Memorandum

To: Puke Kapo Hau Mahinerangi Wind Farm Expert Panel c/ Environmental Protection Authority

From: Sarah Edwards – Associate, Richard Turner – Planning Consultant and Chief Executive of Mitchell Daysh and Jason Welsh, Partner ChanceryGreen

Date: 16 March 2026

Re: FTAA-2510-1125 Puke Kapo Hau Mahinerangi Wind Farm Stage 2 Fast-track approval application - Response to Further Information Request

INTRODUCTION

We refer to the further information request dated 5 March 2026 from the Puke Kapo Hau Mahinerangi Wind Farm Expert Panel (the Panel) under section 67 of the Fast-track Approvals Act 2024 (the Act) in relation to the Puke Kapo Hau Mahinerangi Wind Farm Stage 2 substantive application.

While not a request under section 67(1) of the FTAA, the Panel has also invited the applicant to provide any updates to the application in response to discussions with parties as these become available.

Responses to the further information requested and an update on engagement with parties are provided in the following sections, with attachments noted where relevant.

1. ***Provide a supplementary assessment of the implications of any relevant amendments to national direction that came into effect in January 2026.***

On 18 December 2025 the government announced ten new or amended national direction instruments under the Resource Management Act 1991 ("**RMA**") as follows:

- National Policy Statement for Indigenous Biodiversity Amendment 2025
- National Environmental Standards for Detached Minor Residential Units) Regulations 2025
- National Policy Statement for Natural Hazards 2025
- National Policy Statement for Highly Productive Land Amendment 2025 ("**NPS-HPL**")
- New Zealand Coastal Policy Statement Amendment 2025 ("**NZCPS**")
- National Policy Statement for Freshwater Management Amendment 2025 ("**NPS-FM**")
- National Environmental Standards for Freshwater) Amendment Regulations 2025

> National Policy Statement for Renewable Electricity Generation Amendment 2025.

These came into effect on 15 January 2026. An assessment of the Project against these new or amended national direction instruments is provided as a Statement of Evidence in **Appendix 1** to this response memorandum.

2. What is the anticipated means of legal protection, if any, for the wetland and aquatic compensation sites?

The Aquatic Offsetting Site and the Wetland Offsetting Site are intended to be legally protected by way a restrictive covenant. A new condition on the Regional Plan – Water for Otago land use consent to install the culvert within the Lee Stream Tributary is proposed and which reads:

> *No later than six months after the establishment of the Aquatic Offsetting Site [Part Section 5 Block X Lee Stream SD (CT OT14C/331)] and shown on Appendix 2, the Consent Holder shall provide legal protection from stock grazing for the period of the operation of the Wind Farm via a covenant or similar legally binding mechanism. Evidence that this condition has been complied with must be provided to the Consent Authority.*

3. What is intended to be done to protect taonga species under Schedule 97 of the Ngāi Tahu Claims Settlement Act, similar to protections undertaken in relation to Threatened or At-Risk species?

Schedule 97 of the Ngāi Tahu Claims Settlement Act 1998 sets out taonga species to Ngāi Tahu. Several of the scheduled species are present at the Puke Kapo Hau, including four vegetation species (see Vegetation, Wetland and Terrestrial Invertebrate (SLR 2025)) and seven bird species (see Avifauna Assessment (Boffa Miskell 2025)). SLR and Boffa Miskell have prepared Technical Memoranda at **Appendices 2 and 3** in response to the RFI.

Sections 293 and 294 of the Ngāi Tahu Claims Settlement Act recognise the special association of Ngāi Tahu with the scheduled species and establish procedural obligations on the Crown, requiring the Minister of Conservation and the Director-General of Conservation to engage with Te Rūnanga o Ngāi Tahu when making policy decisions relating to the protection, management, or conservation of taonga species (including conservation strategies, policies, regulations, and species recovery processes).

These provisions do not extend to specific obligations on third parties seeking resource consents or other project-specific approvals. Nevertheless, and for completeness, the potential effects of the Project on the scheduled taonga species have been assessed in the application documentation and in Boffa Miskell and SLRs' Technical Memoranda.

