and coverage of built form in a predominantly open landscape.

The level of activity will be most noticeable during the construction phase due to the level of activity and large machinery likely to be required at the Site. Changes will be temporary with the overall project to be developed over approximately 18 months.

On completion, the scale of the Solar Project will fit relatively well within the Benmore Landscape Character Area, contained by the slopes of Te Pā-o-Kāti-Kurī / Mt Maggie, the adjacent rivers and Te Ao Marama / Lake Benmore ……..

The proposal will generate **low-moderate** and minor adverse effects on the landscape at the Project Site and immediate setting, reducing to **low** and less than minor effects within the Sub-Basin context. Most effects are reversible in the longer term in the event the Solar Project is decommissioned and removed. Effects of the Solar Project on landscape values will be **neutral** when considered within the Broad Basin ONL scale. Overall, the Haldon Solar Project is in a part of Te Manahuna / Mackenzie Basin ONL that has some capacity to absorb this type of change and adverse effects that are at the low end of the assessment scale. The proposal is therefore considered not inappropriate in terms of protecting the values of the ONL.

Visual Effects:

The Haldon Solar Project Site is in a relatively remote location distant from main settlements, SH8 and private neighbouring viewpoints. The public access road adjacent to the Site is a minor, gravel, no exit road, except via rough tracks. The potential viewing audience is limited.

Views to the Haldon Solar Project Site are contained by existing landscape elements and patterns of modification which assist with screening, providing a visually absorbent context and limiting the nature and level of effects on visual amenity ……

Key findings regarding potential visual effects of the Haldon Solar Project are summarised in the table below:

Table 1: Visual assessment summary

Viewing Area	Nature of View/Approx Distance (to Project Site)	Rep. Visual Sim or Photo	Nature of Effect	Level of Adverse Effect (max):

Haldon Arm Road East	1.9km	SC 1	Adverse	Very low to Low
Haldon Arm Road West	200m	SC 2, VS 1	Adverse	Low-Moderate
Haldon Arm Campground	330m	n/a	Neutral	
Rivers			Adverse	Very Low to Low
Te Ao Marama / Lake Benmore shoreline adjacent Site	Adjacent	SC 5	Adverse	Low-Moderate
Te Ao Marama / Lake Benmore		SC 4,6,7,13,14	Adverse	Very low to Low
McAughtries Road	3.6km	SC 8	Adverse	Low
Falston Road	2km	SC 9,10, VS 3	Adverse	Very Low to Low
Lake Benmore Ōhau C Campground	2km	SC 11, VS 2	Adverse	Low
Benmore View Campground	3.2km	SC 12, VS 4	Adverse	Very Low
Falstone Campground	4km	SC 13	Adverse	Very Low
Haldon Road (Black Forest Station)	5km	SC 14	Adverse	Very Low
Benmore Easement Track	6.8km	None	Adverse	Low
SH8 and Alps to Ocean trail	13km	SC15 &16	Neutral	
Totara Peak	4km	VS 4	Adverse	Low (less than minor)
Black Forest Station	5km	SC 14	Adverse	Very Low

Natural Character Effects:

The existing level of natural character within the Sub Basin - Southern Mackenzie landscape context has been modified by land management, through grazing, irrigation and hydro-electric land use having altered abiotic and biotic systems and the experiential aspects of natural character at the Site and in the immediate landscape setting.

The vegetation along Te Ao Marama / Lake Benmore, a man-made lake, and along the lake and river margins, predominantly comprises exotic grassland, willows, poplars and pines. The Ecology Report notes that while fescue tussock grassland was once the principal post-Polynesian / early European grassland community on the Haldon outwash flats, including the solar site, it has now been almost completely transformed into introduced vegetation.

The Ecology Report has also identified low densities of At Risk species within the Site which are considered significant under the RPS criteria and contribute to natural character. ‘At risk and threatened flora’ is identified in NFL-SCHED 2 of the District Plan among a list of ecological features which contribute to natural landscape character across the whole Te Manahuna / Mackenzie Basin ONL.

> The existing National Grid transmission towers at the Site are large in scale however the density of built form is low and a sense of openness remains a key characteristic that contributes to natural character at this location. Similarly, a larger pivot irrigator is located within an adjoining area of outwash plain next to the Haldon Solar Project Site and which exhibits a largely open, albeit modified and distinctly more verdant agricultural character.
>
> On balance, it is considered that that there are low-moderate levels of natural character currently present at the Project Site. ……
>
> During construction, effects on natural character at the Site are assessed as low-moderate, reducing to very low to low in the wider context due to potential for largely temporary, localised levels of activity in proximity to but set back from riparian margins. No margins will be disturbed and due to the proposed setback buffers and fencing, any disturbance will be minimised……
>
> In experiential terms, aspects of the existing openness within the Project Site will also be modified with an increase in built form within the identified Lakeside Protection Area. These effects will largely be internalised to the Site and not on the nearby riparian margins or the more open and more expansive character of the Sub Basin - Southern Mackenzie landscape……
>
> Overall, effects on natural character values will be low-moderate, largely due to a reduction in experiential aspects, reducing levels of natural character to low at the Project Site and in the immediate landscape.

372 Accordingly, Boffa Miskell concludes that the Haldon proposal would (p.43):

> ….…. generate no more than **low-moderate** and minor adverse effects on the landscape at the Project Site and immediate setting, reducing to **low** and less than minor effects within the Sub-Basin. Effects of the Solar Project on landscape values will be **neutral** when considered within the Broad Basin ONL scale. Overall, the Haldon Solar Project is in a part of Te Manahuna / Mackenzie Basin ONL that has some capacity to absorb this type of change and adverse effects that are at the low end of the assessment scale and no more than minor. The proposal is therefore considered not inappropriate in terms of protecting the values of the ONL.

373 These findings also address the matters of solar glint and glare, with the methodology for that assessment described in Appendix 2 to the LEA. Overall, it is anticipated that such effects would be negligible.

374 The mitigations put forward in the LEA are quite concise (pp.42 & 43):

> Opportunities to shape the design of the Solar Project have been recommended and adopted, including:
>
> - Minimising earthworks to reduce ‘smoothing’ of landforms on the Site

- Avoiding development on the toe of Te Pā-o-Kāti-Kurī / Mt Maggie
- A development setback from the lake edge and Haldon Arm Road

375 A further recommendation is made by Boffa Miskell to ensure the fencing and power stations within the Project Site are a recessive colour in a shade of tawny brown, green or grey with a reflectance value (RV) less than 36%.

376 Of these mitigation approaches, the 'development setbacks' recommendation is notable, in preference to the use of buffer or screen planting, which is often employed to minimise the impact of solar farms. Given the harsh growing conditions found across most of the Haldon site, this is understandable. That said, part of the mitigation also relies on the retention of existing planting next to Lake Benmore / Te Ao Mārama, and this existing planting is the subject of further discussion below.

377 Overall, the key issues with respect to landscape are:

a. Landscape effects, particularly visual amenity from surrounding publicly accessible locations.
b. Higher order natural character effects.
c. Cumulative effects associated with the Haldon and The Point solar farm developments.

Policy context

378 In general, the objectives and policies in the Natural Character (NATC) and Natural Features and Landscapes (NFL) chapters in the Mackenzie District Plan seek to preserve and protect the natural character values of waterbodies and their margins, and protect and enhance the outstanding natural landscape of Te Manahuna/the Mackenzie Basin ONL, highlighting amongst other things, the lack of other structures and undeveloped lakesides. In contrast, the Renewable Electricity Generation (REG) chapter is largely enabling of REG activities. In particular, REG policy 5 seeks to provide for REG while managing adverse effects, by:

1. avoiding, remedying or mitigating adverse effects as far as practicable;
2. where residual adverse effects remain, having regard to any proposed offsetting measures and/or environmental compensation [...]; and
3. having particular regard to the practical constraints associated with renewable electricity generation activities [...].

379 As has been considered with respect to ecology matters above, REG policy 6 seeks to provide for REG activities within sensitive areas (including ONL and SASM (among other areas)), where:

1. there is a functional need or operational need for the activity to be in that location;
2. adverse effects on the values of the area are avoided as far as practicable, including through site, route or method selection, design measures and other management methods;
3. adverse effects on the values of the area that cannot be avoided are remedied or mitigated, where practicable;
4. other adverse effects (that do not affect the values of the area) are avoided, remedied or mitigated as far as practicable;
5. regard is had to any proposed offsetting measures or environmental compensation (including considering Policy 4 in Section 19 and Appendix Z), where there are significant residual adverse effects that cannot be avoided, remedied or mitigated; and
6. particular regard is had to the practical constraints associated with renewable electricity generation activities, including the:
    i. location and efficient use of existing electricity generation, transmission and distribution infrastructure; and
    ii. the need to locate the renewable electricity generation activity where the renewable energy resource is located.
7. following application of 1-6 above, consideration is given to whether the benefits of the activity outweigh any significant residual adverse effects on the values of the area.

380 As set out in the comments from Mackenzie DC, the Renewable Electricity Generation chapter of the Mackenzie District Plan is designed to be a stand-alone suite of provisions, with limited ability to refer to other chapters of the Plan. This means that the REG chapter is generally enabling of new REG within the Te Manahuna/the Mackenzie Basin ONL, given there is no requirement to consider the NATC or NFL chapters of the plan.

381 In terms of the higher order documents, the CRPS includes direction to protect outstanding natural landscapes from inappropriate subdivision, use and development (Objective 12.2.1, Policy 12.3.2). Of particular relevance to Te Manahuna/Mackenzie Basin ONL, the principal reasons accompanying policy 12.3.2 acknowledge that:

> It is also possible for areas to be used and developed within landscapes associated with large geomorphic features, without adversely affecting the integrity of these landforms and their associated landscape values. In addition, the type of development, including whether the development constitutes a nationally significant matter or is reliant on a specific natural resource that is only available in some areas will be relevant considerations for determining what constitutes appropriate or inappropriate development.

382 As has been discussed in the ecology section above, the NPS-REG was amended early 2026, and has two policies that are particularly relevant in relation to the location of the solar farm in an outstanding landscape (along with other Mackenzie District Plan overlays):

> Policy C: Operational need or functional need for REG assets and activities to be in particular locations and environments
>
> 1. Decision-makers must recognise and provide for REG assets and activities that have an operational need or functional need to be in particular locations and environments.
> 2. Decision-makers must recognise that the operational need or functional need of REG assets and activities includes, but is not limited to, the need to:
>   a. be located where a renewable electricity resource is located and available at a viable scale and quality to sustain the REG activity;
>   b. be accessible and to connect to electricity networks and be nearby to electricity demand; and
>   c. have sufficient and accessible land available to support all associated current and reasonably foreseeable future REG activities at that particular location.
> 3. An assessment of alternative sites is not required to demonstrate that an operational or functional need exists.
>
> Policy F: Enabling and managing the effects of REG assets and activities on the environment
>
> 1. Decision-makers must enable REG assets and activities in all locations and environments.
> 2. Where REG assets and activities are proposed to locate in or are likely to have adverse effects on environments and values provided for in section 6 of the Act, the provisions of this policy must be read alongside other relevant national direction, regional policy statements and regional and district plans.
> 3. Where (2) does not apply, the adverse effects of REG assets and activities must be, where practicable, avoided, remedied or mitigated.
> 4. Decision-makers must have particular regard to the use of adaptive management measures.
> 5. When considering any residual adverse effects of REG assets and activities that cannot be avoided, remedied or mitigated, decision-makers shall have regard to offsetting measures or environmental compensation, including measures or compensation that benefit the local environment and community affected.

383 These policies are directive on the Panel as decision-makers, and highlight the need to enable renewable energy generation activities and recognise and provide for operational and physical constraints.

Comments received from invited parties

384 As described in Part B of this report, a number of invited parties provided comments on landscape values, as well as the cumulative effects associated with large-scale solar developments.

385 Several invitees raised concerns associated with the effects of the development on landscape values, including the lack of any proposed ecological restoration or screen planting to screen the site from the surrounding roads or lakes.

386 Forest & Bird noted that the Applicant's assessment of low-moderate levels of natural character is at odds with the ONL status of the site, and that the existing modifications to the landscape cannot be relied upon to justify further reductions in natural character.

387 Mackenzie DC had the Applicant's landscape effects assessment report peer reviewed by Mr Ben Espie of Vivian Espie Limited. Mr Espie agreed with the conclusions in the Boffa Miskell Landscape Report regarding landscape character and values, but came to a different conclusion in relation to the extent of adverse visual effects. In particular, Mr Espie advised that, as summarised by Mr Nick Boyes for MDC:

> While the solar farm will not be visually dominant from the westernmost part of Haldon Arm Road, the adverse visual effects are better described as being of a 'moderate' degree, rather than 'low-moderate'.

388 Boffa Miskell's conclusion that the visual effects experienced from the surface of Lake Benmore are limited and of a 'very low to low' degree is dependent (at least in part) on lakeside vegetation (including part of the evergreen shelterbelt) that is not within Haldon Station and therefore beyond the control of the Applicant. This vegetation also influences the views from the McAughtries Road/Falston Road area. There are areas within Haldon Station immediately adjacent to its southwestern boundaries (and south/southwest of the project area) where new vegetation could be established to "future-proof and bolster" the effect of this existing lakeside vegetation. Nick Boyes, who prepared the MDC comments agreed with this approach, and recommended an additional condition to require this additional planting.

389 For views from the vicinity of the Ophau C power station and campground, the solar project (including the substation) will introduce a new element of modification, particularly from the more elevated level of Falston Road. This additional modification will detract from visual values of the landscape, with this adverse effect being better described as being of a 'low-moderate' degree rather than 'low'.

390 In relation to natural character effects, Mr Espie agrees with the conclusion in the Landscape Report that the proposal will have adverse effects of a 'low-moderate' degree.

391 Mr Espie also provided some comments on cumulative effects on the surrounding landscape, acknowledging that rather than an assessment of visual effects as perceived from particular viewpoints; the more relevant resource management issue is likely to be the cumulative effects of numerous solar farms on the overall character and values associated with Te Manahuna/the Mackenzie Basin ONL. A relevant factor to consider in the cumulative effects assessment would be the trajectory that the Te Manahuna/Mackenzie Basin ONL is on (with or without solar farms), concluding that the number and scale of solar projects present a cumulative challenge to the landscape character of Te Manahuna/the Mackenzie Basin ONL.

392 Transpower requested that if additional planting is required, several conditions are included, to ensure the integrity of the National Grid Yard and Support Structures.

393 EDS considered that the Panel were well placed to assess landscape effects of the proposal, and the associated planning instruments. They identified a number of points of relevance for the determination of landscape effects, including:

a. The project is located within an ONL, with planning direction to protect ONLs from inappropriate development, including by avoidance of adverse effects.
b. The CRPS seeks to protect the values of ONLs from inappropriate development (Objective 12.2.1 and Policy 12.3.2).
c. The proposed Mackenzie District Plan appears to now provide for renewable energy in an ONL only where there is a functional or operational need, and where adverse effects are avoided as far as practicable (REG-P6).
d. The site is partially within a Lakeside Protection Area.
e. Typical landscape mitigations, such as screen planting, are expressly considered in the application not be to necessary.
f. Offsetting and compensation are unlikely to address landscape effects on nationally significant ONL values.

394 EDS's comments then go on to look at the cumulative adverse effects arising from the proposal. In particular, they note at para 48-49 that:

395 The Applicant for The Point proposal has indicated that this Project and The Point proposal cannot both proceed, due to transmission constraints. EDS recommends that the Panel commission an independent energy expert to advise on these issues.

396 EDS would be concerned if this Project, which is on undeveloped ecologically significant land and does not propose any off setting or compensation[79], proceeded and others that are on intensified land and include indigenous biodiversity gains, were not build.

397 The rūnanga and Ngāi Tahu also raised significant concerns about cumulative effects, in part based on landscape values.

Applicant response to comments

398 Boffa Miskell specifically responded on behalf of the Applicant to the comments from Mackenzie DC. Boffa Miskell notes that the peer review commissioned by Mackenzie DC generally considers that the original Boffa Miskell assessment has been done appropriately, and has come to credible conclusions.

399 In response to questions from the Panel, the Applicant provided additional discussion on the landscape and visual cumulative effects of the proposed development, in combination with the proposed Point Solar Farm, which will be located immediately north of the confluence of the Ōhau, Twizel, Pukaki and Tekapo Rivers, Lake Benmore and the Ōhau C Power Station. The assessment considers that there is potential for both solar farms to be visible together in views from both close and remote locations. Overall, the assessment concludes that the cumulative effects, when considering both sites, will be in the moderate range, particularly for the locations where The Point will appear in the foreground and be more visually prominent.

400 Subsequently, the Panel also requested reconsideration of planting along Haldon Arm Road and security of screening, should the lakeside vegetation be removed. Boffa Miskell responded to this request, and a condition relating to replacement lakeside screening vegetation was included in the 21st April revised condition set.

Evaluation and findings

401 The Panel considers that Boffa Miskell's description of the site and it's wider setting, as set out earlier in this section, is both thorough and adequate, and usefully differentiates between the biophysical, perceptual and associative values of the landscape around the Site. The Panel agrees with the following statement in Section 4.3.3 of the Boffa Miskell report:

> The Project Site is remote with limited close viewing opportunities. However, the Site does form part of the midground, generally backdropped by Te Pā-o-Kāti-Kurī / Mt Maggie, in

[79] Noted that ecology compensation has subsequently been added

wider views from the more accessible, popular western side of Te Ao Marama / Lake Benmore. Due to the elevation of the Project Site and viewing opportunities in this western area, where visible, the Site typically appears compressed as a thin strip of land, contained by existing features in the landscape.

