

Under the **FAST-TRACK APPROVALS ACT 2024**
In the matter of an application for resource consents, concessions, wildlife approvals, an archaeological authority, and approvals relating to complex freshwater fisheries activities in relation to the Southland Wind Farm project

By **CONTACT ENERGY LIMITED**
Applicant

**MEMORANDUM OF COUNSEL FOR CONTACT ENERGY LIMITED
IN RESPONSE TO MINUTE 3 OF THE EXPERT PANEL**

12 December 2025

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MAY IT PLEASE THE PANEL:

1. This memorandum of counsel on behalf of Contact Energy Limited (**Contact**) is filed in response to the Expert Panel's requests for further information under s 67(3) of the Fast-track Approvals Act 2024 (**FTAA**), set out in Appendix 1 to Minute 3 dated 4 December 2025.
2. The specific requests and Contact's response in respect of each are set out in turn below. Some of the responses refer to additional documents, which are being provided alongside this memorandum.
3. In addition, a report on the results of the avifauna surveys (as required by proposed condition EC3) is provided together with this memorandum. That report has previously been signalled as being in preparation, and has recently been provided directly to the Department of Conservation (**DOC**).

Request 1: Word versions of documents

4. The Panel has requested *"Microsoft Word versions of Part B of the Application (Resource Consent Approvals Application) and all of Part I (Proposed Conditions to all Approvals)."*
5. These electronic documents accompany this memorandum.¹

Request 2: updated version of Mr Coombs' Figure 7

6. The Panel has asked Contact to:

"Prepare an updated version of Mr Coombs' Figure 7: Dwelling Inventory Map (Appendix A to Technical Assessment 3 in Part H of the Application), to also show:

a. Relevant viewpoints

b. The 35dBA noise contour."
7. The updated figure also accompanies this memorandum.²

Request 3: information regarding landscape / visual assessment

8. The Panel has asked Mr Coombs to consider and advise:

"a. What residences have been visited, as opposed to being assessed on a desktop basis; and

b. Any material changes, in terms of the existing land-use environment, since his Figure Set was compiled."

¹ There is one 'Part B' document and a series of 'Part I' documents

² Titled 'Viewpoints, dwellings and noise contours'.

9. This information is set out below.

Residences visited

10. As the Panel will have understood, the visual effects assessment presented in Mr Coombs' Technical Assessment 3 (and the housing inventory table in the Appendices to the assessment) draws primarily on the following information sources:

- (a) photographs and visual simulations prepared from publicly accessible viewpoints (which represent views from locally notable roads, settlements, intersections, public reserves and nearby residences);
- (b) roadside observations made during visits to the area;
- (c) house and property data sets;
- (d) aerial photos, topo maps, and other Council records; and
- (e) photographs and simulations prepared from private properties to which he was invited, to assist landowners to understand the extent to which the Project will be visible from certain locations.

11. The Panel's question relates to this last category. In that respect:

- (a) At the request of Te Ao Marama Incorporated, Isthmus visited and took photographs from four viewpoints relevant to the local Rūnaka, namely the marae at Awarua, Waihōpai, and Hokonui and the summit of Motupōhue/Bluff Hill. Where the wind farm would be visible from these locations, a visual simulation was prepared.
- (b) Contact was also asked to prepare visual simulations from 17 private properties.³ Those visits were undertaken by Paul Botha of Roaring 40s, who took the relevant photographs, prepared the simulations, and provided them to landowners and to Isthmus to assist in its visual assessment. The 17 locations visited are illustrated in **Figure 1 below**, numbered Photo01 to Photo17. Please note that:

³ The relevant street addresses are 403 Woods Road, 115 Mimiha School Road, 820 Wyndham Mokoreta Road, 187 Wyndham-Letterbox Road, 46 Wilson Road, 101 South Wyndham School Road, 1501 Wyndham-Letterbox Road, 63 Stout Road, 34 Rabbidge Road, another property on Rabbidge Road, a property on Trig Stout Road, 1542 Wyndham Mokoreta Road, 318 Wyndham Station Road, 40 Mathesons Road, 1282 Wyndham Mokoreta Road, 1281 Wyndham Mokoreta Road, and 1206 Wyndham Mokoreta Road.

- (i) A visual simulation was ultimately not prepared from the location marked Photo5, because the digital terrain model did not extend to that location (over 15km from the nearest Project wind turbine).
- (ii) Simulations were prepared from the other 16 locations and provided to the relevant landowners.
- (iii) In around 10 cases the relevant photographs were taken near the dwelling on the property. In six other cases, simulations were prepared at some distance (in one case, 900m) from the dwelling, in order to have a clearer view of the Project.
- (iv) Further details regarding each photograph location, including the coordinates, view direction, field of view, and elevation, are available if those would assist the Panel.

12. The visual simulations are not among the substantive application documents because, as the Panel will appreciate, there can be some sensitivity for landowners in having this information in the public domain.