Of the four vegetation species identified, only Taramea (speargrass, Spaniard) (*Aciphylla spp*) - specifically, golden speargrass - is present within the Windfarm Development Area, where it is ubiquitous across the site, including within actively farmed areas. Taramea is also present within the wetland offsetting site and the Scrappy Pines Block – a 59ha area that has been fenced and legally protected by way of QEII covenant under Land Use Consent RM1409, following completion of the Stage 1 turbines.

By reducing the 700 ha consented Windfarm Development Area by 34 ha, the proposed variation of conditions advanced by Tararua Wind Power Limited ("**Tararua**" or "**TWP**") minimises earthworks and thereby reduces any potential effects on Taramea.

The remaining three vegetation species identified in or near the Project will not be affected, as Stage 2 of the Puke Kapo Hau does not involve any works within these locations.

Taramea exhibits poor transplant tolerance due to its deep taproots which are sensitive to disturbance. For this reason, TWP is not proposing to transplant Taramea at the wetland offsetting site where it already is present. However, TWP is proposing to plant several other species at the wetland offsetting site, including two identified taonga species.

Of the seven bird species recorded within the wind farm site, four of those species have no recorded turbine strike mortalities at any wind farm in New Zealand, including Stage 1 of the wind farm.

For the taonga species which are at risk of turbine strike mortalities, the proposed variations to the consent conditions will minimise and mitigate potential effects, including collision risk, relative to the currently consented wind farm. In particular, the Project reduces the number of consented turbines from 100 to 56 and provides for a 20m minimum blade ground clearance. TWP is also proposing pest management, and the Stage 2 Wind Farn Development Area is setback from native forest remnants.

Taken together, these measures are expected to reduce collision risk and provide protection for these taonga species.

4 You have stated that there is a functional need for a number of proposed activities that may affect freshwater. How is 'functional need', as defined in the National Planning Standards and National Policy Statement for Freshwater Management, demonstrated in relation to these activities? Your response should include consideration of proposed works at Wetland 43 south of turbine 20, and Wetland 15 south of turbine 5.

Please refer to both the Joint Statement of Evidence of Richard Turner and Sarah Edwards provided in **Appendix 1** and Riley's Technical Memorandum contained in **Appendix 4**.

The term "functional need" in the NPS-FM is defined as "the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment".[1]

The Courts and an Expert Panel under the FTAA have considered the meaning and application of "functional need" in several decisions:

(a) In *Te Rūnanga o Ngāti Whātua v Auckland Council*[2] the High Court held that the NPS-FM requirements to assess functional need and alternative sites must be applied in a practical, common-sense way, based on a realistic assessment of the proposed activity, including its scale and function.

(b) In *Meridian Energy Ltd v Tararua District Council*[3] the Environment Court held that the NES-F functional need requirement[4] for a wind farm to be located in its proposed location was satisfied. The Court noted that the site contained a high-quality wind resource and was proximate to the national grid, which together demonstrated a functional need for the wind farm to be located in that area.

(c) In *Poutama Kaitiaki Charitable Trust v Taranaki Regional Council*[5] the High Court concluded that a functional need existed for a proposed rural highway to occur in the relevant location. The Court emphasised that the inquiry focuses on whether the activity needs to occur within a "particular environment", noting that environment under the RMA is a broader concept than a precise geographic location.

(d) In the draft decision issued by the Expert Panel for the Southland Wind Farm under the FTAA,[6] the Panel concluded that the wind farm demonstrated a clear functional and operational need at the proposed locations, guided by Policy C of the NPS-REG (as amended 2025).[7] The Panel noted that this need was supported by factors, including the site's highly suitable wind resource, proximity to the existing Transpower 220kV circuit, and proven transportation route for turbine components.

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1 Refer NPS-FM clause 3.21.

2 [2024] NZHC 3794 at [286].

3 [2025] NZEnvC 44 at [339].