402 The Panel agrees with Boffa Miskell's identification of key receiving environments around the site, and the audiences that would be exposed to it. These key catchments are:

a. A limited number of viewpoints within the Pukaki, Ōhau and Tekapo River corridors;
b. Falston Road;
c. The adjoining campgrounds at Te Ao Marama / Lake Benmore – Ōhau C, Benmore Views, and Falstone;
d. McAughtries Road, together with parts of the adjoining canal and dam above Ōhau C;
e. State Highway 8 to the northwest – in the vicinity of Lake Ruataniwha and Pukaki Airport;
f. A section of the Alps to Ocean Trail between Pukaki and Twizel;
g. Haldon Road near 'Black Forest'; and
h. The Benmore Range (with elevated points along the Benmore Range Easement Track).

403 As described earlier in this section, Boffa Miskell identified the key viewing areas from which the proposed site could be seen, and provided a rating on the nature and level of effect for each site, supported by photos and photo simulations. They concluded that the effect would typically be adverse, with levels from very low to moderate.

404 The Panel considers the photos and simulations to be informative and helpful, although some of the photos taken from locations around the Haldon site (Boffa Miskell Figure 4: Viewpoints 1-13) seem to be taken late in the day, appear very dark, and were of less assistance. The Panel have supplemented the application with their own photos taken during the course of the Panel's site visits (attached to this decision as Appendix C).

405 Using both sets of images, the Panel has assessed the effects the Haldon proposal would have on the different receiving environments and audiences identified by the Applicant. Over the course of the site visit, the Panel has also visited these catchments, to provide a fuller appreciation of the landscape around both Haldon Station and each receiving environment. Those visit also afforded views towards the subject site that are 3-dimensional and which change with different times of the day, unlike photos and simulations. Arising from this process, the Panel has prepared a revised version of 'Table 1' – below, which shows Boffa Miskell's effects ratings for each viewpoint, then that of the Panel. These ratings are

accompanied by a brief explanation where the Panel's interpretation of effects differs from those of Boffa Miskell.

	Boffa Miskell Assessment:		Panel Assessment:		
Viewing Area:	**Nature of Effect:**	**Level of Effect (max):**	**Nature of Effect:**	**Level of Effect (max):**	**Reason For Difference (if any):**
Haldon Arm Road East	Adverse	Very low to Low	Adverse	Very low to Low	N/A
Haldon Arm Road West	Adverse	Low-Moderate	Adverse	Low-Moderate	N/A
Haldon Arm Campground	Neutral		Neutral		N/A
Rivers	Adverse	Very Low to Low	Adverse	Very Low to Low	N/A
Te Ao Marama / Lake Benmore shoreline adjacent Site	Adverse	Low-Moderate	Adverse	Low-Moderate	N/A
Te Ao Marama / Lake Benmore	Adverse	Very low to Low	Adverse	**Low**	The black line of the solar farm would not typically be visible or clearly apparent in more remote views from the lake. However, more static views from it (for instance, while fishing) from closer to Haldon Farm would reveal gaps in the shoreline willows and segments of the broader 'strip' of the proposed panels. These segments would not be conspicuous or intrusive, but, at the same time, would not be entirely consistent with the character of Haldon Farm at present and its Mt Maggie backdrop. Consequently, such interaction would reshape perceptions of the lake's hinterland, albeit to a limited degree.
McAughtries Road	Adverse	Low	Adverse	**Low-Moderate**	There is agreement with Mr Espie's assessment that the solar farm would introduce a new area of modification to the landscape around Te Ao Marama / Lake Benmore that is visible from the elevated section of McAughtries above the Ohau Power Station and next to the Ohau Canal. On the other hand, the dark mass of the solar farm would be extremely difficult to interpret over a viewing distance of some 3.6km, and its linear profile would not be

					entirely different to that of the blocks of dark shelterbelts and other planting (even the willows down the far lake shoreline) that also crisscross this expansive landscape. These factors would appreciably reduce the solar farm's visual presence and effects. In addition, it is recognised that only part of McAughtries Road, above the power station and its penstocks, would be exposed to the solar farm and it remains a private road controlled by Meridian Energy – although public access along it is allowed.
Falston Road	Adverse	Very Low to Low	Adverse	Very Low to Low	N/A
Lake Benmore Ōhau C Campground	Adverse	Low	Adverse	Low	N/A
Benmore Views Campground	Adverse	Very Low	Adverse	Very Low	N/A
Falston Campground	Adverse	Very Low	Adverse	Very Low	N/A
Haldon Road (Black Forest Station)	Adverse	Very Low	Adverse	Very Low	N/A
Benmore Easement Track	Adverse	Low	Adverse	Low	N/A
SH8 & Alps to Ocean trail	Neutral		Neutral		N/A
Totara Peak	Adverse	Low	Adverse	Low	N/A
Black Forest Station	Adverse	Very Low	Adverse	Very Low	N/A

406 Despite the two differences in ratings shown above (bolded for emphasis), all of the effect ratings remain below a moderate level, with most of a very low to low level order. As such, the Panel agrees with both Boffa Miskell and Ben Espie (on behalf of Mackenzie DC) that the direct landscape effects generated by the Haldon Solar Farm in relation to the various receiving environments and audiences found around the subject site are acceptable.

407 At more of a strategic scale, it is also apparent to the Panel that the Haldon Station /Haldon Arm area is among the more recessive parts of Mackenzie Basin, both physically and visually, and this contributes to both the ratings identified and the general feeling of the site being quite isolated from most of the rest of the Basin and, in particular, from most the highways, other road corridors, cycling trails and walking tracks spread through and around it.

408 In relation to natural character effects, Boffa Miskell concludes that:

a. The site has low-moderate levels of natural character;
b. The proposed solar farm's effects in relation to those values would be of a low-moderate order across the site; and
c. The proposals' effects on natural character values at a broader sub-basin level would be of a low order.

409 The Panel acknowledges that a wide range of factors have contributed to this conclusion, including:

a. The highly modified and sparsely vegetated state of most of the site (both physically and perceptually);
b. Where vegetation is present, exotic plant species visually dominate both the site and the margins of Lake Benmore / Te Ao Mārama nearby;
c. The presence of an existing 220kV transmission corridor across the Site; and
d. The presence of other human structures and activities in close proximity to it, including the Haldon Arm camping ground.

410 The Panel agrees with Boffa Miskell's summary of the site's natural character values, and acknowledges that it is clear that this environment is, as a whole, far from pristine or even largely natural.

411 This starting point limits the potential for higher-order natural character effects, conceivably to quite specific ecological and habitat matters, rather than the 'naturalness' of the site more generally. Boffa Miskell's assessment is weighted more towards the general than the specific, and impacts related to perceived naturalness rather than biophysical naturalness. The Panel recognises this, and acknowledges that the solar farm represents a sizeable change to the Haldon Station environment that would be substantial in terms of its areal coverage.

412 At the same time, the Panel has taken into consideration the setback from the lake edge, the screening provided by existing vegetation, and the limited view of the solar farm from the lake surface and most of the immediate hinterland. Combined, these matters limit the proposal's impact on the core natural character values of Te Ao Marama / Lake Benmore.

413 Taking into consideration the matters above, the Panel agrees that the proposal will have a low to moderate level of effect on the natural character values of the site and the adjoining lake and margins.

414 In relation to cumulative effects (including in combination with The Point Solar Farm), the Panel does acknowledge that the Haldon proposal remains at the head of the queue for solar farms, and it would not be able to generate cumulative effects associated with solar farms while other farms remain unconsented.

415 Conditions have been put forward by the Applicant to manage effects on landscape and natural character, including a setback of 200-300 metres from the lake edge and Haldon Arm Road, recessive colours with a reflectance value of less than 36% for the fencing and buildings, and a condition requiring additional planting in the lake set-back area, should the lakeside vegetation be removed. The Panel notes that in response to a request for planting in the vicinity of Haldon Arm Road, the Applicant advanced an outline of appropriate planting in 'plots' in this area. This is not referenced in the conditions, so the Panel has included a condition that requires this planting to be undertaken.

416 The Panel has taken these conditions into account, and concluded that they are both appropriate and necessary in accordance with s 83 of the FTA, in order to ensure the effects of the proposal on landscape and natural character values are managed appropriately.

417 In conclusion, the Panel concludes that the proposed solar farm will not have a significant adverse effect on the landscape, natural character and visual amenity of the area.

Construction (including noise and dust)

Introduction and key issues

418 In this section, we address the temporary effects of construction, including noise, dust, and earthworks. We also consider the effects raised by Mackenzie DC on worker accommodation and housing supply.

419 The application assesses noise effects associated with construction, which appear to be dominated by general machinery noise and pile driving. Appendix 11 to the application contains an assessment from Marshall Day Acoustics, which models the pile driving noise, which appears to be the most significant noise source during construction.

420 The application assesses the generation of dust during the construction phase and advances a number of mitigations to be applied during construction and earthworks, including a dust management plan.

421 The application sets out earthworks volumes, which appear to be widespread over the site, with more significant volumes of earthworks in the substation area and in relation to each of the transformer and battery storage locations. There are also earthworks for trenching, access ways and vehicle parking and manoeuvring areas. In total, there seems to be some 31,000m^3 of cut and 51,000m^3 of fill. The effects of these earthworks, in relation to the flora and fauna present, are assessed in the above section on ecology. Construction phase stormwater effects are set out in the stormwater section below.

422 The application considers the positive economic benefits of additional, albeit short-term, employment and economic activity associated with construction. This is generally formulated in a positive sense. However, the Mackenzie DC has identified potential social implications of this in the district.

Policy context

423 Construction noise is covered by NOISE-R6 as a permitted activity where the construction activity complies with the relevant noise limits set out in Tables 2 and 3 of NZS 6803:1999 Acoustics – Construction Noise. As a permitted activity, it is not necessary to elaborate particularly on the policy context.

424 The proposal was assessed as a permitted activity under Rule 7.32 of the Canterbury Air Regional Plan 2017 (CARP), subject to the provision of a dust management plan and the discharge not causing an offensive or objectionable effect beyond the boundary. Again, as such, it is not necessary to elaborate particularly on the policy context.

425 With respect to earthworks, the proposal was assessed as a restricted discretionary activity under Rule 5.176 of the CLWP for earthworks and the associated construction phase stormwater discharge as a restricted discretionary activity under Rule 5.94B of the CLWP. Policy 4.18 of the CLWP requires avoidance of the discharge of construction phase stormwater to surface water and where this is not achievable, the best practicable option applies to minimise the loss or discharge to water.

Comments received from invited parties

426 The Mackenzie DC comments on noise identify the need for compliance with the construction noise standard NZS 6803:1999. The comments identify that provided that the standard is met, the noise emissions are a permitted activity. Dust emissions are briefly mentioned, but given compliance with the regional plan rules and remoteness of the site, the comments do not identify any particular issues of concern.

427 Mackenzie DC has identified that there could be social issues arising from limited accommodation in surrounding townships for the number of construction staff on the site and that this may have implications for housing supply and potentially wage growth. The comments conclude by noting that overall, the positive economic effects are likely to outweigh any temporary adverse effects.

Applicant response to comments

428 The Applicant has made only limited response to the comments, primarily in the helpful table in their Comments Register. This limited response is understandable given that the comments often recognise compliance with the planning documents for several aspects of construction, and do not note any significant concerns.

Evaluation and findings

429 The Panel has considered the short-term construction effects of noise, dust, and earthworks, along with the potential social implications. The Panel notes the compliance with the relevant rules in relation to noise and dust. The draft conditions requiring the provision of a construction management plan and erosion and sediment control plan are also noted.

430 Overall, the Panel is satisfied that construction effects will be less than minor, particularly given the remote location of the site and the conditions relating to noise, hours of operation, earthworks, and dust control, along with the various management plans. The Panel also notes that there is a complaints procedure and response process set out within the conditions, should any unforeseen issues arise.

431 The Panel has also considered the necessity of the conditions that are set out in Appendices A and B to this decision. The Panel notes that these conditions, with minor amendments, have been proffered by the Applicant after engagement with the relevant consent authorities and agrees that they are appropriate and necessary.

Traffic and Transport

Introduction and key issues

432 An Integrated Transport Assessment (ITA) for the solar project has been prepared by Stantec New Zealand and was attached as Appendix 8 to the application. The ITA considered both construction-related and operational traffic.

433 The key issues with respect to traffic and transportation relate to:

a. Safety at the intersection of Haldon Road with State Highway 8, known as Dog Kennel Corner.
b. Transport and traffic on Haldon Road and Haldon Arm Road, including heavy traffic generation, site access, and maintenance requirements.

434 Haldon Road and Haldon Arm Road have relatively low volumes of traffic, which includes farm vehicles and some heavy vehicles related to farming activities, and tourist traffic, including caravans, campervans and boats.

435 The Panel notes that the ITA is not clear with respect to the source of the large volumes of fill required on the site, which may have further traffic implications for the roading network. However, in context with the identified heavy vehicle generation, and the proposed conditions, this uncertainty and potential additional traffic generation are expected to be within the bounds of the assessment completed.

Policy context

436 Given the issues raised in the comments, and the overall conclusion that adverse effects can be appropriately remedied through appropriate conditions, it is not necessary to elaborate particularly on the policy context. However, it is generally noted that the relevant policies place some emphasis on infrastructure not being compromised by land use activities.

Comments received from invited parties

437 Comments were received from Mackenzie DC and New Zealand Transport Agency Waka Kotahi (NZTA). These comments can be summarised as follows:

Mackenzie DC

438 The MDC engaged Mr Nick Fuller of Novo Group Ltd to peer review the Applicant's ITA. Mr Fuller is generally in agreement with the Applicant's ITA, and considers that effect can be appropriately managed through the imposition of conditions. Mr Fuller seeks more specific conditions than the relatively general reliance on a construction traffic management plan proposed by the Applicant. Further, Mr Fuller seeks to specify content of the construction traffic management plan, along with a range of other amendments to conditions to improve clarity and certainty.

439 Mr Fuller has helpfully set out the Applicant's proposed conditions, his suggested amendments, and rationale in a table attached to his report.

440 Mr Fuller concludes: Subject to adopting my suggested changes to the conditions (or wording with similar intent), I consider the transport effects of the proposed activity would be acceptable and no more than minor during the construction stage. The effects will be less than minor during typical operation of the activity.

441 Mackenzie DC also recommends that the measures proposed by the Applicant around the use of shared transport during the construction phase to reduce traffic generation should be specifically captured in consent conditions, so the proposed 100 vehicle movements per day limit is achieved. Not adhering to this limit would be likely to lead to adverse amenity effects on those living alongside Haldon Road from SH8 to the site.

NZTA

442 NZTA's comments note that NZTA has previously commented on the proposal directly to the Applicant, and that the conditions that were suggested by NZTA have been included in the application.

443 NZTA has considered and agrees with the mitigation proposed in the Applicant's ITA. NZTA also notes that given the distance from State Highway 8, glint and glare is not expected to be an issue.

444 NZTA reiterates the conditions that have previously been communicated to the Applicant relating to the design of the Dog Kennel Corner intersection upgrade, certification of completion, and various advice notes to be included with those conditions.

Applicant response to comments

445 The Applicant has largely agreed with the amendments to conditions that have been suggested by Mackenzie DC and NZTA. The Applicant considers that the advice notes have been dealt with through other conditions and changes, and does not consider them necessary. The response does not include any substantive analysis of the transport and traffic comments, which is understandable, given the apparent agreement between the Applicant and invitees.

Further comments on draft conditions

446 NZTA and Mackenzie DC provided further comments on the revised conditions provided by the Applicant on 21 April 2026. Those comments primarily related to the certainty of the State highway upgrade conditions and site access arrangements once operational.

Evaluation and findings

447 Given the detailed nature of the comments received from both road controlling authorities, their conclusions that effects can be appropriately managed through conditions, and their helpful advancement of detailed sets of conditions, the Panel is satisfied that transport and traffic effects can be appropriately managed.

448 The Panel has considered the range of conditions put forward by the road controlling authorities, and the Applicant's comments, and, subject to minor amendments, has included those conditions on the relevant consent. The Panel notes that the conditions have been put forward by relevant experts within the road controlling authorities, and that the Applicant has agreed to those conditions. The Panel has added a condition, as sought by Mackenzie DC regarding the access to the site once the solar farm is operational and made adjustments to improve certainty with respect to the State highway upgrades required. The Panel notes that Condition 36 requires approval of NZTA for works within and adjacent to State Highway 8, which is appropriate, given that the Panel cannot give approval for this element.

449 The Panel has taken the general agreement over conditions into account in considering whether the conditions are necessary pursuant to s 83 of the FTAA and has concluded that they are both appropriate and necessary in order to manage the safety of road users and to ensure that effects on the State Highway and local roading network are appropriately managed.

Natural hazards

Introduction and key issues

450 The natural hazards present on the site are set out in section 6.6 to 6.8 of the AEE. These include surface flooding from storm events, inundation from abnormally high hydro lake levels and fire risk. The western half of the site is also noted as being in a liquefaction risk area.