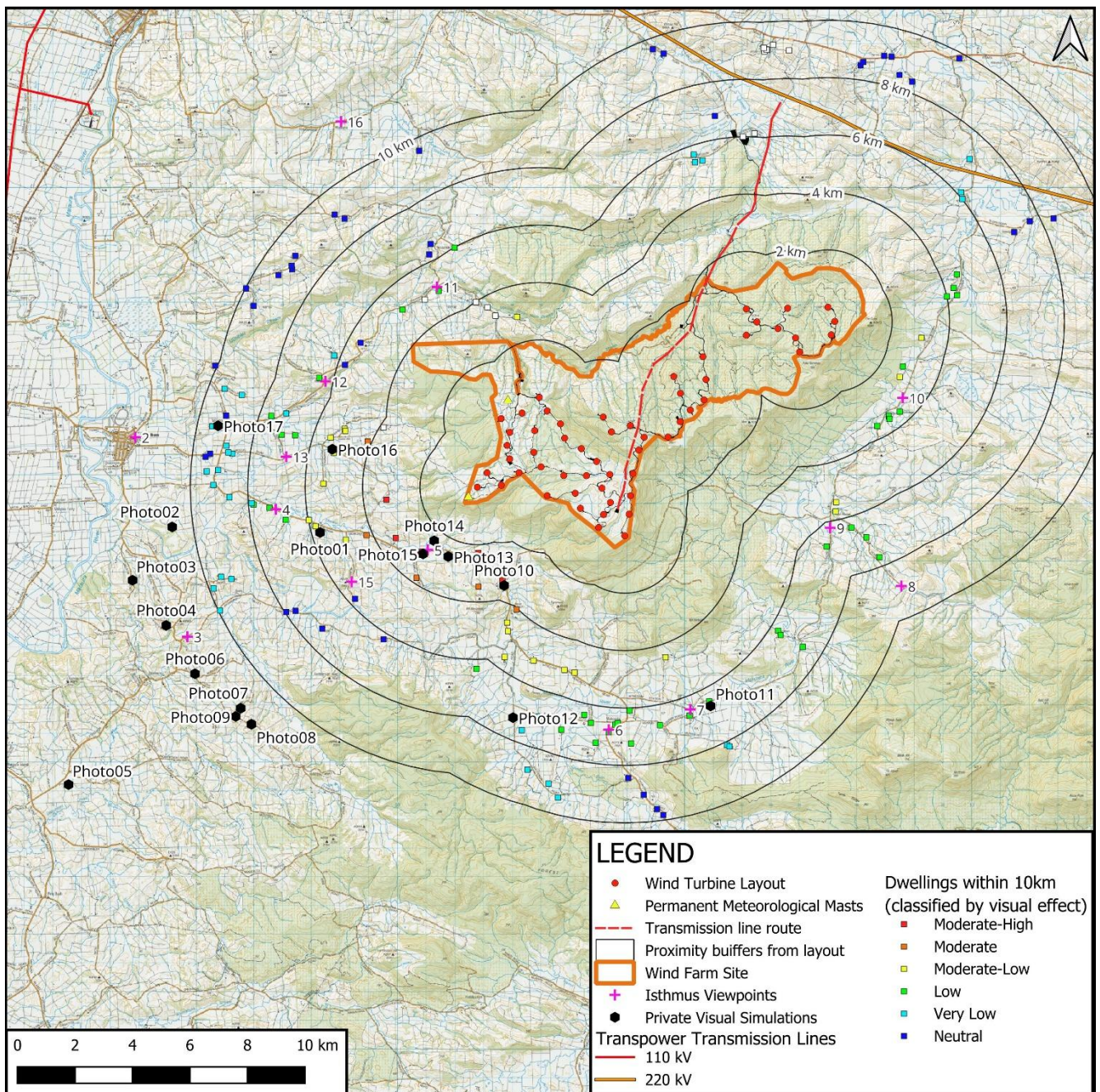


Figure 1: Locations of visual simulations prepared at private residences

Material recent changes to the existing land use environment

13. The photographs for the visual simulations prepared by Isthmus⁴ were taken in May 2023. Since that time, some gradual changes to land cover have occurred, as well as some more fundamental changes.
14. In the first category, gradual changes include:
 - (a) removal of shelterbelts (for example, the shelterbelt visible in the mid-ground of the photograph from viewpoint 2); and
 - (b) harvesting or replanting of forestry in some areas (including in the Matariki Forest block).
15. The storm that struck Southland in October 2025 toppled a significant number of trees and sections of farm shelterbelts across the region. Several fallen trees and shelterbelt sections were observed during the landscape architects' site visit on 13 November 2025.
16. More fundamental land use changes have been occurring in the vicinity of the Project, namely the conversion of pasture to plantation forestry; this article from 26 August 2025 illustrates this trend and the potential issues associated with it: <https://www.farmersweekly.co.nz/news/southland-farmer-warns-of-carbon-forestry-crisis/>.
17. Contact is aware of over 1500ha of new plantation forest having been planted in areas that were previously pasture within 10km of the Project, since mid-2023 (i.e. in the period after the simulations were prepared), as shown in dark green hatching in **Figure 2 below**.
18. By reference to the Figure Set, these changes are likely to be discernible (and will become more visible over time as the trees grow) in the following locations:
 - (a) From **VP1**, the two new areas of forestry northwest and southwest of the Project site may become visible after a number of years as the trees grow (although they are at some distance from the viewpoint location).
 - (b) From **VP3**, the large new forestry block to the southwest of the Project site will appear in the right-hand side of the view, in the area between Mt Herbert and Flamborough Head. This is to the right of the Project

⁴ https://www.fasttrack.govt.nz/_data/assets/pdf_file/0020/11675/H03a.-Part-H-Appendix-A-to-technical-assessment-3-Landscape,-Visual,-and-Natural-Character-Effects.pdf

site. This newly planted area can be seen when driving along Wyndham Valley Road.