4 Which uses the same definition of 'functional need' as in the NPS-FM: see s3.

5 [2022] NZHC 629 at [38] – [60]

6 FTAA-2508-1095.

7 At [875].

The above decisions confirm that the "functional need" test is to be interpreted in a realistic and pragmatic manner. Below are key principles from the case law:

(a) **The functional need test is strict, but not absolute**:[8] The functional need test, employing the language "can only occur", is strict (i.e. imposes a high threshold), but is not absolute. Whether it is met depends on the context in any case – namely the circumstances relating to a project's need to be in a particular location. Relevant considerations include the characteristics and requirements of the specified infrastructure, and the constraints of the environment in which it is proposed to be located. In this case, relevant matters include the nature of wind farm infrastructure (including its component parts) and its role in the electricity system; the requirements for a functioning wind farm; and the fact that alternatives (which may avoid wetlands/rivers to a greater extent) are constrained by cost, the wind resource, constructability, other practicalities, and environmental constraints (e.g. ecological, noise, visual).

(b) **The relevant scale is the broader "environment", not each particular wetland/river location**:[9] The focus of the functional need test is the need for a proposal to locate in a particular "environment" (as defined in the RMA), which is a relatively broad scale. Applicants need to demonstrate a project has a functional need to be in the particular environment in which it is proposed to be located (e.g. a particular ridge or valley landscape), not that it has a functional need to traverse each particular natural inland wetland or river.

(c) **Existence of alternatives is not fatal**:[10] The fact that conceivable alternative locations exist does not necessarily mean a proposal does not have a functional need to be in its proposed location. Alternatives will almost always exist for infrastructure projects. However, alternatives are also constrained by practicalities, including cost, terrain, and constructability, as well as environmental considerations.

(d) **"Functional need"[11] is different to, and stricter than, "operational need"**.[12]

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8 *Poutama Kaitiaki Charitable Trust v Taranaki Regional Council* [2022] NZHC 629 at [48].

9 *Poutama Kaitiaki Charitable Trust v Taranaki Regional Council* [2022] NZHC 629 at [53] – [55].

10 *Poutama Kaitiaki Charitable Trust v Taranaki Regional Council* [2022] NZHC 629 at [57].

11 'Functional need' is defined in clause 3.21 of the NPS-FM as: *"the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment"*.

12 Clause 1.4 of the NPS-REG provides that 'operational need' has the same meaning as the National Planning Standards 2019 which is defined in the definitions list as: "*the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints*."

Appendix 4 contains Riley's Technical Memorandum addressing "functional need" in the context of the wetlands 43 and 15 notwithstanding that the case law confirms that establishing functional need at that level of granularity (i.e. at the level of each wetland) is not required.

Applicability of the NPS-REG

The Panel must also have regard to the recent amendments to the NPS-REG,[13] noting that no national policy statement prevails over another and they must be interpreted together.[14]

In particular, the following policies of the NPS-REG are relevant to the Project's activities that may affect freshwater:

(a) Policy C strengthens the NPS-REG direction to recognise and provide for the operational need or functional need of renewable electricity generation (REG) assets and activities to locate in particular environments. The policy provides examples of circumstances in which operational or functional need may arise for REG infrastructure,[15] and explicitly states that an assessment of alternative sites is not required to demonstrate operational or functional need.[16]

(b) Policy F directs decision-makers to enable REG assets and activities in all locations and environments, subject to the application of relevant planning provisions.

An assessment of the Project against the amended NPS-REG (along with the other new or amended national direction instruments) is provided in the Statement of Evidence in **Appendix 1**.

5. Explain the application of the National Planning Standards definition of 'reclamation' and Regulation 57 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 in the circumstances of permanent deposition of material associated with the placement of proposed culverts. Does Regulation 57 apply to these activities in addition to Regulations 45 and 70?

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[13] Which came into force on 15 January 2025.

[14] See explanatory notes to the NPS-REG and NPS for Infrastructure.