451 From the description in the AEE, it would appear that the risks are not significant and have been incorporated into the design of the solar farm. The solar farm is not considered to be a particularly vulnerable land use in relation to the natural hazard risks affecting the site.

Comments received from invited parties

452 Te Rūnanga o Arowhenua and Te Rūnanga o Ngāi Tahu both reference recent high lake levels in Lakes Pūkaki, Tekapo/Tākapo and Benmore, which resulted in flooding of the nearby Haldon Arm Campground.

453 Meridian suggests that the Applicant prepare an Emergency Hydro Inundation Response and Evacuation Plan for the part of the property within the Mackenzie District Plan Hydro Inundation Hazard Overlay.

454 In relation to fire risk, the practical implications of fire were noted, including by mana whenua, particularly the potential for the only road access to the area to become blocked by fire. Mackenzie DC put forward some additional conditions to manage fire risk, including: further details on on-site firefighting water supply tanks; a method to shut down and isolate the photovoltaic and battery energy storage systems; and maintaining vegetation within the footprint to reduce fire risk.

Applicant response to comments

455 The Applicant's response noted that there was flood modelling completed by Beca and included in the application material. No specific written material was produced in relation to hazard issues. However, several additional conditions were proposed, including those sought by Meridian.

Evaluation and findings

456 The Panel considers that the risks from natural hazards on the site are not significant, and notes that the Applicant has considered those risks in the design of the project and in the resource conditions proposed.

457 The flooding risk from high lake levels affects a significant part of the site. The Applicant proposes conditions and a management plan, as suggested by Meridian, to address this. Overall, the Panel considers that the natural hazard risk is low and can be appropriately managed through design and the conditions proffered by the Applicant (with minor amendments).

Discharges of stormwater

Introduction and key issues

458 This section of the decision considers the actual and potential effect of the discharge of stormwater, both during construction and during the operation of the solar farm and transformer yard.

459 The site is currently farmland with sparse vegetation and no stormwater collection, treatment or disposal systems in place. Stormwater on the site currently infiltrates to ground, given the site is relatively flat and has no surface waterbodies on it or immediately adjacent. While the landform is a gravel outwash plain, the modelling in the application identifies that surface flows are rare and of short duration[80].

460 Stormwater will be generated on the site during both the construction and operation phases of the solar farm. During the construction, the primary risk is entrainment of sediment from earthworks, while in the operation phase, there are risks associated with contaminants from the panels and substation, as well as the potential for concentrated discharges of stormwater to cause or accelerate erosion.

461 The application provides limited specific assessment of stormwater generated during construction, but notes that after construction, run-off from access tracks, site facilities and the solar panels will infiltrate to ground[81]. The potential for some localised concentration of flow at the end of each array is acknowledged in the application. The application concludes that the effects associated with stormwater will be negligible. This is supported by proposed conditions which, during the construction phase, require implementation of an Erosion and Sediment Control Plan (**ESCP**), and during the operation phase require the discharge to be in accordance with a Stormwater Management Plan. A draft ESCP was provided as Appendix 2 to the application. An updated draft ESCP, a draft Construction Management Plan and a draft Stormwater and Soil Management Plan were provided with the updated condition set on 21 April 2026.

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[80] Beca, Haldon Solar Project – Assessment of Effects in relation to Flood Risk at 2.2
[81] Substantive Application at 6.7

Policy context

462 The general direction on discharges in the CLWRP requires that there are no direct discharges of specified contaminants to ground or surface water (policy 4.12), none of which are applicable to the solar farm, and that for all other discharge of contaminants, measures are implemented that: firstly avoid production of the contaminant; secondly reuse, recover or recycle the contaminant; and thirdly minimise the volume/amount of the discharge (policy 4.13).

463 The reliance on erosion and sediment controls is consistent with the avoid and minimise approach, such that the entrainment of sediment in stormwater is avoided and minimised where possible, particularly during the construction phase, and to a lesser degree during the operational phase. Some of the operational phase requirements seek to avoid the entrainment of contaminants in stormwater, including by requiring glass encapsulation of the panels, and the use of oil/water separators in the transformer areas to avoid the discharge of oil to land.

464 Policy 4.17 of the CLWRP requires that stormwater flows are managed so they do not cause or exacerbate the risk of inundation, erosion or damage to property or infrastructure downstream or risks to human safety.

465 Policy 4.18 of the CLWRP requires avoidance of the discharge of construction phase stormwater to surface water and where this is not achievable, the best practicable option applies to minimise the loss or discharge to water.

Comments received from invited parties

466 Te Rūnanga o Arowhenua and Te Rūnanga o Ngāi Tahu both referenced recent high lake levels in Lakes Pūkakai, Tekapo/Tākapo and Benmore, which resulted in flooding of the nearby Haldon Arm Campground, and that this could impact the management of stormwater on the site.

467 Canterbury Regional Council identified that further conditions were required in relation to the management of effects on groundwater quality and quantity associated with stormwater management, and the management of contaminated land. These concerns primarily related to the operational phase stormwater.

Applicant response to comments

468 In the responses to comments, the Applicant describes that:

a. Flood hazards have been assessed, and the stormwater design will ensure that there are no adverse effects on the nohoaka site, campground, or Te Ao Mārama catchment.
b. To avoid the discharge of oil to water, the substation transformers will be bunded to 120% capacity, and stormwater will be filtered prior to being discharged.

469 The Applicant also adopted the changes to conditions suggested by CRC.

470 In the revised conditions provided by the Applicant on 21 April 2026, the following key conditions are proposed for the management of stormwater, through the CRC consents:

Construction phase:

(a) Must occur in accordance with an Erosion and Sediment Control Plan (ESCP), which is prepared by a suitable qualified practitioner, and approved by CRC.
(b) Erosion and sediment controls must be inspected weekly, and after specified rainfall events, and controls managed and maintained to ensure effective function.
(c) Erosion as a result of stormwater must be prevented by all practicable measures.

Operation phase:

(d) Discharges must occur in accordance with a Stormwater Management Plan, which is prepared by a suitable qualified practitioner and certified by CRC.
(e) Solar panels must have glass laminate encapsulation, an anti-reflective coating, and only be cleaned with water.
(f) Land underlying the solar panel arrays must be maintained in a state in which significant erosion is avoided or remedied, and any visible channels or rills must be managed.
(g) Minimum hardstand requirements for Battery Energy Storage Systems.
(h) For the substation, roof stormwater shall be collected in tanks and discharged via dedicated soakpits. Stormwater collected from the bunded transformer area must be drained via an oil/water separator, before discharging via a soak pit. All must be sized for a 1 hour duration 10% percent annual exceedance probability event, and designs must be approved by CRC prior to installation.
(i) Inspections and maintenance requirements for solar array and substation.
(j) Water must not pond in swales or soak pits for more than 48 hours after any storm event.
(k) Requirement to develop a Soil Monitoring Plan to track any potential long-term soil changes from the solar farm, with minimum testing requirements described in conditions.

471 Drafts of the ESCP, Stormwater Management Plan and Soil Monitoring Plan were provided alongside the Applicant's updated conditions, with the soil monitoring to be discussed further below in the section of effects from contaminated land.

Evaluation and findings

472 The Panel has considered the short-term effects associated with the construction phase stormwater discharge, alongside the longer-term effects of the operation phase stormwater discharge. The suggested conditions requiring the provision of an ESCP, Stormwater Management Plan and Soil Monitoring Plan are noted, as are the specific requirements set out in the conditions for minimum design and treatment requirements (such as the use of an oil/water separator at the transformer sites), and ongoing monitoring.

473 The proposed management of earthworks, as well as the provision of the Construction and Operational Management Plans are also acknowledged, as these will be in place alongside any construction and operation phase stormwater discharge consents.

474 Overall, the Panel is satisfied that the effects of the construction phase stormwater discharge will be less than minor, noting the discharge will be to land, and that residual effects could be managed through conditions.

475 For the operation phase stormwater discharge, subject to the implementation of stormwater controls as set out in the Applicant's updated condition set, and the ongoing monitoring of soil underlying the solar farm, the Panel is satisfied that the effects of the discharge will be less than minor, and that any potential impacts on soil quality will be able to be identified and mitigated in a timely manner. The Panel does consider that it is appropriate to set a hydrocarbon removal standard for the discharge from any bunded areas.

476 The Panel has also considered the necessity of the conditions that are set out in Appendices A and B to this decision. These conditions, with minor amendments, have been proffered by the Applicant after engagement with the relevant consent authorities, and accepted by the Panel as being appropriate and necessary.

Discharges from contaminated land

Introduction

477 This section of the decision considers the actual and potential effects associated with contaminated or potentially contaminated land.

478 While the land on which the solar farm will be established is not identified on the CRC Listed Land Use Register as being contaminated or potentially contaminated, there is the potential for contamination to occur. The Hazardous Activities and Industries List (HAIL)[82] identifies activities and industries that are likely to cause contamination, with electrical transformers and substations being included in category B.

479 To identify and manage any potential contamination, the Applicant's updated proposed conditions, and draft Stormwater and Soil Management Plan provided on 21 April 2026 set out a soil monitoring and response plan

Policy context

480 While the site is not currently identified as being contaminated or potentially contaminated, based on the nature of the solar farm and associated activities, there is potential for the site to become contaminated. As such, the policy direction below is relevant on the basis that the site could become contaminated.

481 The CLWRP generally seeks that discharges of contaminants from earthworks and contaminated land to groundwater are avoided or minimised (Policy 4.19), and managed to ensure adverse effects beyond the boundary are avoided (Policy 4.26).

482 The Mackenzie Plan directs that the use of contaminated or potentially contaminated land apply a best practice approach to investigate risks, and either remediate the contamination or manage the activity to protect the health of people and the environment (Policy CL-P1), and Policy CL-P2, providing additional direction or remediation or mitigation works.

Comments received from parties

483 The CRC noted that the primary site investigation commissioned by the Applicant relied on aerial/drone information, with the potential for earthworks to intersect a landfill area. CRC

[82] Published by the Ministry for the Environment, dated October 2011.

recommended accidental discovery conditions for unexpected contamination, and sought clarification on the soil monitoring regimes proposed.

Applicant response to comments

484 In the response to comments, the Applicant advised that an accidental discovery protocol for contaminated land would be adopted.

485 In the revised conditions provided by the Applicant on 21 April 2026, the following key conditions are proposed for the management of contaminated land. On the CRC operational stormwater consent, they propose:

a. Representative soil sampling from at least 15 locations across the site will occur over the lifetime of the solar panels, with sampling to occur at least prior to construction, prior to operation, every 5 years after operation commences, and at decommissioning.
b. Soil samples will be analysed for a number of contaminants, with reporting to CRC after each testing round to assess soil monitoring results, and identify any measures to manage potential or actual soil contamination.
c. Should site contamination exceed the pre-construction values, a Remedial Action Plan and Site Validation Plan will be prepared in accordance with the current edition of the Contaminated Land Management Guidelines, with both plans to be certified by CRC.

486 These conditions are reflected in the Draft Soil Monitoring Plan supplied alongside the draft conditions, although the monitoring sites are yet to be identified.

487 In addition, on the Mackenzie DC consent, in relation to decommissioning, the Applicant proposes that a detailed site investigation (DSI) must be provided to Mackenzie DC within 15 days of decommissioning being completed. If the DSI finds that contamination exceeds the applicable standards of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011, a Remediation Action Plan and Site Validation Plan must be prepared in accordance with the current edition of the Contaminated Land Management Guidelines. Both plans will require certification by Mackenzie DC.

Evaluation and findings

488 The Panel has considered the effects associated with the potential creation of contaminated land, and the management of discharges from that land, and the proposed monitoring of soil for contaminants, and eventual management of contaminated land.

489 Overall, the Panel is satisfied that, together the with operational phase stormwater management, the effects of the proposal in relation to contaminated land will be less than minor, and conditions of consent proffered by the Applicant are appropriate to manage the potential effects.

PART F: REGIONAL OR NATIONAL BENEFITS OF THE PROJECT

490 Section 3 of the FTAA states that the purpose of the Act is to facilitate the delivery of infrastructure and development projects with *significant regional or national benefits*. Under clause 17 of Schedule 5 when considering a consent application and conditions the panel must take into account and give greatest weight to that purpose.

491 As noted above in Part C, s 81(4) of the FTAA specifically requires the Panel to consider the extent of the Project's regional or national benefits.

492 Section 85(1) and (2) set out circumstances when approval must be declined. Those sections do not apply. Then, section 85(3), which sets out the basis on which applications may be declined, is headed "approval may be declined if adverse impacts are out of proportion to regional or national benefits". If the Panel forms the view that the adverse impacts are sufficiently significant to be out of proportion to the project's regional or national benefits, an application may be declined, after having taken into account the conditions described in s 5(3)(b)(i) and (ii).

493 This means that an assessment of the regional or national benefits must be made and explained in carrying out a proportionality exercise where those benefits are measured against adverse impacts. There is no specific definition of significant regional or national benefits in the context of listed projects. However, section 22(2) sets out the matters that the Minister may consider in relation to a referral application, and it follows that some of those factors have relevance in considering a substantive application:

> (2) For the purposes of subsection (1)(a), the Minister may consider—
>
> (a) whether the project—
>
> (i) has been identified as a priority project in a central government local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy), or a central government infrastructure priority list:
>
> (ii) will deliver new regionally or nationally significant infrastructure or enable the continued functioning of existing regionally or nationally significant infrastructure:
>
> (iii) will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment (within the meaning of policy 1 of the National Policy Statement on Urban Development 2020):
>
> (iv) will deliver significant economic benefits:
>
> (v) will support primary industries, including aquaculture:

(vi) will support development of natural resources, including minerals and petroleum:
(vii) will support climate change mitigation, including the reduction or removal of greenhouse gas emissions:
(viii) will support climate change adaptation, reduce risks arising from natural hazards, or support recovery from events caused by natural hazards:
(ix) will address significant environmental issues:
(x) is consistent with local or regional planning documents, including spatial strategies:

494 Of particular relevance are ss 22(2)(a)(ii), (iv), (vii), (viii), (ix) and (x).

495 Further, as noted, clause 17 of Schedule 5 states that when considering a consent application and conditions, the panel must give greatest weight to the purpose of the Act, which is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.

496 In terms of s 22(2)(a)(ii), this Project undoubtedly will be a part of the nationally and regionally significant electric power infrastructure, and as a new facility will help enable the continued functioning of existing regionally or nationally significant infrastructure, in particular hydroelectricity infrastructure. In terms of (iv), the Applicant contends that it will deliver significant economic benefits, considered below. In terms of (vii) and (viii), it is claimed it will support climate change mitigation and adaptation, including the reduction of greenhouse gas emissions. In terms of (ix), it is said that by reducing reliance on fossil fuels, it addresses significant environmental issues. It is also said that the construction of solar farms, in appropriate locations, is consistent with local and regional planning documents, as has already been outlined.

497 These criteria indicate that the Minister, in assessing whether there are significant regional or national benefits, is not just to consider economic benefits, but is also to consider more general community benefits such as climate change mitigation and addressing significant environmental issues such as pollution from energy generation using non-renewable hydrocarbons.

National Policy Statement for Renewable Electricity Generation 2011

498 The proposal before the Panel is a renewable energy generation project. The consideration of national policy statements is not explicitly referred to as a permissible consideration under s 22(2) of the FTAA. However, given the analogous wording in the NPS-REG regarding

regional and national benefits and the unambiguous directive from the Government, the Panel sees its application to be helpful in interpreting the purpose of the FTAA.[83]

499 The purpose of the FTAA is paramount. Given that the amended NPS-REG has just been released, we think it must be read, as we have done, as relevant to the definition of "significant regional or national benefits". While the sustainable management provisions of the RMA remain relevant, they are subordinate to the purpose stated in s 3 of the FTAA, interpreted with the NPS-REG, and applied to ss 22(1)(a) and 85(3) of the FTAA. To be clear, we are not double-counting the NPS-REG in our evaluation of the proposal, we simply see it as an indication of what Parliament intended through the language it used in the Act.

500 As set out below, it is stated in the NPS-REG explanatory note that:

> This National Policy Statement recognises renewable electricity generation assets and activities and the benefits of renewable electricity generation as matters of national significance under the Resource Management Act 1991.

501 The generation of electricity from solar energy sources is defined as "renewable electricity generation" (REG) under Part 1.4 of the NPS-REG, and as a renewable energy project is recognised by that national policy statement to be of national significance under the RMA[84].

502 This recognition of the regional and national benefits of solar farms can also be seen in Part 2: Objective and policies of the NPS-REG. Part of the objective of the NPS-REG is to:

> (a) ensure the national, regional and local benefits of REG are provided for;
> (b) enable REG capacity and output to significantly increase;

503 This again, at (a) assumes that there are national, regional, and local benefits of REG and directs that they be provided for. Thus, it can be seen, the NPS-REG directly acknowledges that there are national, regional, and local benefits from solar farms.

504 It is significant what the NPS-REG states at Policy B:

> Policy B: Considering cumulative gains and losses of renewable electricity generation capacity
> (1) Decision-makers on REG assets and activities must recognise and provide for the importance of:

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[83] The National Policy Statement for Renewable Electricity Generation 2011 is discussed in further detail in Part G: Statutory Documents at [566] below. Relevantly, the latest version of the NPS-REG as amended in December 2025 applies.