- (c) From **VP6**, the large new forestry block to the southwest of the Project site will appear on the left when looking towards the Project from this location.
 - (d) From **VP7**, the large new forestry block to the southwest of the Project site will appear on the left, in the distance, beyond the end of Wyndham Station Road after the trees have grown.
 - (e) From **VP10**, the new forestry block to the east of the Project site may appear to the right of the wind farm in the distance along the alignment of Slopedown Road.
 - (f) From **VP12**, the large new forestry block to the southwest of the Project site will appear in the area between the Project site and Flamborough Head.
 - (g) From **VP16**, as the forest in the block to the northwest of the Project site matures, it may become visible above the land in the foreground.
 - (h) From **VP15**, the large new forestry block to the southwest of the Project site will appear in the area between the Project site and Flamborough Head on the right.
19. The observations above, of the extent and type of land cover change in the area around the wind farm site over the last two and a half years, illustrate that land use in the rural environment can change quickly. There appears to be a recent trend towards change from open pasture to plantation or permanent forestry which will provide a pattern of darker and heavier landcover and, where planted close to a viewing location, may reduce the visibility of the open landscape over time. That landcover will be interrupted every 25-30 years as plantation forests are harvested and re-established.

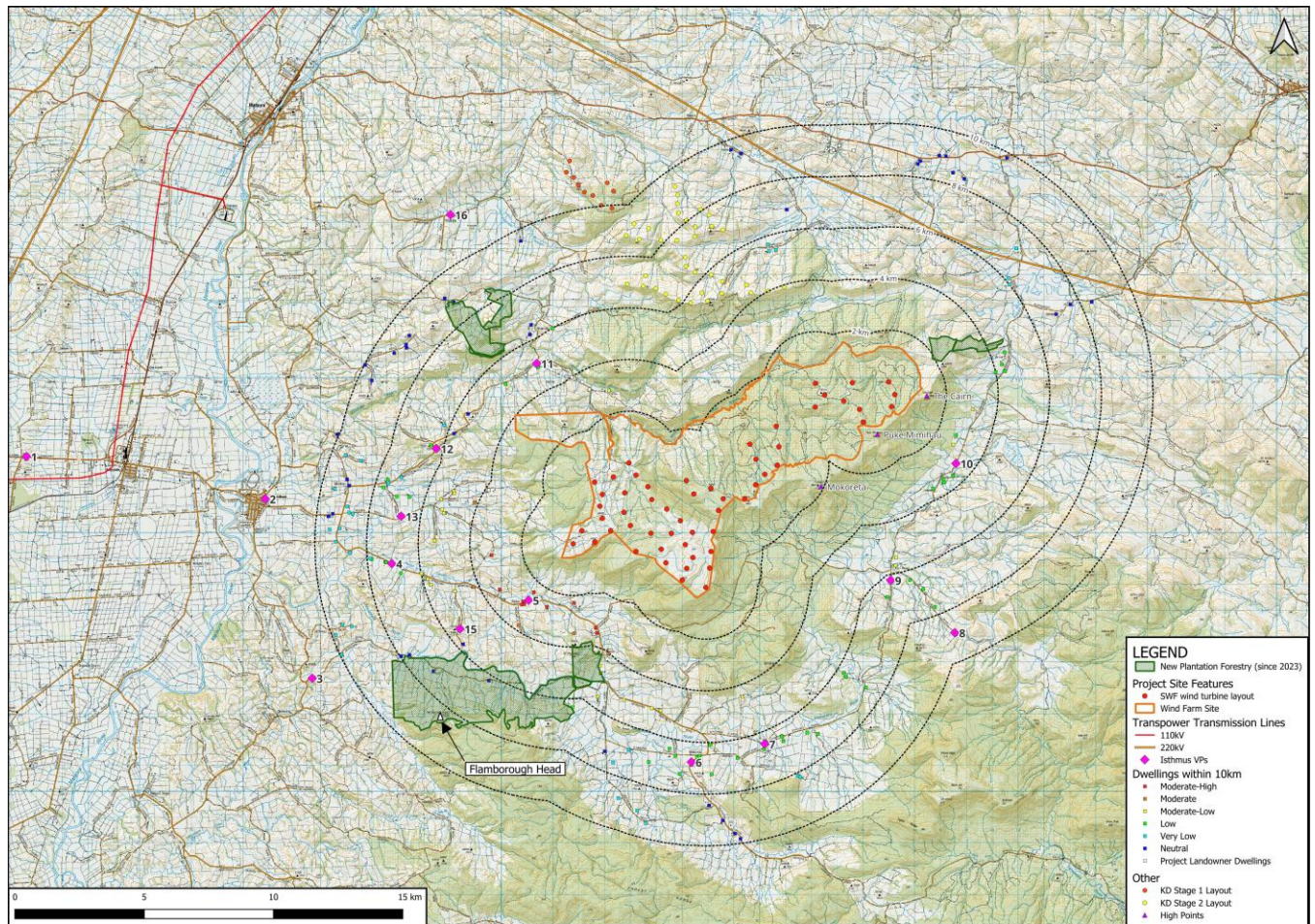


Figure 2: Pasture to plantation forestry conversions since mid-2023

Request 4: landscape-focussed 'stocktake' table

20. The Panel has requested that Contact:

"Prepare a landscape-focussed 'stocktake' table of the Project compared to other wind farms referenced in the landscape evidence. This should also include Puketoi Wind Farm and Kaiwaikawe Wind Farm and should address key relevant parameters (such as maximum turbine height (tip of blade)); distance to nearest dwelling; distance to nearest sealed and unsealed roads; landform type (area and topography), landscape character; the presence of any identified ONFs / ONLs; scale of elevated landform 'base' (or plinth) relative to maximum turbine height; relationship between turbine layout and landform pattern; relationship with any nearby wind farm (i.e., distance between the wind farms)."

21. This information is presented in a memorandum prepared by Paul Botha of Roaring 40s in conjunction with Mr Coombs and Mr Bray, filed together with this memorandum of counsel.⁵

Request 5: process for public road / bridge upgrades

22. The Panel's request is as follows:

"Detail the process intended to be undertaken in conjunction with the relevant road controlling authorities regarding the timing, funding and construction of any necessary public road / public bridge upgrades required to cater for oversize or overweight loads associated with the construction of the proposed windfarm."

23. To provide context, Contact notes that some upgrades to existing roads may be required to accommodate the transportation of the wind turbine components or main substation transformers. However, given the proximity of the recently constructed Kaiwera Downs wind farm to the (Southland Wind Farm) Project site, a significant proportion of the port to site route for the Project has already had improvements made to accommodate over-dimension and over-weight loads needed for wind farm construction. As such, and as discussed with Gore District Council, Contact does not anticipate significant road works.
24. Some further widening may be needed at corners/intersections, as well as the temporary removal of street signs and other street furniture (which is commonplace for wind farms and other projects requiring the carriage of large, heavy or long components).
25. The need for road improvements will likely increase closer to the Project Site where turbine components will be transported along roads not used during the construction of the Kaiwera Downs wind farm. In particular, some localised widening at corners, the reduction of humps and the strengthening or replacement of culverts/bridges along Kaiwera Downs Road (in the Gore District) is known to be required.
26. Prior to the commencement of construction Contact will prepare a design for any roading upgrades required - for example to replace an old bridge that crosses the Kaiwera Stream West Branch in order to accommodate the weight of the wind turbine components and main substation transformers. Contact will engage with the relevant road controlling authorities in respect of these works; the conditions require Contact to provide the designs for

⁵ Titled: 'Memo - NZ Windfarm Database'

approval at least ten working days prior to the commencement of construction. Contact will address any comments from the road controlling authority and, following the receipt of the road controlling authority's approval of the design, Contact can then commence construction of the upgrades. All costs associated with the design, approval and construction of the roading upgrades will be met by Contact.

27. In terms of how this is addressed in the consent conditions, proposed Condition TR3 as lodged with the application requires *"the costs for any local physical improvement works undertaken on the roading network to accommodate access to the Project Site (including replacement or upgrading of existing bridges and culverts which do not currently have the capacity to carry the proposed loads) shall be met by the Consent Holder."*
28. Following the Panel Conference, Contact has discussed this process with the Gore District Council (as the majority of the required roading upgrades associated with the Project are roads controlled by Gore District Council). Gore District Council has confirmed it is comfortable with the process set out above, however, advised that its preference is to include the provision of the design plans for the roadings upgrades in the conditions.
29. As such, Contact has agreed to update the wording of Condition TR3 to the following (amendments are shown in underline):

"The costs for any local physical improvement works undertaken on the roading network to accommodate access to the Project Site (including replacement or upgrading of existing bridges and culverts which do not currently have the capacity to carry the proposed loads) shall be met by the Consent Holder. The Consent Holder shall submit design plans and any other relevant details of these proposed works to the relevant road controlling authority for approval a minimum of ten working days prior to the commencement of these works. The Consent Holder shall be responsible for all costs associated with the assessment, for approval, by the relevant road controlling authority."

30. That agreed condition update is reflected in Gore District Council's comments provided under s53 – and has been intentionally worded to refer to 'road controlling authorities' should works be required in other districts or along the State Highway network. Contact will also reflect this change in the updated conditions it will submit in response to the s53 comments.

Request 6: requirements on Panel from Treaty settlement legislation

31. The Panel has asked Contact to:

"Advise the Panel of any requirements in the FTAA and relevant Treaty Settlement legislation for the Panel to directly engage with / consult Ngāi Tahu in addition to the FTAA s 53 comments process."

32. The Panel is already aware of the strongly collaborative process adopted and positive position reached as between Contact and all relevant Ngāi Tahu entities in respect of the Project. Contact understands that the Panel may wish to engage directly with Ngāi Tahu as part of this process, noting of course that the relevant entities have been invited to comment under section 53 of the FTAA.

33. To answer the Panel's question directly, however, there are no such obligations arising from the Ngāi Tahu Claims Settlement Act 1998 or the associated deed of settlement (the Ngāi Tahu settlement being the only one relevant to the Panel's consideration of Contact's application, in terms of section 82 of the FTAA), or from the FTAA more broadly.

34. In particular, there are no equivalent provisions in that settlement legislation to the co-governance provisions in the Pare Hauraki Collective Redress Bill, currently before Parliament, which were discussed by the Panel considering the Waihi North mining proposal under the FTAA (and possibly led to the Panel seeking this information here).

35. Nor are counsel aware of any other indications that the Panel may be obliged to engage directly with Ngāi Tahu, and counsel note that the Panel considering the Tekapo Power Scheme project – in the identical context to the current case – did not identify any such obligation either.⁶

36. For completeness, in the **Appendix** counsel step through the relevant analysis set out by the Panel considering the Tekapo Power Scheme project, adapted for this Project, in case that assists.

Request 7: approach to conditions on non-RMA approvals

37. The Panel has asked Contact to:

"Advise whether the approach to non-RMA approvals conditions in the draft Waihi North decision whereby cross-references to the RMA approvals were used in lieu of repeating those conditions could be

⁶ Tekapo Power Scheme Expert Panel, Record of Decision of the Expert Consenting Panel under section 87 of the Fast-Track Approvals Act 2024, 3 November 2025. [Decision TPS](#)

adopted for the Southland Windfarm approvals. If the Waihi approach is favoured, indicate if revised condition suites for the non-RMA approvals will be provided as part of the Applicant's response to the s51 reports and s53 comments."

38. Contact has reviewed the approach to the non-RMA approvals in the draft Waihi North decision that was released on 25 November 2025. In particular, Contact notes the following statement at paragraphs 21-22 of Part N of the draft decision:

"The FTAA provides a single process for seeking a range of approvals which would otherwise have to be sought under different statutes and by different processes. The purpose of the FTAA is to facilitate the delivery of the development project that is the WNP. In our view duplicating conditions in the various approvals relating to the WNP is not an efficient or effective way of achieving that purpose.