[84] NPS-REG Policy A(1).

(a) enabling *cumulative increases* of REG capacity and output *at any scale and any location*, including small-scale and community-scale REG assets and activities; and

(b) avoiding, where practicable, any overall or cumulative losses of REG capacity and output from a region or district or existing REG assets and activities.

(emphasis added)

505 Thus, even small-scale REG projects which cumulatively increase REG capacity can be seen as important. Policy C is also relevant to our task. It requires decision-makers to recognise and provide for the need for REG assets to be in certain locations. We set it out in full:

(1) Decision-makers must recognise and provide for REG assets and activities that have an operational need or functional need to be in particular locations and environments.

(2) Decision-makers must recognise that the operational need or functional need of REG assets and activities includes, but is not limited to, the need to:

(a) be located where a renewable electricity resource is located and available at a viable scale and quality to sustain the REG activity;

(b) *be accessible and to connect to electricity networks and be nearby to electricity demand*; and

(c) have sufficient and accessible land available to support all associated current and reasonably foreseeable future REG activities at that particular location.

(3) *An assessment of alternative sites is not required to demonstrate that an operational or functional need exists*.

(emphasis added)

506 The NPS-REG says that decision-makers "must" recognise and provide for the national significance and the national, regional, and local benefits of REG activities.[85] Indeed, in this application and comments, it is taken into account, including comments from CRC, the Mackenzie DC and Forest and Bird. It must be given weight in the ultimate assessment of regional and national benefits, as its objective is to "enable REG capacity and output to significantly increase."[86] These and other provisions of the national policy statement oblige decision-makers, such as this Panel, to accept that the benefits of the creation of renewable energy generation assets at any scale is a matter of national importance. Going back to s 3 of the FTAA, we accept that the benefits of this REG project are significant.

507 Forest and Bird, in their comments document, emphasise Policy F(2), which provides:

Where REG assets and activities are proposed to locate in or are likely to have adverse effects on environments and values provided for in section 6 of the Act, the provisions of this policy

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85 NPS-REG, Policy A(1).

86 NPS-REG, Objective (1)(b).

> must be read alongside other relevant national direction, regional policy statements and regional and district plans.

508 They say that the effect of this policy is that the Mackenzie Plan is considered alongside the NPS-REG, rather than subordinate to it. They also refer to Policy F(5), that regard be had to offsetting and compensation when considering residual adverse effects of REG assets. They also rely on the CRPS (Chapter 9), and other policies of the Mackenzie Plan.[87]

509 However, while it is clear from the NPS-REG that adverse effects are not to be ignored in any decision-maker's assessment, and that in assessing adverse effects, relevant national direction, regional policy statements, and district plans must be read alongside the NPS-REG, it requires REG activities to be regarded as of national and regional significance. However, it does not require solar farm projects to be approved under the FTAA. That final assessment is governed by ss 81 and 85(3) of the FTAA.

510 We agree with the Applicant that the Project aligns strongly with New Zealand's strategic energy objectives, including the Emissions Reduction Plan, and the NPS-REG.[88]

511 Returning to the hierarchy of considerations it will be clear that we see the matters we are required to consider overlap to a significant degree. Clause 17 of Schedule 5 requires us to give the greatest weight to the purpose of the FTAA. And the interplay of relevant national policy statements under the RMA drives us to accept and recognise the importance of REG proposals in all locations and environments,[89] even where important landscape and indigenous biodiversity issues are at stake. NPS-REG Policy F(2) requires us to read policy F "alongside other relevant national direction" where matters listed under s 6 of the RMA are affected.[90] In simplest terms, we understand that to mean that the importance of REG does not necessarily trump concerns about adverse effects in all cases. Policy F(4) requires particular regard to be had to the use of adaptive management. Where there are residual adverse effects that cannot be avoided, remedied or mitigated, NPS-REG Policy F(5) comes into play:

> (5) When considering any residual adverse effects of REG assets and activities that cannot be avoided, remedied or mitigated, decision-makers shall have regard to offsetting measures or environmental compensation, including measures or compensation that benefit the local environment and community affected.

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[87] Forest and Bird comments at [117]–[138]
[88] M.E Consulting *Haldon Solar Project Economic Impact Assessment*, at 23
[89] NPS-REG, Policy F1.
[90] We think it likely that at least s 6(a), (b), (c) and (e) are relevant to the current Application.

512 Clauses F(4) and (5) are consistent with the FTAA itself. Section 85(3) controls the Panel's ability to decline to grant an authority in this way:

> (3) A panel may decline an approval if, in complying with section 81(2), the panel forms the view that—
>
> (a) there are 1 or more adverse impacts in relation to the approval sought; and
>
> (b) those adverse impacts are sufficiently significant to be out of proportion to the project's regional or national benefits that the panel has considered under section 81(4), even after taking into account—
>
> (i) any conditions that the panel may set in relation to those adverse impacts; and
>
> (ii) any conditions or modifications that the applicant may agree to or propose to avoid, remedy, mitigate, offset, or compensate for those adverse impacts.

513 There is still a judgment to be made whether residual adverse effects are "out of proportion" to a project's benefits, despite adaptive management measures, offsetting or compensation. Neither the NPS-REG nor the FTAA direct how that judgment is to be made.

514 The Applicant's counsel provided submissions in response to the comments received from Forest and Bird [91]. On the subject of the weighting of FTAA Schedule 5 clause 17 matters, the Applicant's counsel submitted at paragraph 2.6 that:

> In general, we agree that:
>
> (a) The weighting direction under clause 17(1):
>
> (i) does not allow the Expert Panel to disregard, or fail to give due consideration to, the matters outlined in (b) and (c); and
>
> (ii) requires the Expert Panel to take into account each of the matters in (a) – (c) before "standing back and conducting an overall weighting" of those matters. In doing so, the Panel must ensure the greatest weight is, in accordance with clause 17(1), given to the purposes of the FTAA.
>
> (b) The purpose of the FTAA will not change the way in which environmental effects are assessed (i.e. whether they are minor or more significant) but, in accordance with clause 17(1), it may change the weight that is afforded to those effects in considering a resource consent application and any proposed conditions.

515 We accept that submission. The Applicant's submissions went on to state that the Panel must be careful to ensure that the clear directive from Parliament to give greatest weight to the purpose of the FTAA is not diluted.[92]

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[91] Memorandum of Counsel on behalf of Lodestone Energy Limited, dated 10 February 2026.
[92] At [2.7].

516 The approach to RMA objectives and policies was also addressed in submissions, by reference to the Supreme Court's *East West Link* decision.[93] We note that *East West Link* was decided under the RMA, not the FTAA. Reconciling competing provisions is less problematic under the FTAA since the FTAA contains an explicit statutory hierarchy, as already explained above. Were we to find that there are competing directive provisions in the RMA instruments, that would be a good reason to find that the purpose of the FTAA deserves more weight in our clause 17 evaluation.

517 In any event, we accept the Applicant's submissions at paragraphs 2.18-2.19[94] that in this case there are no competing equally directive objectives and policies that require resolution using the approach set out in *East West Link* or the Supreme Court's earlier decisions. The Mackenzie Plan was amended by Plan Change 26 to implement the NPS-REG (as it was then). It did that by introducing REG-specific provisions to Part 2 of the Mackenzie Plan. The REG objectives and policies, and in particular policy REG-P5 and REG-P6 largely restate the evaluative process that is required by the NPS-REG itself, but of course without the need for the subsequent step of standing back and giving the greatest weight to the purpose of the FTAA to facilitate the delivery of infrastructure and development projects with significant regional and national benefits.

The Economic Impact Assessment Report

518 The Applicant maintains that the Haldon Solar project will generate a significant contribution to the economy and enhanced environmental outcomes through the generation of renewable electricity. In support of this contention, the Applicant put forward an Economic Impact Assessment report by Mr Tom Harris of M.E Consulting (the **EIA**).

519 M.E Consulting noted that:[95]

> [The Haldon Solar Farm] will comprise approximately 360,000 photovoltaic modules, 48 power stations and a substation connected to the National Grid. The site is expected to generate approximately 370 GWh of renewable electricity annually, which can meet the energy needs of around 45,105 households.

520 The EIA asserted that the Project's construction phase is expected to span 14 to 18 months, with considerable expenditure to be spent in New Zealand, and annual operation costs to be in

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[93] *East West Link*, above n 46.
[94] Memorandum of Counsel on behalf of Lodestone Energy Limited, dated 10 February 2026
[95] M.E Consulting *Haldon Solar Project Economic Impact Assessment*, at 4

New Zealand over the Project's 35-year lifespan. The economic impacts of the Project were assessed using a multi-regional input-output model, capturing direct, indirect, and induced effects. M.E Consulting concluded that the effects would include:[96]

- **Construction Phase Employment**: The project is expected to support approximately 235 - 242 direct jobs, 290 - 291 indirect jobs, and 219 - 220 induced jobs. These figures align with LEL's estimate of 250 - 300 total jobs during construction.
- **Operational Phase Employment:** Approximately 5 - 6 direct jobs per year will be sustained during the operational phase, reflecting ongoing maintenance and monitoring activities. This also aligns with LEL's estimates of 3-4 on-site jobs.
- **Value Added:** The real present value of economic value added is estimated at $134.0 million - $135.4 million (direct + indirect) and rises to $189.0 million - $189.5 million when induced effects are included.

521 M.E Consulting says it contributes in three ways (some of which we note are not just economic benefits):[97]

- **National Policy Statement for Renewable Electricity Generation (NPS-REG):** Contributing to the Government's aspiration for 100% renewable electricity generation by 2030.
- **Emissions Reduction Plan**: Supporting New Zealand's goal of achieving net zero carbon emissions by 2050.
- **Mackenzie District Plan:** Promoting the development of renewable energy generation in the region while minimizing adverse environmental impacts.
- **Energy Security and System Resilience**: Diversifying supply, which is currently dominated by hydroelectric power in the South Island, helps to guard against various energy risks, including natural disasters. Solar generation also offers a natural hedge against drought conditions and fluctuating hydro output by providing consistent daytime generation.

522 The specific statements in that report about the economic benefits (as distinct from the conclusions) were not disputed in any of the comments received. However, some of the commentators have expressed scepticism about the asserted economic benefits.

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[96] At 4.
[97] At 4–5.

523 Te Rūnanga o Arowhenua raised uncertainty about the Project's ability to deliver economic benefits in the long-term:[98]

> Arowhenua are uncertain in terms of the Project's ability to deliver these economic benefits long term. Arowhenua acknowledge employment opportunities will be generated during the construction phase; however, this is for a short duration and likely to be tendered to established construction teams experienced in large-scale solar development that are located outside of the district, not the residents of Fairlie, Tekapo and Twizel or Rūnaka.

524 Te Rūnanga o Ngāi Tahu makes the same comment concerning uncertainty about the ability of the Project to deliver the anticipated infrastructure and economic benefits from a broader perspective.[99]

525 Forest and Bird is more pointed in its criticisms of the claim of national and regional benefits. It says:[100]

> The Applicant's application asserts that the proposal will generate regional and national benefits. However, this assertion is not referenced. The Applicant relies on the economic assessment attached to the application. However, the economic assessment does not conclude that the application will have significant regional or national benefits.

526 It is said that the claim of regional and national benefits is unsupported by evidence. It is asserted that:[101]

> While there are undoubtedly benefits from the proposed solar farm, there is no evidence that these benefits will be regionally or nationally significant. In addition, some of the benefits claimed in the economic assessment appear questionable.

527 Forest and Bird notes that the economic benefits of $134 million directly and $189 million induced, potentially achievable by the Project, are relatively small compared to the size of the Canterbury regional economy at $47 billion annually. In their response to the comments, the Applicant countered that the Project's direct economic value represented a substantial portion of 25% of the Mackenzie District's annual GDP of $533 million.[102]

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[98] Te Rūnanga o Arowhenua comments at [58].
[99] Te Rūnanga o Ngāi Tahu comments at [3.35].
[100] Forest and Bird comments at [143].
[101] Forest and Bird comments at [147].
[102] While we accept this proportion, it would seem of limited relevance, as much of the economic value is likely to occur outside of the Mackenzie District.

528 Forest and Bird did not put forward any economic evidence to support its comments. Citing other panel decisions, they have criticised the use of a gross economic impact approach. They comment that a net cost-benefit analysis is required to establish national or regional significance.[103]

529 Forest and Bird relies on the *Delmore* draft decision of an FTAA panel, which considered an urban housing development in Auckland.[104] In that draft decision declining the application, there had been no detailed cost-benefit analysis. There had been significant concerns raised by the council's economist, noting that gross benefit figures were presented without any assessment of costs, opportunity costs, and the redirection of infrastructure investment from other growth areas. The council's prime submission was that the existing infrastructure would not allow the benefits to be achieved on a proportionate basis. There was a failure on the part of that Applicant to address significant infrastructure concerns and ecological effects.

530 The use of an economic impact assessment (EIA) over a cost-benefit analysis (CBA) has been criticised by other panels. As submitted by Forest and Bird, the panel for the Delmore project, in its draft decision, concluded that the gross benefits approach adopted by the Applicant was not sufficiently robust and that a net approach that takes into account the opportunity costs of land and labour, infrastructure costs, and environmental effects would be more appropriate. The panel of the Sunfield project came to a similar conclusion and found that the proposal likely overstated the economic benefits that will arise from the project, due to the methodology of the input-output modelling used. Despite the criticism of the economic assessment, the Sunfield draft decision found that the project would provide significant regional and national benefits overall, and has indicated in the draft decision that it will approve the project.

531 The Panel in *Tekapo* approved the application despite that there was no CBA. There appears to have been no expert economic evidence adduced. However, the Panel was able to draw its own conclusions from direct evidence of benefits set out in section 5.2 of the AEE "Decarbonisation and economic effects", and Appendix G "Tekapo Power Scheme – electricity sector benefits", Concept Consulting, February 2025.[105]. The Panel referred to the broad facts of the benefits of the secure supply of electricity, the costs of an alternative renewable source, and the benefits for the Region.[106] It is accepted that the circumstances of

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[103] Forest and Bird comments at [153].
[104] FTAA-2502-1015 Draft Delmore decision, dated 17 September 2025 (application subsequently withdrawn).
[105] FTAA-2503-1035 Genesis Energy Limited Decision Report dated 3 November 2025 at 343.
[106] At 344 and 345.

that decision were different in that it was an application for resource consents for an existing hydro facility. However, it indicates that a cost benefit analysis is not essential to establishing significant regional and national benefits. That was a decision prior to the amendments to the NPS-REG.

532 The Panel in Waihi North, relying on the Supreme Court decision of Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board, stated:[107]

> It was argued in Trans-Tasman Resources that the reference to "economic benefit" required a cost benefit analysis which ascribed monetary values to environment, social and cultural costs. This approach was rejected by the Supreme Court which concluded that a "qualitative analysis of environmental, social and cultural benefits and costs, had been open to the decision-makers.[108]

533 The recent consideration of regional and national benefits is in the *Southland Wind Farm* decision. It was stated that in considering regional and national benefits:[109]

> We also note that the asserted primary benefits of the Project are expressed in general monetary terms, but that there is an obvious and understandable lack of precision in this respect because of the fluidity of electricity markets and future demand for electricity. There would inevitably be considerably less precision in valuing social, aesthetic and cultural conditions of amenity values for those living near the Project.

534 We are mindful that the *Delmore* and *Sunfield* projects are for the development of residential dwellings, which is very different in nature to this Application for the development and operation of a solar farm. However, we understand the criticism that there is no cost-benefit analysis, or even an assessment of what the costs of construction and running the solar farm might be. There could have been an analysis of what the equivalent land lease payments could have been, the opportunity cost of the land, and the cost of ecological restoration, expenditure and ecosystem services. There could have also been some assessment of what jobs would be taken by people in the Mackenzie District or the Canterbury Region, and to what degree the benefits would go offshore.

535 The FTAA does not prescribe a particular economic methodology and does not require a cost-benefit analysis, and given the range of unquantifiable costs, we are not convinced that a cost-

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[107] FTAA-2504-1046 *Waihi North* Decision Report at [787].
[108] *Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board* [2021] NZSC 127 at [188]–[192].
[109] FTAA-2508-1095 *Southland Wind Farm* Decision at [849].

benefit analysis would be preferable. We understand that economic impact assessment, using an input-output model as the Haldon EIA has, can tend to overstate economic benefits.[110] Overall, there will be trade-offs against the benefits, but plainly, when potential or alternative opportunity costs are examined for the site itself, there will be benefits. The site, as it is at present, is of low economic use. Overall, the Panel accepts that the EIA report does show significant economic benefit during both construction and operation of the Project. The Panel would have preferred a more robust, integrated approach to the economic analysis, likely involving assessment across other models. However, in the context of a new solar farm development on a site with obviously limited economic use, the EIA approach provides an adequate level of economic evidence supporting this Project.

536 We find that the project will generate significant regional employment in the construction stage, and ongoing employment of regional benefit in the operational phase. It will result in a much greater economic benefit than will be achieved if the land is left in its existing state, where it is generating little income. That income from the extra jobs and associated expenditure will be regionally significant. We are bound to recognise under NPS REG that there is an operational need or functional need for REG, and that this is a location suited in physical terms for REG, and has accessibility and connectivity to an electricity network.