Duplicated conditions (particularly where there is inconsistent wording) creates uncertainty, increases the complexity of the approvals and potentially frustrates the delivery of the project. The Panel's view is that it is better to state the conditions once in a relevant approval and to cross-refer to those conditions in the other approvals."

39. Contact agrees with the rationale and approach taken by the Waihi North Expert Panel in the draft decision and notes the Panel's conclusions that the duplication of conditions is not an efficient or effective way of achieving the purpose of the FTAA. Contact considers this approach can be adopted for the Southland Wind Farm, in particular for the conditions for the Wildlife Act and Concession approvals Contact is seeking. These approvals include conditions which can appropriately be addressed as cross-references to relevant conditions for the resource consent approvals, particularly in relation to the management plans.
40. Contact also notes in the s51 report prepared by DOC relating to the concession approvals sought by Contact that DOC has recommended including conditions on a number of matters that are addressed in the resource consent approval conditions, such as weed control, management of hazardous substances and an (archaeology) accidental discovery protocol. The recommended conditions are not consistent with the wording used in the resource consent approval conditions and Contact considers this could create compliance issues and uncertainty. Therefore, adopting the Waihi

North approach to address these matters will adequately address these concerns.

41. For completeness, Contact considers this approach is not necessary for the proposed conditions for the Freshwater Fisheries approvals, as these conditions do not duplicate any consent conditions.
42. Given the above, Contact intends to adopt a similar approach to that taken in the Waihi North draft decision for the Concession and Wildlife Act approval conditions and will provide an updated suite of conditions for these approvals as part of its response to the s51 reports and s53 comments that reflect the cross-referencing approach, where appropriate.

Request 8: earthworks-related conditions

43. The Panel has asked Contact to:

"Consider and comment on the earthworks-related condition queries raised by the Panel:

a. the earthworks staging and stabilisation approach, including in terms of the conditions with reference to Conditions CM 5(d) and (e). Confirm what stabilisation methods are proposed and whether they will be effective.

b. Conditions CM5(g) and CM7A(g) – water clarity and discharge standards:

(i) whether these requirements are consistent and achievable."

44. Following the Panel conference, Contact has discussed these conditions further with its expert advisors, in particular Riley Consultants (Riley), who prepared the construction effects assessment and associated management plans for the Project, and Dr Greg Ryder, who was the primary author of the freshwater ecology assessment.
45. In response to (a), CM5(d) refers to the stabilisation of all exposed areas associated with internal roading and hardstand platforms. Riley has advised that the placement of the pavement (hardfill) material will be effective in stabilising these areas. This will be done within 5 working days of the completion of establishment works in areas located within the Jedburgh Plateau and within 50m of a downstream waterbody, and as soon as practicable for all other areas within the Project Site.
46. CM5(e) refers to the stabilisation of all exposed landscape areas (excluding proposed roads and platforms, and excavations in rock), i.e. applies to the

cut and fill batters and surplus fill disposal sites. Riley has advised that stabilisation will be employed in these areas using measures such as hydroseeding or hydro-mulching, which will be applied within ten working days of completion of works in these areas that are located within the Jedburgh Plateau and within 50m of a downstream waterbody. For other landscape areas within the Project Site, stabilisation (which may include hydroseeding or hydro-mulching or other effective stabilisation techniques) will be undertaken as soon as practicable.

47. Contact intends to update condition CM5(d) and CM5(e) to clarify the above, and this update will be included as part of the updated condition set that will be submitted with its response to the s53 comments.
48. In regard to the question of whether the standards set out in CM5(g) and CM7A(g) are consistent and achievable, while the intent of these conditions is to ensure erosion and sediment control measures do not generate adverse effects on downstream receiving environments, Contact has been advised that during high intensity rainfall events it is possible that these standards will be unable to be met. Condition CM7A (and CM7B which also includes the standard listed in CM7A(g)) is a list of the receiving water quality standards from Appendix E in the Proposed Southland Water and Land Plan (SWLP) for surface water bodies classified as 'Mataura 3' and 'Lowland Soft Bed'. This appendix sets out the receiving water quality standards that apply to the effects of discharges following reasonable mixing with the receiving waters. As such, Contact has proposed these conditions to achieve the relevant receiving water quality standards during construction of the Project in accordance with the direction of the SWLP. However, it is noted that the introduction to Appendix E of the SWLP states:

"The standard for a given parameter will not apply in a lake, river, artificial watercourse or modified watercourse or natural wetland where:

(a) due to natural causes, that parameter cannot meet the standard..."

49. High intensity rainfall events are a 'natural cause'; the note above anticipates that the water clarity standard in Appendix E to the SWLP is not required to be met during such events. As such, Contact intends to update Condition CM7A and CM7B to accurately reflect the requirements of the SWLP and include a clause that the standards do not apply where, due to natural causes, a parameter cannot meet the standard.

50. Contact intends to adopt the same approach to CM5(g). This will ensure the standards set out in the proposed conditions are consistent and achievable, while maintaining best practice approaches to earthworks and sediment controls.
51. Contact will invite discussion about the necessary updates to the conditions with Environment Southland, in advance of formally proposing those updates.

Request 9: Panel approval / certification of the LMP and TIMP

52. The Panel has asked Contact to:

"Advise whether the Applicant still considers it is appropriate to have the Panel 'approve / certify' the LMP and TIMP in the absence of having engaged an Independent Management Plan Reviewer to review those documents as part of the substantive application."

53. Contact's substantive application proposed that the Lizard Management Plan (**LMP**) and Terrestrial Invertebrate Management Plan (**TIMP**) (which includes the Stag Beetle Management Plan) be approved as final by the Panel, rather than be subject to the post-consenting certification process set out in draft consent conditions MP5 – MP9.

54. The LMP and TIMP 'attach' to the wildlife approvals sought by Contact, in addition to the resource consents. DOC's usual practice when granting wildlife authorities is to approve the relevant management plan(s) as final, rather than provide for a later certification process. That approach is confirmed in DOC's report on the wildlife approvals provided to the Panel pursuant to section 51 of the FTAA:⁷

"Wildlife Act approvals for wildlife salvage typically include approval of a species management plan as part of the process. That is, an applicant provides a species management plan with their application, detailing proposed actions. The detail in the species management plan informs the assessment against the purpose of the Wildlife Act and, if the application is approved, the Wildlife Act authorisation is conditional on compliance with the approved plan."

55. Contact's proposed approach was intended to align with that usual practice. Contact considers that approach is valid and available to the Panel, noting that:

⁷ At 6.28.

- (a) The draft versions of the LMP and TIMP provided with the substantive application are complete drafts; and
 - (b) The parties and experts involved in this FTAA process (including DOC and the Councils) are well placed to review those complete drafts, and provide any commentary / advice to the Panel. The Panel would then be in a position to make an informed decision on the final content of the LMP and TIMP.
56. That said, Contact would also be comfortable with an alternative approach, whereby the LMP and TIMP would not be approved as final by the Panel, but would instead:
- (a) be subject to the post-consenting certification process set out in draft consent conditions MP5 – MP9; and
 - (b) once certified, would 'attach' to both the resource consents and wildlife approvals. Under this approach, the wildlife approval conditions would cross-refer to and rely on the certification process provided for in the consent conditions.

Request 10: process to select Independent Reviewer

57. The Panel has asked Contact to:

"Provide details of the process that is intended to be followed (including in terms of input from the relevant councils) to select an Independent Reviewer for each management plan who has the necessary qualifications and experience to review the plan. We have assumed that there will be more than one reviewer engaged due to the range of management plans proposed. Can this also please be confirmed."

58. Typically, the management plans required by the conditions of resource consents are certified by the Council prior to the commencement of construction. Given the scale of the Project, and the range of activities and jurisdictions the Project spans, Contact is proposing to employ an innovative and robust method for certifying the management plans to ensure a thorough and transparent review process, thereby mitigating the burden on the Consent Authority in terms of the resources necessary for reviewing the proposed management plans. This approach has been discussed with, and supported by, the relevant Councils (Southland District Council, Environment Southland and Gore District Council).

59. The management plan framework, including the process for certification, is described in greater detail in Section 6.2 of the Resource Consent Approvals Application document included in Part B of the substantive application documents. The certification process is also set out and required by Conditions MP1-MP11.
60. Under those conditions, prior to the commencement of construction activities for the Project, and within six months of the granting of the consent, Contact must nominate for Council's approval, an independent, Suitably Qualified and Experienced Person(s) to review each of the management plans required by the consent (listed in Conditions MP1-MP3). In accordance with the definition in the conditions, the Suitably Qualified and Experienced Person must be a person with a tertiary qualification in the field to which the management plan relates; or having sufficient technical expertise that is at least equivalent; and having at least five (5) years working experience. This person must be independent and therefore cannot be an expert that Contact has engaged to prepare the relevant management plan.
61. Given there are a range of management plans proposed that address different specialist expertise, there will be more than one reviewer engaged to ensure the reviewer has experience relevant to the management plan they are reviewing (e.g. a suitably qualified and experienced ecologist will review the Terrestrial and Wetland Ecological Management Plan, whilst a suitably qualified and experienced person in construction management will review the Construction Environmental Management Plan).
62. In accordance with proposed Condition MP4, Contact will provide information, such as the reviewer's curriculum vitae, to the relevant Councils to demonstrate that the proposed reviewer(s) is independent and suitably qualified. The relevant Councils will then consider the nominated reviewer(s) and confirm whether they do or do not agree that the nominated person(s) can be the Independent Reviewer for the management plan Contact has nominated them to review. All relevant Councils must provide agreement in order for the nominated person to become the Independent Reviewer.
63. In the event the Councils do not agree to the Independent Reviewer nominated by Contact, Contact will then nominate a different person who is an independent and Suitably Qualified and Experienced Person in the relevant topic for the Council's consideration. This could also include input from the Council(s) as to who they consider is an appropriate reviewer for the relevant management plan. Once the Council(s) agree to the nominated

reviewer, that/those person(s) become the Independent Management Plan Reviewer(s).

64. All costs associated with the Independent Management Plan Reviewer(s) will be met by Contact.

Request 11: flow records for proposed water take sites

65. The Panel has asked Contact to:

"Place the two years of flow records for the proposed water take sites into a longer-term context to indicate whether these records represent wet, average, or dry years."

66. Mr Harding has prepared a memorandum addressing this information request, which is filed together with this memorandum of counsel.⁸ As set out in that memorandum, analysis of other available records (stream flow and rainfall) shows that the two-year period of the stream level/flow data recorded at the proposed water take sites is essentially representative of the average of the long-term record.

Request 12: updated site visit plan

67. The Panel has asked Contact to:

"Update the plan of the site visit route driven on 27 November including on the Jedburgh Plateau and include the key locations visited by the Panel."

68. Three plans have been prepared to address this question, and accompany this memorandum:
- (a) an overall plan showing the entire site visit, overlaid on a topographical map;
 - (b) the same overall plan, overlaid on a satellite image background; and
 - (c) a plan focussing specifically on the Jedburgh Station part of the site visit, overlaid on a satellite image background.

The site visit stops, as well as key site features, are identified on these plans.

⁸ Titled 'Memo - stream flow at water take sites'.