Non-economic benefits

537 Benefits in s 3 of the FTAA are not limited to economic benefits. We are required by the NPS REG to recognise that REG has benefits at local, regional, and national scale. The relevant benefits under that instrument at clause 2.2 Policy A are particularised to include:

a. avoiding, reducing and displacing greenhouse gas emissions;
b. contributing to the security, resilience and independence of electricity supply at local, regional and national scales through diverse REG sources and electricity storage in diverse locations;
c. providing for the social, economic and cultural wellbeing of people and communities and for their health and safety;
d. using renewable rather than finite sources of energy;
e. avoiding reliance on imported and domestic fossil fuels for the purposes of generating electricity;
f. the temporary and reversible nature of adverse effects on the environment of some REG technologies;

[110] For example, addressed in Fairgray, J, 2026, Economic Assessment for Fast Track Approvals Act 2024

g. reducing electricity losses by locating REG activities close to electricity demand and existing electricity networks; and
h. reducing adverse effects by:
    i. co-locating REG with other appropriate REG assets and activities and other appropriate infrastructure and activities; and
    ii. locating REG activities to minimise adverse effects on other activities.

538 The guidance we take from this is that we are not constrained to read the purpose of the FTAA as limited to facilitating the delivery of infrastructure and development projects that have significant regional or national *economic* benefits. That word is not used. There are other benefits, such as reducing greenhouse gas emissions and reducing reliance on fossil fuels, that are relevant to our determination of whether those benefits are significant at a regional or national scale.

539 It is also argued by the Applicant that there is a great benefit of locating the Project in a hydro catchment area that it provides, within the area, a natural hedge against dry years that would otherwise constrain the supply of electricity. It can be expected that in periods of low rainfall in the Mackenzie Basin, there will also be long periods of sunlight hours that can contribute to solar power to compensate for the reduced hydropower. Although there is no explicit disagreement with this proposition, the Panel does recognise that such a natural hedge is not necessarily dependent on being close to a hydrogeneration site and may be able to be provided in much the same way from a solar farm site that is a considerable distance away.

540 As Forest and Bird accepts, the only realistic alternative to generating electricity from solar power in terms of climate change mitigation is new wind generation.[111]

541 While it is a case that hydro schemes in the Mackenzie Basin are, to an extent, far away from the major electricity markets they supply, it is plainly the case that it is economic in the assessment of private enterprise to generate the power from South Island solar farms. The Panel is unable to form a precise assessment of what the economic advantages of a solar farm in the Mackenzie Basin are in comparison to an equivalent, say, in the North Island. No analysis has been presented to the Panel in this regard, and this is not an exercise that the Panel has to undertake under NPS-REG Policy C(3).

542 However, we note that the Mackenzie Basin's high sunshine hours, flat land and comparative isolation lend support to the Applicant's submission that the Project's location adjacent to

[111] Forest and Bird comments at [157].

high-voltage transmission infrastructure is relevant to the assessment of national benefit. It will utilise existing national grid assets and avoid the need for extensive new transmission investment and building in other parts of New Zealand. It can be integrated efficiently into the national electricity system. That said, even in the context of the Mackenzie Basin, this site is hardly unique in terms of those criteria for the suitability for a solar farm, given the abundance of flat land near a transmission line.

543 We note that the majority of comments accept that there are regional and national benefits.[112] In particular, it is said by DOC:[113]

> The first update is that, since the application was lodged, the National Policy Statement for Renewable Electricity Generation 2011 (NPS-REG) was amended in December 2025. The general effect of this is to strengthen the weighting to be given to the benefits of renewable electricity generation. In this regard, DOC agrees that the proposal will have significant benefits, as recognised particularly in NPS-REG Objective and Policies A and B.

544 The benefits of REG generally, and in relation to this project, can be seen as recognised and supported by members of the present government, including:

a. The Minister Responsible for RMA Reform and for Infrastructure;
b. the Minister for the South Island;
c. the Minister for Energy.

545 Further, the Minister for Climate Change has stated that the project will likely bring significant national and regional benefits in terms of climate mitigation and regional benefits in terms of climate adaptation.

546 We also accept that this project will contribute positively to New Zealand's efforts to mitigate climate change by providing a significant new source of renewable energy. There will be a reduction in the reliance on non-renewable sources of energy.

547 Transpower's comment on the Application indicates that although the wider transmission system capacity in the region is relatively unconstrained, electricity market constraints will

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[112] For example, Mackenzie DC comments at [17], CRC comments at [24]; Minister of Climate Change and Minister for Energy.
[113] DOC comments at [5.18]

place a practical and economic limit on how many projects are built. There is no evidence that the transmission system capacity is likely to be increased in the near future.[114]

548 In the end, the Panel is satisfied that the Haldon Project Economic Impact Assessment does establish that there will be additional regional economic activity generated by the Project, and that it will deliver enduring national benefits through renewable electricity generation, carbon emissions abatement, and energy system resilience, as well as employment and capital investment.

549 We find that we are not required to quantify regional or national benefits in a precise way. The Panel is required to be satisfied with the evidence that significant regional or national benefits will arise, in order to meet the purpose of the FTAA. That seems to be the approach followed in *Tekapo*. And we keep in mind too, that we are directed by the NPS REG to recognise and provide for the national significance and the national, regional and local benefits of REG activities. Those benefits may arise cumulatively, even though an individual proposal may be of a small scale.[115] For the purposes of a proportionality assessment under s 85(3) of the FTAA, the Panel does need to be able to consider the relative scale of the national, regional and local benefits, to assist in the assessment of whether or not adverse impacts are out of proportion.

Conclusion on Regional and National Benefits

550 In the end, we accept the comment of M.E Consulting that by introducing a complementary energy source to the Mackenzie District's hydroelectric-dominated energy profile, the project will help mitigate risks related to drought conditions and fluctuating hydroelectric outputs, and advances in battery storage technology will further enhance the project's ability to support peak demand and grid stability. The solar farm is expected to generate 370 GWh of renewable energy annually, enough to power around 45,105 households.

551 In our assessment, the economic return of the land, given its very low level of present use, is minimal. In contrast, the proposed solar farm will inject many millions of dollars into the region during the construction phase, and support 220–250 jobs during that construction phase. In its operational phase, it would support approximately 5–6 direct jobs per year, and possibly more for the management of off-set areas and ongoing monitoring and response to ecological

[114] Transpower comments at [4.11].
[115] NPS-REG, Policy B(1)(a).

effects. We are also mindful of the need to locate the renewable electricity generation activity where the renewable energy resource is located, and the additional efficiency where there is existing infrastructure for transmitting electricity.

552 We conclude that there will be significant regional benefits arising from the employment and income generated by the construction and operation of the Haldon Solar Farm. There will also be significant national benefits in that the solar farm will contribute to a more secure supply of electricity at a national level, assist New Zealand in meeting its emission reduction targets, and assist in implementing the emissions reduction plan under the Climate Change Response Act 2002. The position close to transmission infrastructure, combined with the natural flatness and high photovoltaic power potential, are special attributes not easily replicated. While we consider these regional and national benefits to be significant.

PART G: STATUTORY DOCUMENTS

553 The AEE addressed the relevant statutory documents and identified relevant provisions. Rather than repeat all of that, this section addresses the documents of particular relevance to the Application (particularly relevant provisions) and the comments received, along with identifying changes to National Policy Statements and plans that have occurred following lodgement of the application. The Panel also relies on our conclusions on effects in support of the conclusions reached on relevant planning provisions (including Part H: Regional and District Planning Framework as relevant to the topic area).

National Policy Statements

554 The relevant National Policy Statements were addressed in section 10 of the AEE and include:

a. National Policy Statement for Freshwater Management 2020 (**NPSFM**);
b. National Policy Statement on Renewable Energy Generation 2011 (**NPS-REG**)

555 Further, in January 2026, the following relevant National Policy Statements were amended or came into effect:

a. National Policy Statement for Infrastructure 2025
b. National Policy Statement for Renewable Energy Generation 2011
c. National Policy Statement for Natural Hazards 2025
d. National Policy Statement for Electricity Networks 2008

556 Of these four new or amended NPSs, we do not consider the NPS for Natural Hazards to be relevant to the proposal, as clause 1.3 states that the NPS does not apply to infrastructure, which is defined in the RMA to include "…facilities for the generation of electricity…". Similarly, the NPS for infrastructure states in clause 1.3 that it does not apply to renewable energy generation and electricity transmission, as these activities have their own NPSs.

557 We observe that the indigenous biodiversity considerations have their own National Policy Statement in the NPS-IB. The Tekapo Panel was called upon to consider the interplay between the NPS-REG and the NPS-IB and said this:[116]

> 369 Notwithstanding that, the AEE refers to paragraph 3 of section 1.3 "Application" of the NPS-IB which states:
>
> > Nothing in this National Policy Statement applies to the development, operation, maintenance or upgrade of renewable electricity generation assets and activities and electricity transmission network assets and activities. For the avoidance of doubt, renewable electricity generation assets and activities, and electricity transmission network assets and activities, are not "specified infrastructure" for the purposes of this National Policy Statement.
>
> 370 As noted in the AEE, the Scheme is a renewable electricity generation asset and activity, and therefore in terms of paragraph 3 set out above, the NPS-IB does not apply. Accordingly the Panel is satisfied that is not required to consider the NPSIB any further

558 We agree with that statement. Under the RMA, the NPS-IB has been disapplied in the context of renewable energy generation proposals to which the NPS-REG applies.

National Policy Statement for Renewable Energy Generation 2011

559 Further to the comments already made on the NPS-REG, this document is a National Policy Statement made under the RMA. The purpose of a NPS under the RMA is set out in s 45(1) of that Act. In short, it is to state objectives and policies for matters of national importance. The NPS-REG came into effect on 13 May 2011, but it was substantially amended in December 2025, with the amendments taking effect on 15 January 2026.

560 We note that all invitees in their submissions have assumed that the latest version of the NPS-REG applies. We think that it is the correct position to take. There is no transitional clause

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[116] FTAA-2503-1035 *Genesis Energy Limited* Decision Report.

which keeps the old version alive for applications that were underway before the amendment came into force. Therefore, the default provision of s 26(1) of the Legislation Act 2019, which reads: "Secondary legislation or a part of any secondary legislation comes into force on the date stated or provided for in the legislation" applies.

561 The amendments to the NPS-REG were a change to a national policy statement made by the Minister for RMA Reform acting for the Minister for the Environment under s 53(1) of the RMA and notified in the New Zealand Gazette on 18 December 2025. It is stated at s 53(3) of the RMA that a change under s 53 of the RMA is secondary legislation, referring to Part 3 of the Legislation Act 2019.

562 The relationship between the FTAA and the RMA is outlined in Schedule 5 of the FTAA, set out earlier in Part C of this decision. We note that while, strictly speaking, the consideration of any national policy statements issued under the RMA for the purposes of making a decision under the FTAA would fall under cl 17(1)(c) of Schedule 5 of the FTAA, we are also using the NPS-REG to assist with interpreting and understanding the purpose of the FTAA at s 3, which we are required to give the greatest weight to, as stated at cl 17(1) of Schedule 5.

563 In terms of the relevance of the various National Policy Statements, the Panel considers that the NPS-REG warrants greater weight than the other National Policy Statements in the particular circumstances of this application. The NPS-REG is directly relevant to the proposal, it has directive guidance about how the Panel should consider different aspects of the decision-making process, and, with the recent updates, is a clear statement about how renewable energy and its benefits and residual effects should be addressed by decision makers.

564 The objective of this National Policy Statement is to:

(a) ensure the national, regional and local benefits of REG are provided for;
(b) enable REG capacity and output to significantly increase;
(c) enable REG to support the social, economic and cultural wellbeing of people and communities, and for their health and safety;
(d) enable REG to provide greater security of electricity supply and resilience to supply disruptions to all people and communities;
(e) enable REG to support achieving New Zealand's emission reduction target and implementation of the emissions reduction plan under the Climate Change Response Act 2002; and
(f) ensure REG is developed and operated in a safe, efficient and effective manner while managing the adverse effects from or on REG activities.

565 This Objective is supported by eight Policies, of which five are particularly relevant to this proposal. The remaining three Policies relate to existing renewable energy activities. The five relevant Policies are directive for decision-makers and set out a number of matters that must be done during the decision-making process. These Policies are under the headings of:

Policy A: National significance and benefits of renewable electricity generation

Policy B: Considering cumulative gains and losses of renewable electricity generation capacity

Policy C: Operational need or functional need for REG assets and activities to be in particular locations and environments

Policy E: Recognising and providing for Māori interests

Policy F: Enabling and managing the effects of REG assets and activities on the environment

566 Policy F, in particular, provides important context for the consideration of the application and the NPS-REG. Policy F states:

> Policy F: Enabling and managing the effects of REG assets and activities on the environment
>
> 1. Decision-makers must enable REG assets and activities in all locations and environments.
> 2. Where REG assets and activities are proposed to locate in or are likely to have adverse effects on environments and values provided for in section 6 of the Act, the provisions of this policy must be read alongside other relevant national direction, regional policy statements and regional and district plans.
> 3. Where (2) does not apply, the adverse effects of REG assets and activities must be, where practicable, avoided, remedied or mitigated.
> 4. Decision-makers must have particular regard to the use of adaptive management measures.
> 5. When considering any residual adverse effects of REG assets and activities that cannot be avoided, remedied or mitigated, decision-makers shall have regard to offsetting measures or environmental compensation, including measures or compensation that benefit the local environment and community affected.

567 As noted earlier, the NPS-REG is generally enabling of renewable energy development, and this is reflected in clause 1 of Policy F. However, clause 1, read in the context of the remainder of the policy, identifies that this is not a direction to approve every decision that comes before a hearing panel.

568 Clause 2 identifies that where matters addressed by s 6 of the RMA are affected, Policy F needs to be considered "alongside" other relevant national direction, regional policy

statements, and regional plans. This identifies the particular relevance of the CRPS and Mackenzie Plan objectives and policies.

569 In considering what "alongside" means, the Panel considers this to be analogous to "along with" or giving equal consideration to this Policy and the objectives and policies of those documents. It does not suggest that Policy F is superior. The Panel has been assisted by the consideration of the CRPS and Mackenzie Plan in comments lodged by s 53 invitees, and the Applicant's AEE and responses to s 53 comments.

570 Clause 4 relates to the use of adaptive management approaches, and it is noted that the Applicant has advanced what it considers to be adaptive management for dealing with ecological matters, particularly in relation to uncertainty and responses to longer-term monitoring. That said, the Panel is doubtful that enhancing mitigation or (primarily) compensation if actual effects exceed predicted levels is actually 'adaptive management'.[117]

571 Clause 5 recognises the importance of offsetting and compensation, which have been addressed at some length in this decision, as they are critical parts of the Application, and have evolved over time.

National Policy Statement for Freshwater Management 2020

572 The NPSFM sets out a framework under which local authorities are to manage freshwater (including groundwater).[118]

573 The objective of the NPSFM is to ensure that natural and physical resources are managed in a way that prioritises the:[119]

a. health and well-being of water bodies and freshwater ecosystems;
b. health needs of people (such as drinking water); and
c. ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

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[117] The Panel sought some clarity on this issue in a request for information from the Applicant on 24 April 2026. The Applicant explained why it considered that the proposals met the criteria for adaptive management.
[118] NPSFM clause 1.5.
[119] NPSFM clause 2.1.

574 This objective reflects the hierarchy of obligations in Te Mana o te Wai.[120]

575 The Applicant in the AEE has assessed the Project against the objective and policies of the NPSFM in terms of the direction that local government manages water in an integrated and sustainable way while providing for economic growth within set water quantity and quality limits.[121] The Panel has considered this analysis and agrees with it.

576 The Panel notes that the proposal includes relatively modest discharges, that may reach waterbodies, and that the waterbodies, although of very high quality, are generally some considerable distance from the site or are groundwater. There are no surface waterbodies within the site.

National Policy Statement for Electricity Networks 2008

577 This NPS was updated and renamed in December 2025, coming into effect in mid-January 2026. The Panel agrees with the Applicant's interpretation that this NPS is applicable to that part of the substation and transmission line upgrades that will be operated by Transpower.[122]

578 The Panel notes that the NPS for Electricity Networks is supportive of transmission infrastructure and requires the national importance and benefits of such infrastructure to be recognised and provided for, in a similar manner to the NPS-REG.

Other National Policy Statements

579 The Panel agrees with the Applicant's assessment that the National Policy Statement for Highly Productive Land is not relevant to this proposal.

National Environmental Standards

580 The Panel notes that approval is required under the National Environmental Standards for Electricity Transmission Activities) Regulations 2009, due to the proposed additional transmission tower, connecting lines and capacity increase. This is set out clearly in the application at section 5.3.1.

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120 NPSFM clause 1.3.
121 At section 9.5.1 of the substantive application.
122 Per para 53 and 68 of Gover and Henry Planning Evidence dated 10 February 2026.

581 The Panel does not consider any other National Environmental Standard to be relevant to the proposal.

582 Overall, the Panel considers, for the reasons set out above, that the proposal is generally consistent with the relevant National Policy Statements.

PART H: REGIONAL AND DISTRICT PLANNING FRAMEWORK

583 An assessment of the relevant statutory plans has been included within the AEE as is required by Schedule 5, clause 5(1)(h).