Request 13: 3D model of proposed fill sites and access routes

69. The Panel has asked Contact, *"where practicable"*, to *"provide a 3D model of the proposed fill sites and access routes on the Jedburgh Plateau with fen and bog locations also shown"*.
70. Riley has prepared a 3D model of Jedburgh Plateau with the requested features identified, and for completeness has also prepared 3D models that shows the areas where 'gully' fill sites are located across the remainder of the Wind Farm Site.
71. Given the size of those files, the 3Ds models have been provided directly to the EPA via Sharepoint.

Conclusion

72. Contact trusts that this information will assist the Panel in its deliberations.

Dated this 12th day of December 2025

A handwritten signature in blue ink, appearing to read 'Dave Randal / Thad Ryan', is positioned above a horizontal line.

Dave Randal / Thad Ryan
Counsel for Contact Energy Limited

APPENDIX – RELEVANT TREATY SETTLEMENT / FTAA REQUIREMENTS

Statutory requirements

Engagement with iwi authorities

1. As part of the process for considering Contact's referral application for the Project, the Ministry for Environment prepared a section 18 report. The section 18 report includes relevant iwi authorities, Treaty settlement entities, and other Māori groups with relevant interests. This report confirmed that the Ngāi Tahu Claims Settlement Act 1998 is the relevant Treaty settlement for this area.⁹ The groups identified in this report were:¹⁰
 - (a) Te Rūnanga o Ngāi Tahu;
 - (b) Hokonui Rūnanga;
 - (c) Waihōpai Rūnanga;
 - (d) Te Rūnanga o Awarua;
 - (e) Te Rūnanga o Ōraka Aparima; and
 - (f) Te Ao Mārama Incorporated.
2. Under section 11 of the FTAA, the applicant must consult with any relevant iwi authorities, hapū, and Treaty settlement entities, including:
 - (a) iwi authorities and groups that represent hapū that are parties to relevant Mana Whakahono ā Rohe or joint management agreements; and
 - (b) the tangata whenua of any area within the project area that is a taiāpure-local fishery, a mātaimai reserve, or an area that is subject to bylaws or regulations made under Part 9 of the Fisheries Act 1996.
3. As the Panel will have understood from the substantive application documents, Contact has been closely working with representatives of Te Rūnanga o Ngāi Tahu and Papatipu Rūnaka ki Murihiku including in relation to this Project.
4. In this case, there are no iwi authorities or groups party to a Mana Whakahono ā Rohe or joint management agreement in this region.¹¹ There are also no taiāpure, mātaimai, or other fisheries relevant to the Project area.

⁹ Ministry for the Environment, Fast-track Approvals Act 2024 – Treaty settlements and other obligations (Section 18) report – Stage 1 Southland Wind Farm, 29 July 2025 at [4].

¹⁰ Ministry for the Environment, Fast-track Approvals Act 2024 – Treaty settlements and other obligations (Section 18) report – Stage 1 Southland Wind Farm, 29 July 2025 at [3].

¹¹ Ministry for the Environment, Fast-track Approvals Act 2024 – Treaty settlements and other obligations (Section 18) report – Stage 1 Southland Wind Farm, 29 July 2025 at [4].

Treaty settlements and recognised customary rights

5. Section 7 of the FTAA requires that all persons performing functions and exercising powers under the FTAA act in a manner that is consistent with the obligations arising under existing Treaty Settlements. As noted above, the only relevant Treaty settlement is the Ngāi Tahu Claims Settlement Act 1998 and associated deed.
6. That legislation provides for the following:
 - (a) acknowledgement of the cultural, spiritual, historic and/or traditional association of Ngāi Tahu with each of the taonga species, and taonga fish species;
 - (b) Te Rūnanga o Ngāi Tahu to have a voice in the management of taonga and taonga fish species – primarily through working with the Minister of Conservation;
 - (c) Te Rūnanga o Ngāi Tahu is appointed as an advisory committee to provide advice to the Minister of Conservation to provide advice on management and conservation of freshwater fisheries within the Ngāi Tahu Claim Area;¹² and
 - (d) nohoanga entitlements to allow members of Ngāi Tahu Whānui to temporarily occupy land close to the waterways to fish or gather other natural resources on a non-commercial basis.
7. In respect of (a) to (c) above, Contact has worked with Te Rūnanga o Ngāi Tahu and Papatipu Rūnaka ki Murihiku to address any effects on taonga species.¹³ Regarding (d), There are no nohoanga entitlements within the Project site.¹⁴

Resource Management Act approvals

8. Under Schedule 5 of the FTAA – approvals relating to the Resource Management Act 1991 – clause 5(1)(i) requires that the applicant must include information about any Treaty settlements that apply in the area covered by the consent application, including Treaty settlement land.¹⁵ The Project will not be located on Treaty settlement land.¹⁶ Part of the Project site includes Slopedown Forest, which is owned by Matariki Forests but was formerly commercial redress land received by Te Rūnanga o Ngāi Tahu

¹² Contact Energy Limited, Substantive Application, Part B, at 248.

¹³ Contact Energy Limited, Substantive Application, Part B, at 248.

¹⁴ Contact Energy Limited, Substantive Application, Part B, at 249.

¹⁵ Contact Energy Limited, Substantive Application, Part B, at 247.

¹⁶ Contact Energy Limited, Substantive Application, Part B, at 250.

through its Treaty settlement. This land has since been sold out of Ngāi Tahu ownership (and is not Māori land).¹⁷

9. Further, clause 5(j) of Schedule 5 to the FTAA requires an application to list any relevant protected customary marine title groups, protected customary rights, ngā hapū o Ngāti Porou or applicants under the Marine and Coastal Area (Takutai Moana) Act 2011 that apply to the Project. In this case, there are no relevant groups.¹⁸
10. Due to Schedule 5, clause 5(1)(h) and clause 5(2)(g), a consent application must include an assessment of the activity against any relevant provisions of a planning document lodged by the iwi authority. As part of the application, Contact considered the Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan,¹⁹ which will also be relevant to the Panel's assessment.
11. Further, the Panel's assessment should of course consider the relevant district plans – the Southland District Plan, and the Operative Gore District Plan.²⁰ Both contain tangata / mana whenua provisions, and are discussed in Contact's substantive application at Part B.²¹

Approvals relating to the Conservation Act 1987

12. For completeness, counsel note that there are no relevant Conservation Management Strategies, as the Project does not involve any sites for which Te Rūnanga o Ngāi Tahu is a statutory advisor.²² The Conservation Management Strategy does have an objective to understand the expectations of Ngāi Tahu, the community and others regarding the conservation and management of historic places on public conservation lands, which has guided development of the Project.

Approvals relating to the Wildlife Act

13. Contact has been closely consulting Te Rūnanga o Ngāi Tahu, Papatipu Rūnaka ki Murihiku, as well as Te Ao Mārama Incorporated. These entities have advised Contact that the wildlife approvals sought are appropriate.²³

¹⁷ Contact Energy Limited, Referral Application, at 55.

¹⁸ Contact Energy Limited, Substantive Application, Part B, at [8.23.1].

¹⁹ Contact Energy Limited, Substantive Application, Part B, at [8.22] and [8.6].

²⁰ Fast-track Approvals Act 2024, Schedule 5, cl 5(2)(f).

²¹ Contact Energy Limited, Substantive Application, Part B, at [8.20.1] and [8.21.1].

²² Contact Energy Limited, Referral Application, at 55.

²³ Contact Energy Limited, Substantive Application, Part D, at [7.2].

Approvals relating to the Heritage New Zealand Pouhere Taonga Act 2014

14. Contact has discussed the application and consent conditions with Te Ao Mārama Incorporated (**TAMI**). TAMI has confirmed that they are comfortable with Contact seeking an Archaeological Authority for the whole Project Site as part of the application. Further, a placeholder has been included in the draft Archaeological Management Plan to acknowledge that Kā Papatipu Rūnaka will develop a protocol for assisting with archaeological investigations.²⁴

Effect of Treaty settlements and other obligations in decision-making

15. Section 82 is particularly relevant to the Panel's decision-making, and sets out:
- (1) This section applies if a Treaty settlement, the Marine and Coastal Area (Takutai Moana) Act 2011, or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 is relevant to an approval.*
 - (2) If the settlement or Act provides for the consideration of any document, the panel must give the document the same or equivalent effect through the panel's decision making as it would have under any relevant specified Act.*
 - (3) The panel must also consider whether granting the approval would comply with section 7.*
 - (4) In this section, **document**—*
 - (a) means any document, arrangement, or other matter; and*
 - (b) includes any statutory planning document amended as a result of the settlement or Act referred to in subsection (1).*
16. The Ngāi Tahu Claims Settlement Act 1998 is the only Act that requires attention from the Panel under s 82. In this case, that legislation provides for statutory acknowledgements, to which the Panel must give equivalent effect as it would under the RMA.²⁵ A statutory acknowledgement under the settlement legislation does not apply to the Project site, but one does apply to the Maitai River, which is to the east of the Project site.²⁶ Therefore, taking a holistic view, the statutory acknowledgement for the Maitai River does have some relevance to the Panel's decision-making.
17. Ngāi Tahu's statutory acknowledgements require the consent authority to consider the statutory acknowledgements when making notification decisions

²⁴ Contact Energy Limited, Substantive Application, Part E, at [5.1].

²⁵ Contact Energy Limited, Substantive Application, Appendix to Part A of Application Documents (Legal Analysis), at [2.17].

²⁶ Contact Energy Limited, Substantive Application, Part B, at 249.

under the Resource Management Act 1991.²⁷ In this case, the Panel is acting as the consent authority.²⁸ As there is no (equivalent) notification process in FTAA, following the approach taken in the Tekapō decision,²⁹ it is appropriate that the Panel invited Te Rūnanga o Ngāi Tahu, Hokonui Rūnanga, Papatipu Rūnanga of Ngāi Tahu Whānui, Waihōpai Rūnaka, Te Rūnanga o Ngāi Tahu Whānui, and Te Rūnanga o Ōraka Aparima to comment on the Application under s 53 of the FTAA.³⁰

18. Schedule 3 of the FTAA relates to the conduct of hearings and other procedural matters affecting the expert panel. Clause 5 of this Schedule relates to Treaty settlements and other arrangements in particular. In terms of Clause 5 of Schedule 3 to the FTAA, which relates to the conduct of hearings and other procedural matters in the context of Treaty settlements, the Panel must comply with the arrangements in the Settlement Act. Under the settlement legislation, the Tekapo draft decision found that there are no specific requirements, apart from the notification discussed earlier.
19. Section 84 of the FTAA enables the Panel to set conditions to recognise or protect a relevant Treaty settlement. This is not a mandatory requirement, but is an option for the Panel to consider. Again, Contact has sought extensive feedback on conditions from mana whenua, and this has informed the conditions provided.³¹

²⁷ RMA, s 95B(4).

²⁸ Tekapō Decision, at [73.3].

²⁹ Tekapō Decision, at [82].

³⁰ Southland Wind Farm Expert Panel Chair, Minute 1 of the Expert Panel, 19 November 2025, at Appendix 1. Comments must be received by 17 December 2025.

³¹ Contact Energy Limited, Overarching Substantive Application Document, Part A, at [5] and [6.4].