584 The Panel has reviewed and considered the assessment provided by the Applicant and the comments provided by the Council. We have also considered the careful analysis of relevant objectives, policies and other provisions that have been put forward by other invitees, such as EDS and Forest and Bird. We outline the most relevant provisions of these in the following sections (as well as adding further considerations and assessments).

Canterbury Regional Policy Statement (CRPS)

585 The CRPS has been considered and addressed in the Applicant's AEE. The Panel considers that the most relevant objectives and policies are contained in Chapter 16 - Energy, Chapter 12 - Landscapes, and Chapter 9 – Ecosystems and Indigenous Biodiversity sections of CRPS.

586 With respect to energy, and the benefits of renewable energy generation, it is notable that the CRPS predates the current amendment to the NPS-REG, and the CRPS objectives and policies, particularly Objective 16.2.2, while still positive, appear somewhat less enabling of renewable energy generation than the NPS-REG.

587 Objective 12.2.1 of the CRPS relates to the protection of outstanding natural features and landscapes. The Panel notes that the objective is framed in terms of protecting outstanding natural features and landscapes from inappropriate development. The implications of the objective turn on considering what is inappropriate. For the reasons given in the earlier assessment of effects on landscape and natural character, the Panel does not consider that the proposed use and development of the Site for a solar farm to be inappropriate in the context of this objective.

588 Objective 9.2.3 and Policy 9.3.1 require the identification and protection of significant natural areas. As has been discussed earlier, the Panel understands that it is undisputed that the site contains significant indigenous vegetation and significant habitats of indigenous fauna, after considering the criteria in Appendix 3 to the RPS.

589 On that basis, the objective requires protection of those values and ecosystem functions, and Policy 9.3.1(3)[123] requires that protection to ensure no net loss of indigenous biodiversity as a result of the activity. Policy 9.3.6 sets out the limits on use of off-setting, which also emphasises no net loss, or preferably net gain, perpetual protection. The Panel considers that this objective and these policies are quite directive in terms of outcomes to be achieved and clearly worded with respect to expectations, with 'protection' having its ordinary meaning of 'to keep someone or something safe from injury, damage, or loss.'[124] The Panel considers that there may be effects on some significant indigenous vegetation and significant habitats of indigenous fauna on the Site such that a no-net-loss outcome is not able to be achieved, even after considering the various effects management put in place by the Applicant[125].

Mackenzie District Plan

590 The Mackenzie Plan provisions were helpfully assessed in the substantive application at section 9.9. As elements of the Mackenzie Plan have had further decisions made on them through the course of this process, additional helpful updates and analysis have been provided by Mr Boyes for Mackenzie DC, the Applicant, and Forest and Bird, the latter especially in relation to ecology matters.

591 The Mackenzie Plan has a number of planning layers affecting this site, which impact upon activity status and highlight issues that the Panel needs to consider, which it has done so through its assessment of the effects of this application. The Panel understands that the policy direction for renewable energy activities is largely contained in the REG provisions, which comprise objectives and policies, several of which are specific to the many existing renewable energy facilities in the district. For the purposes of the application, the Panel considers Objective REG-O1 and Policy REG-P5 to be most relevant. These read:

REG-O1 General Output

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123 *3. Areas identified as significant will be protected to ensure no net loss of indigenous biodiversity or indigenous biodiversity values as a result of land use activities.*

124 Cambridge On-line Dictionary

125 See discussion above at [303]-[305]

The output from renewable electricity generation activities in the District for national, regional and local use is increased to support achievement of the New Zealand Government's national target for renewable electricity generation.

REG-P6 Other Renewable Electricity Generation Activities – Within areas of significant indigenous vegetation and significant habitats of indigenous fauna, ONLs, ONFs, riparian areas and SASM or on highly productive land

Provide for renewable electricity generation activities (not otherwise specified in REG-P3 and REG-P4) within areas of significant indigenous vegetation and significant habitats of indigenous fauna, Outstanding Natural Landscapes, Outstanding Natural Features, Sites and Areas of Significance to Māori, riparian areas, or within area of Highly Productive Land, where:

1. there is a functional need or operational need for the activity to be in that location;
2. adverse effects on the values of the area are avoided as far as practicable, including through site, route or method selection, design measures and other management methods;
3. adverse effects on the values of the area that cannot be avoided are remedied or mitigated, where practicable;
4. other adverse effects (that do not affect the values of the area) are avoided, remedied or mitigated as far as practicable;
5. regard is had to any proposed offsetting measures or environmental compensation (including considering Policy 4 in Section 19 and Appendix Z), where there are significant residual adverse effects that cannot be avoided, remedied or mitigated; and
6. particular regard is had to the practical constraints associated with renewable electricity generation activities, including the:
    a. location and efficient use of existing electricity generation, transmission and distribution infrastructure; and
    b. the need to locate the renewable electricity generation activity where the renewable energy resource is located.
7. following application of 1-6 above, consideration is given to whether the benefits of the activity outweigh any significant residual adverse effects on the values of the area.

592 The Panel notes the helpful analysis of these provisions by the Applicant and s 53 invitees. The Panel has considered the direction provided by this Objective and Policy in its consideration of effects, and the consideration of residual effects in particular.

593 One matter that the Panel does wish to comment on is the emphasis to be placed on Policy 4 of Section 19 and Appendix Z, given the detail with which this was discussed by Forest and Bird and the Applicant in response. In summary, the Panel prefers the view of the Applicant, in that the wording of Policy REG-P6(5) suggests to the Panel that Policy 4 of Section 19 and Appendix Z are 'in the mix' in that they have been considered and regard has been had to them. The Panel notes that there are many other policy directives, including in National Policy Statements, that the Panel needs to consider that are worded more emphatically.

594 Overall, for the reasons set out in this decision, the Panel considers that the proposal is broadly consistent with the objectives and policies of the Mackenzie Plan.

Conclusion regarding consistency with the regional and district planning framework

595 The Panel has taken some time considering the policy direction of the various documents it needs to consider. This is particularly in light of the evolving mitigation and compensation packages put together by the Applicant, as initial deficiencies in the application we identified, and more latterly, when Panel concerns over the level of residual ecological effects were evident.

596 The Panel is now of the view that the application, while still having some residual adverse effects on ecology, is, overall, consistent with the objectives and policies of the regional and district objectives and policies.

Planning documents recognised by a relevant iwi authority and lodged with the Council

597 An application for a resource consent must include an assessment of the activity against any relevant provisions of a planning document recognised by a relevant iwi authority and lodged with a local authority.[126]

598 The substantive application document sets out the relevant iwi management plans at section 9.10.1. It is the Panel's understanding that the following planning documents recognised by relevant iwi authorities have been lodged with the Council:

a. Waitaki Iwi Management Plan 2019
b. Iwi Management Plan of Kati Huirapa 1992
c. Ngai Tahu Resource Management Strategy for Canterbury Region 2014.

[126] Schedule 5, clause 5(1)(h) and clause 5(2)(g).

599 The substantive application document briefly summarises these documents, and identifies that:

> The iwi management plans pertaining to the area do not deal directly with activity-specific matters such as the development of renewable electricity, but include policies intended to protect the environment. They also emphasise the importance of direct engagement with takata whenua to ensure that their rakatirataka, kaitiakitaka and integral relationship with the land are acknowledged and provided for.

600 The Panel agrees with this view, and also notes that the most emphasis should be placed on the Waitaki Iwi Management Plan, partly because it is more recent and contains some more certain local guidance, but also because it is jointly prepared by the three rūnanga that have been engaging with the Applicant and providing useful commentary on mana whenua interest and values through this process.

601 In considering the iwi management plans, and the Waitaki Iwi Management Plan in particular, the Panel notes that the FTAA process is one small part of what is a fundamental relationship of mana whenua with Te Manahuna, and that the ongoing constructive relationship between mana whenua and the Applicant is a key part of responding to mana whenua interests. The Panel expects that the establishment of the Kaitiaki Governance Group is a step towards this.

Treaty settlements

602 As noted in Part D, s 7 of the FTAA states:

> 7 Obligation relating to Treaty settlements and recognised customary rights
>
> (1) All persons performing and exercising functions, powers, and duties under this Act must act in a manner that is consistent with—
>
> (a) the obligations arising under existing Treaty settlements; and
>
> (b) customary rights recognised under—
>
> (i) the Marine and Coastal Area (Takutai Moana) Act 2011:
>
> (ii) the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.
>
> (2) To avoid doubt, subsection (1) does not apply to a court or a person exercising a judicial power or performing a judicial function or duty.
>
> (3) In this section, **existing Treaty settlements** means Treaty settlements that exist at the time the relevant function, power, or duty is performed or exercised (rather than only those that exist at the commencement of this Act).

603 The Panel understands[127] that The Ngāi Tahu Claims Settlement Act 1998 is the relevant Treaty settlement for the project area. That settlement provides for a statutory acknowledgement and a deed of recognition over Te Ao Mārama/Lake Benmore, which is approximately 200 metres from the project area. In addition, the Settlement Act provides for a nohoanga entitlement a short distance from the project area.

604 As noted in Part B the Panel directed the EPA to seek comment from the Minister for Māori Crown Relations: Te Arawhiti and the Minister for Māori Development under s 72 FTAA. A brief letter was received in reply, supporting the draft decision and the draft conditions.

[127] Based on the AEE and the lack of any contrary views or evidence provided to the Panel.

PART I: THE PRINCIPAL ISSUES IN CONTENTION

605 As already noted, in Parts E and F of this Decision we assessed the various potential effects of the Project. The principal issues in contention have been discussed in that section of the decision. The principal issues in contention were:

- The regional and national benefits of the project.
- The cumulative effects of the project.
- The permitted baseline on the site, and in particular, whether broadscale herbicide spraying, and ploughing and the planting of crops are already permitted.
- The cultural issues arising from the connection of Manu Whenua to the site, and the role of a Kaitiaki group.
- The effects of the project on indigenous vegetation.
- The effects of the project on avifauna.
- The effects of the project on invertebrates.
- In addition, after the release of the draft decision and conditions, the wording and effectiveness of some of the conditions relating to the Technical Review Panel.

Our Findings

606 We summarise our main findings in relation to these issues.

607 We find that the project positioned as it is on flat land near to the national grid, will generate significant regional employment in the construction stage, and ongoing employment of regional benefit in the operational phase. It will result in a much greater economic benefit than will be achieved if the land is left in its existing state. There will be significant national benefits in achieving the benefits set out in NPS REG at Policy A clause 2.2, and in providing a natural hedge against dry years where Hydro power supply is reduced. In general terms the use of hydro power can be curtailed when solar power is available. There will be carbon emissions abatement.

608 We find that cumulative effects are to be considered on the basis of what is present or consented at the time of this decision. There are no nearby relevant solar farms, or consented solar projects.

609 We find that indigenous vegetation clearance by broadscale herbicide spraying, and ploughing and the planting of crops are not permitted, and the permitted baseline is the seldom-grazed site as it is at present.

610 There will be adverse impacts of concern to Mana Whenua, who are legitimately concerned to have a significant role in the ongoing environmental management of the site. This concern can be met by the creation of a Kaitiaki Group as set out in the conditions in this Decision. The issues have been pro-actively addressed by the Applicant to the extent that Iwi do not argue that the concerns raised are inconsistent with the obligations arising under existing Treaty Settlements in a s 7 FTAA sense. We are satisfied that while there are cultural issues for tangata whenua, those issues will be addressed through the conditions now proposed that create an opportunity for ongoing engagement that reflects the kaitiaki role and status of Mana Whenua.

611 There will be adverse impacts of the project on indigenous vegetation. These can by significantly alleviated by the measures proposed, including avoidance, compensation and management.

612 Despite there being considerable scientific uncertainty about the likelihood of bird injury or mortality from impacts with solar panels on this site, we are proceeding on the conservative basis that there will be adverse impacts of the project on avifauna. These can be significantly alleviated by the measures proposed, including avoidance, compensation and management.

613 There will be adverse impacts of the project on invertebrates. These can be significantly alleviated by the measures proposed, including avoidance, compensation and management.

614 More particularly, as set out in section E of this Decision, these impacts are able to be managed through an appropriate suite of approval conditions including compensation and a comprehensive set of management plans covering construction, operation, maintenance and decommissioning, which will include input from a Technical Review Panel. Vegetation and habitat loss will be addressed by the offset and compensation package proposed.

615 We now set out our findings in relation to the conditions, particularly as they relate to the Technical Review Panel.

CONDITIONS

616 As our consideration of this application progressed, a good deal of our focus was devoted to whether it might be possible to craft conditions that would adequately address the ecological concerns raised by the s 53 invitees. As will be apparent, we have come to the view that an acceptable outcome can be achieved. We appreciate that compensation for the risk of adverse

impacts ecological values is a controversial issue and is a "principal issue in contention" as described in section 87(2)(iii) of the FTAA. For that reason, we set out below our understanding of the relevant aspects of the law in relation to conditions, and our findings in relation to the conditions that we find to be necessary.

617 Clause 18 of Schedule 5 to the FTAA imports the power under the RMA to impose conditions RMA permits granted under the FTAA:

> **18 Conditions on resource consent**
> When setting conditions on a consent, the provisions of Parts 6, 9, and 10 of the Resource Management Act 1991 that are relevant to setting conditions on a resource consent apply to the panel, subject to all necessary modifications, including the following:
> (a) a reference to a consent authority must be read as a reference to a panel; and
> (b) a reference to services or works must be read as a reference to any activities that are the subject of the consent application.

618 The power to impose conditions under the RMA is set out in ss 108 and 108AA of that Act. Section 108(2) empowers a wide range of conditions that may require works to be done, including the enhancement of natural resources (s 108(2)(c)).

619 There is a specific restriction on conditions that require the payment of money to offset an adverse effect (s 108(10)). Conditions on payments of money can only be imposed on an applicant where a District Plan makes specific provision for that.

620 Section 108AA further constrains the power to impose conditions to those that the applicant agrees to, or those that satisfy the requirements of s 108AA(1)(b).

621 On top of that, s 83 of the FTAA further restricts the power to impose conditions. The panel must not set a condition that is more onerous than necessary to address the reason for which it is set.

622 The Courts have long recognised that the limited jurisdiction to impose conditions may be overcome by the applicant. An applicant can propose a condition that is beyond the consent authority's jurisdiction to impose, and such a condition may be relied upon by the consent authority in making its decision. A condition of that kind is reflected in s 108AA(1)(a) of the RMA, as one that the applicant agrees to.

The nature of Augier conditions, and whether that is the basis of the Applicant's offer of 12 June

623 Conditions of consent proposed by an applicant and that are beyond the Panel's jurisdiction to impose, but are intended to be relied upon by the consent authority, are known as *Augier* conditions, after an early English authority. Recently in the Mackenzie Basin, the Environment Court has issued a decision granting replacement consents for the Waitaki Power Scheme.[128] In that case, unavoidable adverse effects on the environment were proposed to be compensated for by an "Indigenous Biodiversity Enhancement Programme (IBEP)" that included very significant financial payments as well as works carried out in conjunction with DOC and mana whenua.

624 The Environment Court explained the concept of *Augier* conditions in this way:

> [200] The Council submits that activation of the Rule in *Augier* has been confirmed by the High Court as requiring four elements. These elements are:
>
> (a) a clear and unequivocal undertaking to the Court and/or the other parties;
>
> (b) receipt of the grant of resource consents in reliance on that undertaking;
>
> (c) the imposition of a condition on those resource consents which broadly encompasses the undertaking;
>
> (d) detriment to the Court or the parties if the undertaking is not complied with.
>
> […]
>
> [203] We therefore accept the submissions of Meridian and the Council that the IBEP can only be proffered on an *Augier* basis and that the programme, while containing mitigation actions undertaken by DOC, is effectively a funding package more properly classified as compensation for the ongoing adverse effects of the WPS.

625 The Environment Court went on to record that conditions offered on an *Augier* basis cannot be amended except by the Applicant:

> [302] Other key conditions establishing the IBEP and river management contributions, and the new varial monitoring programme for the Lower Waitaki River, are proffered by Meridian on an Augier basis and are also not available for amendment.

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[128] *Meridian Energy Limited v Canterbury Regional Council Decision* [2026] NZEnvC 140.

626 We adopt that summary. Like the *Meridian* case, the Panel's decision in the present case relies on the availability of environmental compensation to address the risk of adverse effects on certain indigenous species that cannot be avoided.

627 The Applicant's proposal in this case has similar features to Meridian's IBEP. By letter dated 12 June 2026 the Applicant responded to RFI#6. The Applicant said:

> To assist the Panel in progressing its decision-making, Lodestone is prepared to amend its proposal such that the full $1,000,000 avifauna compensation contribution is paid upfront in a single tranche, as advocated by DOC. Accordingly, Lodestone has attached an updated condition set reflecting the changes to Conditions 114 and 115.

628 We treat that and related aspects of the amended proposal as being offered on an *Augier* basis and within our power to accept provided we are satisfied that it is not unduly onerous and is necessary to address adverse impacts of concern to us. The corollary is that it is not within our power to amend the offer.

629 Section 70 of the FTAA requires us to invite comment on draft conditions from specified persons before granting approval. Section 81(2)(a) requires us to consider comments received under section 70 in making our decision. We have done that.

630 We do not discuss all of comments received here because many of them were drafting suggestions of a minor or technical nature that we have incorporated into the text of the conditions and do not require further discussion here. We thank the commenting parties for their assistance and for the willingness of the applicant to adopt many of the suggestions.

631 We received detailed comments from DOC, EDS, and Forest & Bird that go to the heart of our approach to a subject we will call "additional compensation" to distinguish that from the offered payment of $1,000,000.00 in avifauna compensation. We do not detect that there is any legal controversy about the upfront compensation, though there may remain merits objections to that approach to the uncertainty inherent in assessing the risk of bird mortality due to collisions with solar farm structures.

632 The issue raised by DOC and others is the extent to which the conditions can make provision for future additional compensation to be provided by the consent holder. The commenters were critical of (what was then) condition 66 in our draft conditions. That condition was a condition offered by the Applicant that enabled the Technical Review Panel to determine additional compensation to be provided by the consent holder in response to residual adverse effects that had not been avoided, mitigated, or offset. DOC submitted that the Technical

Review Panel has no power to impose compensation on an unwilling consent holder. We accept the general point that compensation cannot be imposed.

633 We should explain the genesis of the idea of making provision in the conditions for additional compensation. The Panel's decision that adverse impacts could be managed so that they would not outweigh the project's regional or national benefits was heavily influenced by DOC's RFI response dated 5 June 2026. In that response, DOC made quite clear that it did not regard a single up-front compensation payment as a sufficient response to avian collision risk, and that provision for additional compensation would be an essential ingredient of an acceptable outcome. That is what this Panel has been trying to achieve.

634 DOC was critical of the drafting of condition 66 as proposed by the Applicant, as both being uncertain and delegating an unlawful discretion to the Technical Review Panel. DOC's drafting solution to the problem was to suggest that the Technical Review Panel's role be limited to recommending any additional compensation and the regulatory enforcement would come through the Council's review powers in section 128 of the RMA. We do not see how that improves matters if what was intended was that the Council could itself impose a condition to require additional compensation in a review context. The Council has no more power to impose compensation on an unwilling consent holder than does this Panel or the Technical Review Panel.

635 The important distinction here is "unwilling". We discussed the nature of *Augier* conditions above, and we treated the Applicant's conditions proposed on 12 June as an *Augier* offer of on that basis. Some context is necessary to understand that. By Minute 18 dated 2 June 2026 we set out our provisional concerns and sought responses from the Applicant to alleviate them. We also sought, in relation to Kaki/Black Stilt funding, that the Applicant to engage with DOC and mana whenua in preparing its response. At paragraphs 11 and 12 of Minute 18, we also sought DOC's views as to quantum of funding and DOC's willingness to be involved in the implementation of compensation methods.

636 By letter dated 5 June 2026 DOC responded to Minute 18. In that response, DOC referred to an arrangement offered in relation to The Point Solar Farm in which up front funding of $1M was proposed, and the reasons for that. But in several places DOC made its position clear that up front compensation should not be the end of the matter, since outcomes are uncertain:

> If collisions do occur then additional response measures would still be needed, which could feasibly be covered by a framework of monitoring, reporting, response triggers and review conditions.[129]
>
> However, if the Panel was minded to provide for subsequent tranches, we consider it is important that this is not seen as absolving responsibility for future avifauna collisions – if ongoing collisions occur, they will need to be assessed and responded to on the merits at the time, which could well require more than just additional funding.[130]
>
> **Framework for compensation measures** We do not know how the actual collision risk will play out over time. DOC certainly hopes that collisions will be rare, such that no further action is warranted. However, there is a material risk that collisions could be at significant levels, which would risk population-level effects beyond what the compensation would address. DOC's view is therefore that compensation measures would need to sit within a suite of conditions with monitoring, reporting, response triggers, review etc, which we understand is what is now proposed by Lodestone but may need to be refined in conjunction with the above compensation framework.[131]

637 By letter dated 5 June the Applicant confirmed that it had carefully considered Minute 18 and provided a set of updated conditions, including a compensation proposal that had both upfront payment and adaptive management payment measures. The adaptive management compensation measure was captured in (what was then) condition 62, which gave the Technical Review Panel the function of:

> "(c) to review and confirm compensation recommendations should any of the avifauna adaptive management triggers set out in Condition [111~~03~~] be reached; and…"
>
> "On the tenth anniversary of solar farm operations, and based on a further review of the outcomes of all monitoring and mitigation undertaken as required by this consent, the Technical Review Panel will make a final determination on any requirement for ecological compensation in response to any residual ecological effects from the construction and operation of the solar farm that have not been avoided, mitigated or offset."

638 On 12 June, the Applicant responded to a Request for Further Information 6. That response said:

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[129] Department of Conservation, 5 June 2026, page 2, third paragraph.
[130] Ibid, 5th paragraph.
[131] Ibid, third page last parargraph.

> Lodestone acknowledges the Panel's concerns regarding the certainty and enforceability of proposed Condition 115. While Lodestone remains of the view that the proposed monitoring and adaptive management framework provides an appropriate and scientifically robust means of assessing and managing avifauna effects, it notes the Panel's preference for greater certainty regarding compensation outcomes.
>
> To assist the Panel in progressing its decision-making, Lodestone is prepared to amend its proposal such that the full $1,000,000 avifauna compensation contribution is paid upfront in a single tranche, as advocated by DOC. Accordingly, Lodestone has attached an updated condition set reflecting the changes to Conditions 114 and 115.

639 The 12 June amended condition set maintained the Technical Review Panel's function of determining any future need for additional compensation set out above. That was what we expected, since DOC had been clear that a single up-front compensation sum was not to be the end of Lodestone's responsibility should there be adverse impacts that exceeded what the upfront compensation was designed to address. We have treated the offer of future compensation as part of the *Augier* offer made on 5 June 2026 and maintained ever since.

640 For completeness, we treat the future compensation proposals set out in conditions 73 (additional compensation area) and 124 (bird mortality compensation) of the Applicant's proposed conditions dated 20 July 2026 on the same basis.

641 We therefore see no legal reason why additional compensation could not be provided for in conditions since that is what the Applicant has proposed.

642 Due to the strength of opinion expressed about the validity of the proposed conditions in comments provided under s 70 of the FTAA, the Panel convened a conference of those parties that had raised concerns on Tuesday 28 July. A productive discussion occurred resulting in the following outcomes:

642.1 DOC confirmed that it wanted the conditions to make provision for additional compensation to be provided if the relevant ecological objectives had not been met.

642.2 DOC, EDS, and Forest and Bird maintained their view that the proposed provision for additional compensation was too uncertain to be valid.

642.3 The Applicant confirmed that provision for additional compensation remained part of its *Augier* offer to the Panel, and it intended that the content and extent of additional

compensation would be a matter for the Technical Review Panel to be determine, and that the consent holder would be bound by that determination.

642.4 That additional work was required to insert guidance in the conditions to make clear that the Technical Review Panel's role was of a certification character, rather than adjudicative or otherwise exercising functions that should be exercised by this Panel. The Applicant undertook to provide updated conditions to that end and did so on 30 July.

643 The Applicant's 30 July conditions were an effort to address the concerns raised about uncertainty. However, they were problematic because unlike previous drafting proposed by the Applicant, they provided for fixed and predetermined compensation responses. In relation to avifauna, new proposed condition 64 said this:

> Response: Payment of $1,000,000 (CPI-adjusted from 1 July 2026) to DOC, payable on or before commencement of physical works – a single fixed, upfront amount in full and final satisfaction of avifauna compensation obligations (not species-differentiated or tied to the trigger table).

644 We were alarmed that the Applicant's response may be seen as limiting prior *Augier* proposals and, if that was the intent, effectively taking additional compensation off the table in relation to avifauna. Suspecting that a misunderstanding may be afoot, we issued a further Minute on Friday afternoon, 31 July. In that Minute, we expressed our concern and sought an urgent response. The Applicant responded at 9am on Monday 3 August and said:

> Dear Panel,
>
> Thank you for Minute #22. There has been a misunderstanding, and we apologise for it.
>
> Lodestone confirms that the powers of the Technical Review Panel contained in condition 66 of the draft conditions attached to the Panel's draft decision of 26 June 2026 – and as proposed in our response of 20 July 2026 in conditions 63 and 64 – continue to be offered on an Augier basis. Those provisions, including the amendments proposed during the conditions workshop to address certainty, are within the Panel's powers to impose on that basis.
>
> To the extent our response of 30 July 2026 is inconsistent with that confirmation, it is not pursued.

645 The options for the Panel are stark: make provision for additional compensation to be determined by the Technical Review Panel as offered by the Applicant, or not. Since future

compensation is something that DOC and the Panel still sees value in, and remains offered by the Applicant, we consider there to be a useful ecological backstop by accepting the Applicant's offer, provided we can do so in a manner that complies with the law. We have endeavoured to address criticisms about certainty and enforceability. We remind ourselves that s 85(3)(b)(ii) of the FTAA appears to contemplate *Augier* compensation agreements or proposals as specific matters to be taken into account by the Panel in carrying out its proportionality assessment in relation to adverse impacts.

646 We have no doubt at all that we may accept the Applicant's offer to impose a condition that requires the Applicant to provide additional compensation. The much more difficult problem is how to define what any future compensation might be. We felt that the Technical Review Panel will be in the best position to identify when compensation should be offered and what it should entail. We remain of that view. The Applicant has proposed an obligation to make a compensation offer if certain circumstances arise. That creates the binding obligation. The content of the obligation is for the Technical Review Panel to determine. If the Council takes the view that a compensation offer does not give effect to the TRP's determination, then a specific power to trigger a section 128 review is available in the review condition..

647 Nevertheless, we accept the points made by DOC, EDS, and Forest and Bird that the conditions themselves should specify the triggers for additional compensation and by doing so provide the basis against which any such compensation would be measured. We are grateful for the Applicant's attempt to provide taxa specific objectives, triggers, and avoidance thresholds in the version of condition 64 proposed on 30 July. However, we see inconsistencies with the draft management plans and other conditions and so we have redrafted them.

648 We do not accept that there should be defined limits on additional compensation responses. Just as the Panel found in the *Waiuku* decision that we discuss below, a compensation package should be framed by the adverse impact that it is responding to, not by a pre-determined limit that does not reflect any assessment of effects. We accept that creates some uncertainty from the Applicant's perspective, but we see no way around that.

649 We do not think that our drafting changes alter the substantive content of the Applicant's *Augier* offer of 5 and 12 June, modified by its amended conditions dated 20 July and, finally, on 30 July. The Applicant's response to our Minute of 31 July makes clear that additional compensation, not limited by the conditions themselves, remains within our jurisdiction.

650 We have recorded our understanding that an *Augier* condition cannot be amended by us. We do not understand that point to exclude drafting changes to improve the clarity and expression of the conditions that do not alter the substance of the Applicant's proposal. What we have endeavoured to do is make clear that a discretion is not being conferred upon the TRP, but that its role is to certify whether the obligation to provide additional compensation is engaged, and if so, what the content must be.

651 We consider that this point answers criticisms made of condition 66 of our draft conditions issued for comment that it reserved an unlawful discretion to the TRP. Another way of expressing the point is whether the TRP's role is an unlawful delegation of the consent authority's function. That is not how we see the TRP's role. The TRP is a technical body that evaluates the monitoring and mitigation outcomes to identify whether any residual adverse effects have not been avoided, mitigated or offset[132]. If such adverse effects are identified, the TRP will determine the extent of any additional actions and compensation that is commensurate with actual residual impacts that have been identified. That is a factual enquiry. And that assessment is binding on the consent holder in the sense that the consent holder cannot contest the merits of the TRP's determination.[133]

652 We should explain why we find the Applicant's offer of a mechanism to fix additional compensation is very different to that which was not accepted by the Panel in *Waiuku*:.[134]

652.1 The first thing to note is that decision was under the COVID-19 Recovery (Fast-Track Consenting) Act 2020. The purpose of that Act and threshold tests we must apply are different.

652.2 Secondly, the *Waiuku* Panel was concerned with the lack of evidence characterising the potential effects on avifauna and bats. That resulted in the Panel having no confidence in their understanding of the effects being compensated for.[135]

652.3 The proposal in that case was for the additional compensation to be set by way of an Avifauna Management Plan to be certified by the Waikato Regional Council through a

[132] Condition 63.
[133] Ibid.
[134] Record of Decision Waiuku Wind Farm Project dated 20 August 2024.
[135] Ibid at [9].

section 128 review process. Effectively, liability for future compensation was to be imposed by the Council.

652.4 The *Waiuku* Panel was provided with scant detail of either the initial compensation scheme or how additional compensation would operate to ensure that benefits would accrue.

652.5 The *Waiuku* proposed compensation scheme was to be fitted within a budget of $113,000.00 over the life of the project, which the Panel considered to be the wrong focus. It is the extent of the residual adverse effects that should determine the budget, not the other way around.[136]

652.6 The *Waiuku* Panel said: "In summary, we were left with very little confidence that the proposed compensation arrangement would in fact achieve a reasonable equality of value with the potential residual adverse effects".

653 Because the *Waiuku* Panel declined consent, it did not turn its attention to how a condition might be crafted to determine the content or extent of future compensation. It simply held that it had no confidence in the proposal that was put to them.

654 In the present case, the potential liability for future compensation has been offered. No budget cap has been imposed. The required content of the future compensation is to achieve benefits that are commensurate with residual effects that have not reached the standard required by conditions. That is a factual determination to be made by an expert panel convened for the purpose. The Applicant has offered to be bound by the determination of the Technical Review Panel. The enforceability problem that was to the fore in *Waiuku* does therefore not arise.

655 A compensation condition cannot confer upon the Technical Review Panel a judicial function that must be exercised by this panel: *Turner v Allison*[137].. The Court of Appeal distinguished between a lawful certifying function that nevertheless required the exercise of expert judgment, and one that confers an arbitral function. In that case, a condition requiring approval of the external appearance of a supermarket and associated landscaping was held to be of a certifying

[136] Ibid at [406].
[137] [1971] NZLR 833 at 856 (CA).

nature and therefore lawful, but a condition conferring on an officer the ability to determine disputes was not.[138]

656 As the High Court in *Director General of Conservation v Marlborough District Council*[139] observed, the distinction will not always be so clear cut. In that case, the High Court preferred to formulate the test in this way:

> While the question of whether the condition requires the decision-maker to act as certifier or arbitrator will provide a useful test, it does not necessarily provide the only test. The issue is whether there has been an unauthorised delegation of a judicial function. Where the judicial function has been delegated in terms which require an adjudication to be made by the delegate, then it will normally be readily apparent that it is a judicial function which has been delegated. But that is not necessarily the only basis upon which a judicial function may have been improperly delegated. It is of the essence of a judicial function that the adjudicator will be required to make findings of fact. If the function of making a finding on facts which are essential to the decision is delegated, then there is a delegation of the judicial function. That may occur in circumstances where the delegate is not explicitly deciding a dispute between the parties. The role of the delegate as certifier may conceal the fact that what is being delegated is the power to certify a matter which is an essential element of the decision which should be made by the tribunal. It is necessary to examine the real nature of the decision which the delegate is required to make, rather than the form in which the power to make that decision is conferred.

657 In that case the impugned condition required the consent authority to be satisfied that the site was not of special significance for Hector's Dolphin. If the Council was not so satisfied, then the consent would not be able to be actioned.[140] The High Court held that was a matter that went to the heart of the consent authority's decision and could not be delegated.

658 The additional compensation mechanism proposed by the Applicant here is not of that kind. Our expectation is that the combination of up-front compensation, avoidance, mitigation, and adaptive management will achieve a result that does not require any further compensation at all. Additional compensation is very much of a backstop character to address the scientific uncertainty that exists in relation to the risk of adverse impacts that could, but might not, occur.

659 The TRP's function to determine additional compensation is now in conditions 65 and 68 of the Mackenzie DC consent conditions. The outcomes to be achieved, and against which the need for additional compensation is to be assessed, are now spelt out in conditions 86, 100, 112 and 124 and supported by a definition of "no net loss".

660 Although we have found that there will be an unavoidable loss of ecological values, such as outwash plain habitat, the Applicant has offered four taxa-specific management plans[141]: For

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[138] Ibid, page 857 at 21.
[139] High Court, Marlborough, CIV_2003-484-2228, 3 May 2004 Mackenzie J.
[140] Ibid at [28].
[141] Plants, Lizards, Invertebrates, Avifauna,

three of those management plans, the objective to be achieved is "no net loss"[142]. We have included a definition for that term in a new definitions section in the conditions. It is the attainment of that objective that is the driver for identifying any requirement for additional compensation.

661 Any requirement for additional compensation will be determined through a programme of baseline surveys, monitoring and applied ecological research, the results of which will identify whether the conditions 86, 100, 112 and 124 have been achieved. Provision for further compensation only arises if the Technical Review Panel identifies that the objective has not been achieved, and something further is required to achieve compliance. We see that as a function that sits very much at the certifying end of the spectrum, despite the likelihood that a degree of expert judgement will be involved.

662 Condition 71 sets out a non-exhaustive list of matters that may be included in an Ecological Compensation Plan.

663 It is impossible for us to determine in advance what a further compensation response should be and nor do we feel the need to do so before we are able to determine that consent should be granted. Unlike the *Waiuku* case, we are sufficiently satisfied that the risk of residual adverse effects is understood and a matter that can be addressed as the project unfolds and be responded to if required. We are satisfied that the findings of fact made by the Technical Review Panel about any need for future compensation are not essential to our decision.

664 We should explain our decision concerning the composition of the Technical Review Panel. In our section 70 conditions, we made provision for the Kaitiaki Governance Group, Mackenzie DC, CRC, and DOC to appoint members to the TRP. We took it for granted that those parties would recognise the need for Panel members to have relevant technical expertise and that did not need to be specified in conditions. DOC's comments on condition 66 sought to specify the fields of expertise required to be appointed. At the conference convened on 28 July, DOC's comment was supported in principle by EDS and Forest and Bird, though each with slightly different emphasis about the expert fields. The Applicant considered that specification was unnecessary as the TRP would have the power to appoint its own expert advisors if they considered there was a gap in the Panel Members' skillset.

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[142] Insert reference to conditions.

665 In the end, we have taken something of a middle line on TRP composition. We wish to make it clear that we consider that ecological expertise is a basic requirement of the TRP and we have set that out in our condition 65. But that other skills may be useful too, and we do not wish to foreclose that. If the appointed members do not possess the required ecological expertise, then the TRP must itself appoint advisors to fill the gaps.

666 At the 28 July conference DOC also made the point that the conditions should contain some constitutional machinery to guide the TRP's decision making. We accept that point because we also accept the Applicant's position at the conference (which it thought was implicit) that the consent holder should be represented on the TRP. The Applicant's conditions dated 30 July reflect that change and we accept it. The Applicant will have operational and practical implementation expertise that will be essential to the TRP's understanding of the monitoring data and potential responses. That is a point made by the Applicant in their letter to the Panel dated 30 July and we accept it. But it is obviously important that the consent holder's membership cannot effectively veto the TRP's compensation determination and so we have made express that the TRP's decisions may be made by majority vote if a unanimous determination is not possible.

667 We consider that as a result of the section 70 comments and the conference and minute that followed, the conditions we now impose are lawful and meet our obligations under section 83 of the Act.

Ecological matters raised in the section 70 comments

668 We received ecological comments on the draft conditions from DOC; EDS; Forest and Bird; Mackenzie DC; Canterbury Regional Council; and mana whenua (Te Rūnanga o Ngāi Tahu, Aoraki Environmental Consultancy Limited and Aukaha). Many were drafting refinements, which we have largely adopted. We summarise the matters of substance below, by theme and confined to ecology; our evaluation follows in the next section.

669 Some legal and structural aspects of additional compensation and the TRP have been addressed above, including the enforceability of future compensation, the legal character of the TRP's role, and its composition and decision-making machinery. We do not repeat that analysis here.

670 The substantive ecological comments raised the following matters:

a) adequacy of ecological information and process, including DOC's view that a final decision was premature and EDS's maintained position that the Application should be declined;

b) measurable ecological outcomes, targets, performance standards and review triggers;
c) predator-exclusion fencing of the Compensation Area and related pest/rabbit management;
d) taxa-specific management matters for Threatened and At Risk plants, invertebrates and lizards,
e) avifauna collision monitoring, mitigation and compensation;
f) the ecological role, independence, composition and resourcing of the TRP;
g) the applied research and monitoring programme;
h) additional compensation and enforceability, insofar as those matters affect the ecology conditions; and
i) other matters including long-term management, decommissioning and agency costs, certifying authority, transparency and public availability.

671 In broad terms, DOC, EDS and Forest and Bird sought stronger, more measurable ecological outcomes, clearer triggers, more certain adaptive-management and compensation pathways in conditions, and greater independence, expertise and transparency in the TRP, certification and monitoring framework. DOC and EDS also raised substantive concerns about the predator-exclusion fence, including uncertainty as to its ecological benefit and risks associated with mouse incursion, rabbit irruption and disturbance to a fragile outwash system. CRC supported the fence and provided design specifications.

672 Taxa-specific comments focused on: avoidance and in situ protection of Nationally Threatened plants; the adequacy of plant buffers, caging, propagation, baseline surveys and monitoring; avifauna collision detection, mortality triggers, monitoring duration, mitigation before compensation and new collision-reduction technologies; uncertainty associated with invertebrate salvage and relocation; and whether lizard habitat enhancement would deliver benefits without compromising outwash values. CRC also sought refinements to the Lizard Management Plan.

673 DoC, EDS, Forest and Bird and Mackenzie DC questioned the enforceability of future or additional compensation and whether it was sufficiently linked to residual ecological effects, monitoring results and implementation pathways. Those legal and structural concerns are addressed above. For present purposes, the ecological issue was whether the conditions clearly identify when further ecological action or compensation may be required, how that need is to be determined, and how any response is to be implemented.

674 Kāi Tahu supported the revised condition package and mana whenua-specific conditions, but sought better integration and cross-referencing of the EMPs, monitoring, reporting, the TRP,

adaptive management and compensation; clearer implementation pathways after bird-collision investigations, unsuccessful adaptive management, TRP determinations and monitoring recommendations; and certainty about long-term monitoring, reporting, additional compensation areas and Compensation Area management following decommissioning.

675 In response, and following the Panel's associated request for clarification in Minute 22, the Applicant largely maintained the Panel's draft condition framework, but accepted or proposed targeted changes, including:

a) clarification of the TRP functions, while maintaining Mackenzie DC as the certifying and decision-making authority;
b) retention of the 10 metre Nationally Threatened plant buffer, supported by a shading analysis, and a commitment to exclude all infrastructure from that buffer;
c) requiring a suitably qualified mammalian pest-exclusion-fencing contractor, and earlier review of the rabbit target if an irruption is observed;
d) amendments to the Lizard Management Plan conditions requested by CRC;
e) avifauna refinements, including review of new collision-reduction technologies, wording to avoid suppressing bird-strike reporting below adaptive-management triggers, and plan updates following bird-collision investigations;
f) confirmation that the $1,000,000 upfront avifauna compensation remains distinct from any adaptive-management response;
g) confirmation that the Compensation Area will be legally protected in perpetuity by a QEII-style covenant or equivalent mechanism; and
h) a new additional-compensation-land condition and related implementation refinements requested by mana whenua.

676 The Applicant did not accept the more fundamental changes sought by some parties, including a further suspension, a broad project-wide no-net-loss condition, CRC or TRP certification of ecological plans, a fixed 100 m plant buffer sought by EDS, abandonment of the predator-exclusion Compensation Area sought by DOC, or the full suite of EDS's applied-research and monitoring recommendations.

The Panel's evaluation of the ecological matters raised

677 We record our evaluation of the ecological matters below, to be read with our findings on ecological effects in Part E and our discussion of additional compensation earlier in this Part.

Adequacy of ecological information and process

678 We note DOC's request to suspend the application, but ultimately it is not within the Panel's powers to suspend an application. We are satisfied that the outstanding matters can be secured through the conditions, the management plans, the TRP and the applied research, survey and monitoring programme, and that a final decision can properly be made on the information now before us.

679 We accept that, for the most sensitive values, no net loss cannot presently be demonstrated, but we do not accept the conclusion DOC draws from that. The statutory question is not whether the residual effects can be fully offset or compensated, but whether, taking the conditions into account, they are out of proportion to the Project's benefits, a test that plainly allows consent even where significant, incompletely compensated effects remain. We have already reasoned this through and concluded that the residual adverse effects are not out of proportion to the benefits once the Minute 18 compensatory measures are taken into account. To the extent DOC implies that consent cannot be issued until no net loss is demonstrated, that is not the test we apply. The improvements to conditions we make in response to s 70 comments are about making the conditions tighter and enforceable, not clearing an overall no net loss threshold the Act does not set.

Measurable objectives, targets and performance standards

680 We agree with DOC and Forest and Bird that the key outcomes should be expressed as binding standards in the conditions, not left to the plans or to adaptive management. We have amended the conditions to specify binding no net loss outcomes to be achieved within 10 years of the commencement of operation and maintained for the life of the consent, for all populations of nationally Threatened, or At-risk plants, invertebrates, lizards and avifauna. This determination will be via a statistically robust applied research and monitoring programme across the site, the Compensation Area and appropriate reference sites. For each management plan the conditions now require involvement of either the Technical Review Panel or DOC, set the relevant outcomes, require identification of triggers indicating they are unlikely to be met, and the adaptive-management responses to be engaged where a species is tracking towards net loss, with contingency measures ensuring the benefits remain commensurate with, or outweigh, the impacts.

Predator-exclusion fencing of the Compensation Area

681 On predator-exclusion fencing we had to weigh a genuine divergence of expert opinion: DOC (Mr Chinn) and EDS (Dr Walker) doubt the benefit and warn of risks, while the Applicant and

CRC supports the fence. Having weighed the competing views, we prefer the case for retaining the predator-exclusion fence.

682 DOC's objection rests largely on the absence of site-specific evidence that predation limits these invertebrate populations. We give that limited weight on the basis as set out below namely:

a) DOC's objection rests largely on the absence of 'site-specific' evidence that predation limits these invertebrate populations. In our view, this sets an unrealistically high evidential bar. Such evidence could only be generated by first establishing and maintaining pest densities at or near zero across the site, then undertaking targeted research to measure the invertebrate response before any benefit could be verified. That would require the very management intervention the conditions are intended to secure to be implemented and monitored in advance of the conditions being supported.

b) DOC and Mr Chinn supported a similar but smaller predator-exclusion reserve for invertebrates at the neighbouring proposed The Point Solar Farm, despite the target species not yet having been recorded there. That provides relevant context for our assessment here, where robust grasshopper and Tekapo ground wētā are confirmed present.

c) The recent Pye et al. (2026) study of Tekapo ground wētā referred to in comments provides some context for the potential benefits of predator exclusion for Tekapo ground wētā in a Mackenzie Basin dryland habitat, showing markedly higher numbers inside a dryland exclosure. While this study had limitations, this in our view undercuts the 'no evidence' argument for the very species and habitat in question.

d) We accept that mouse incursion is a real risk, but on the evidence, consider it manageable through proper design, surveillance and response, which we have required by condition rather than treating as a reason to abandon the measure and the one-off disturbance and upfront cost do not from an ecological standpoint outweigh the potential for significant benefits.

e) We also accept that exclusion is likely to benefit lizards and ground-nesting birds as well as invertebrates, and is the more precautionary course given the potential for the initially proposed pest control regime to generate perverse outcomes on invertebrates and lizards through increases in mice numbers, which were not targeted.

683 Weighing these matters, we are satisfied the predator-exclusion Compensation Area should be retained. It is one of the Minute 18 measures on which we relied to bring the residual effects within proportion; to weaken it would remove a durable, enforceable mechanism delivering gains across several taxa. We have instead strengthened the monitoring, surveillance and adaptive-management provisions, the oversight of the TRP, and the applied research directed at testing the fence's efficacy.

Invertebrates

684 We accept the uncertainties around the proposed invertebrate salvage and relocation programme. This has no established evidential base and depends on being able to permanently mark relocated individuals so they can be distinguished from resident individuals, which is itself an experimental technique. No net loss must therefore be treated as depending on the compensation package rather than on salvage and relocation. We are satisfied this is met by the pest-exclusion fence together with the creation of gravel, cobble and boulderfield habitat required by the conditions.

Lizards

685 We could find no clear evidential basis for the concerns of DOC and Dr Walker that the pest-exclusion measures would not benefit lizards; the weight of evidence is that both common and rare lizards increase markedly in mammalian pest-free environments. The Lizard Management Plan is to be prepared with input from the TRP, consistent with accepted salvage and relocation guidance, and native habitat enhancement is to be undertaken in the manner deemed most ecologically appropriate by the TRP.

Threatened and At Risk plants

686 We accept that avoidance of nationally Threatened plants is the primary response and agree with Dr Walker and Forest and Bird that statistically robust baseline surveys should be undertaken by expert personnel in spring (September to November). With regard to the appropriate buffer distance from Threatened plants, we accept that edge effects are likely extend beyond 10 m, but we are not persuaded that a material effect would arise at up to 100 m; we consider a 20 m buffer appropriate to negate shading impacts and substantively minimise edge effects. We agree that caging threatened plants may be counter-productive and led to inter-specific competition from exotic weeds and corresponding changes to microhabitat conditions in the absence of rabbit browsing. If the applied research programme indicates material edge effects on Nationally Threatened plants, propagation and establishment will be required to meet the no net loss objectives, as directed by the TRP.

Avifauna — collision monitoring and compensation

687 We consider the 95 percent carcass-detection standard appropriately precautionary, particularly for a low-mortality scenario for kakī/black stilt, where even a single loss is the greatest concern. Potential impacts on black-fronted tern are also of particular concern. We accept that monitoring should continue beyond five years while collisions occur, that all practicable mitigation should precede additional compensation, and that the applied research should pursue new detection and reduction technologies. We are satisfied that the concerns of DOC and Forest and Bird about additional compensation are met by the condition updates securing further management in response to carcass-detection findings; enforceability is addressed above.

Applied research programme

688 We agree with Dr Walker that research and monitoring are distinct and that the conditions required strengthening. We have updated them to provide for a statistically robust applied research, survey and monitoring programme, designed and overseen by the Technical Review Panel and independently peer reviewed, with baselines before disturbance and monitoring and the use of reference sites so that the TRP is more able to verify the no net loss targets across taxa.

PART J: OVERALL ASSESSMENT

689 The Panel has considered the Application and supporting information, the comments received on it and on the draft conditions, as well as the further information provided as a result of comments received from other participants and the subsequent refinement of the Application.

690 Overall, the Panel is satisfied that the matters set out in s 81 of the FTAA have been addressed appropriately and that the purposes of the FTAA would be achieved by this Decision. In reaching that view, the Panel has had regard to the actual and potential effects on the environment of allowing the activity as set out above. The Panel has also had regard to the relevant planning documents.

691 As stated at the outset of this decision, we see our task as having required us, first, to assess the extent of the project's regional or national benefits, second, to consider adverse impacts that will result from the project and their significance, and third, whether the adverse impacts are "sufficient" to be out of all proportion to the project's regional or national benefits after allowing for, among other things, offsets and compensation that may be provided.

692 The principal issues in contention for this Project were ecological issues. Other broad issues that had to be considered in detail, such as landscape, traffic, and construction issues, did not prove to be highly contentious.

693 In relation to the ecological issues, the Application was marked at the outset by a lack of research and investigation through the seasons of the ecological values of the site. This was reflected in the assessments of the ecological issues put forward in the original application, which showed a lack of knowledge of the indigenous vegetation, the indigenous avifauna, the indigenous invertebrates, and the indigenous lizards on the site.

694 After requests for information from the Panel and the receipt of the initial comments from the s 53 invitees, the Applicant briefed new ecology firms to carry out new assessments on ecological issues. These were RMA Ecology (botanical assessment and updated avifauna and overall ecological effects assessments), Blueprint Ecology Ltd (lizards), and SLR Consulting Ltd (invertebrates).

695 The Applicant, with the benefit of the further assessments, has proposed offsets, compensation and monitoring that we consider have sufficiently avoided or assuaged the adverse impacts to make them not out of proportion to the regional or national benefits. We have reached this conclusion taking into account the conditions that we have set out in this decision, including conditions or modifications that the Applicant has agreed to or proposed, in order to avoid, remedy, mitigate, offset and compensate for those adverse impacts.

696 Section 83 requires that:

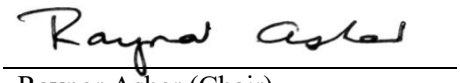
> *When exercising a discretion to set a condition under this Act, the panel must not set a condition that is more onerous than necessary to address the reason for which it is set in accordance with the provision of this Act that confers the discretion.*

697 We acknowledge that the conditions attached to this decision are indeed onerous, certainly more so than were originally proposed. The conditions respond to a very different understanding of the ecological issues than originally presented by the Applicant. It was not until receipt of the Applicant's amended up-front compensation proposal dated 12 June 2026, and DOC's willingness to co-operate with that proposal, that we were satisfied that the compensation package sufficiently addressed residual risk such that the proportionality test fell in the Applicant's favour. We are satisfied that the conditions, whilst onerous, are necessary to address the reason for which they are set.

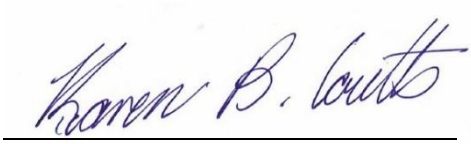
PART K: FINAL DECISION

698 The Panel determines to grant the approvals sought subject to the Conditions attached as Appendices A and B to this Decision.

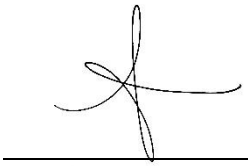
699 As required by s 99 of the FTAA the persons listed in that section are entitled to appeal and must commence any appeals within the 20-working day period from the day this Decision is published under s 88(3).



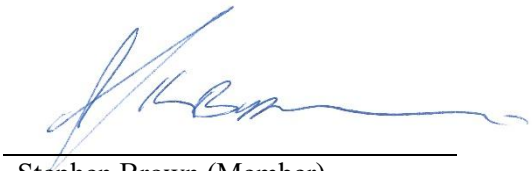
Raynor Asher (Chair)



Karen Coutts (Member)



Matt Baber (Member)



Stephen Brown (Member)

Matthew McCallum-Clark
(Member)

APPENDIX A: MACKENZIE DC RESOURCE CONSENT CONDITIONS

APPENDIX B: CANTERBURY REGIONAL COUNCIL RESOURCE CONSENT CONDITIONS

APPENDIX C: PHOTOGRAPHS