[15] In Policy C(2) provides that Decision-makers must recognise that the operational need or functional need of REG assets and activities includes the need to be located where a renewable electricity resource is located and available at a viable scale and quality to sustain the REG activity; be accessible and to connect to electricity networks and be nearby to electricity demand; and have sufficient and accessible land available to support all associated current and reasonably foreseeable future REG activities at that particular location.

[16] Policy C(3).

The proposed activities at the Lee Stream tributary are properly characterised as culvert installation under Regulations 45 and 70 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 ("**NES-F**"). Regulation 57 does not apply.

Under the NES-F, a culvert is defined as:

> *a pipe, box structure, or covered or arched channel that has an inlet and outlet that is in, and that connects the water or bed of, the same river or connected area*

As outlined in the Riley Civil Assessment and appended drawings, the proposed Lee Stream tributary culvert will be formed adjacent to (offline from) the stream, connecting to the stream bed at both ends. The culvert will consist of:

- 34.1 m long box culvert (2.5 m wide x 2.5 m high),
- Inlet and outlet wingwalls.

The culvert and associated works is solely for the purpose of crossing the stream.

Regulation 70 provides that the placement, use, alteration, extension or reconstruction of a culvert in, on, over or under the bed of a river is a permitted activity if specified conditions are met. Regulation 71 provides a discretionary pathway where those conditions are not satisfied. The NES-F therefore expressly anticipates culverts being placed within riverbeds and establishes a specific regulatory framework for managing those works, including requirements relating to fish passage and maintenance.

By contrast, Regulation 57 regulates reclamation of rivers and natural wetlands. The NES-F adopts the National Planning Standards definition of reclamation as:

> *"the manmade formation of permanent dry land by the positioning of material into or onto any part of a waterbody, bed of a lake or river or the coastal marine area, and: (a) includes the construction of any causeway; but (b) excludes the construction of natural hazard protection structures such as seawalls, breakwaters or groynes except where the purpose of those structures is to form dry land".*

A key element of reclamation is therefore the creation of permanent dry land.

The structure of the NES-F indicates that culverts and reclamations are intended to be treated as distinct activities. Reclamation is addressed in Regulation 57, while culverts are regulated separately through Regulations 70 and 71. Interpreting culvert installation as reclamation simply because material is placed in the riverbed would undermine this framework, as most culverts require some deposition of material to secure and stabilise the structure.

This distinction is consistent with the structure of the RMA. Section 13(1) separately regulates the placement of structures in the bed of a river (s 13(1)(a)) and reclamation of the bed of a river or lake (s 13(1)(e)). Culverts are plainly structures for the purposes of s 13(1)(a), supporting the view that culvert installation should ordinarily be assessed as structural works rather than reclamation.

Guidance from the Ministry for the Environment does, however, indicate that a culvert extension may amount to reclamation where it creates land that could be used for purposes beyond crossing the waterway.

In this case, the deposition of material associated with the proposed culvert is limited to what is necessary to install and support the culvert and enable the crossing. The works will not create permanent dry land capable of independent use, and the waterway will continue to convey flow through the culvert. Accordingly, the activity does not meet the definition of reclamation. This approach is also consistent with the FTAA Substantive Application for the Southland Wind Farm where a number of culverts and associated works are also proposed in the beds of rivers / streams in order to facilitate construction of the wind farm.

For these reasons, the proposed works should be assessed under the culvert provisions of the NES-F (including Regulations 45 and 70). Regulation 57 does not apply in addition to those provisions.

6. ***Assess how the offset and compensation principles contained in the proposed Otago Regional Policy Statement relate to the identified compensation sites.***

Please refer to the SLR technical Memorandum attached as **Appendix 2**.

7. ***To what extent do the proposed aquatic and wetland compensation meet or exceed the requirements of the Resource Management (Stock Exclusion) Regulations 2020 (e.g. Regulation 17)?***

Please refer to the SLR technical Memorandum attached as **Appendix 2**.

8. ***Given that the proposed works at Lee Stream include the loss of stream extent and associated margins, to what extent are you compensating for the loss of the physical form, structure and extent of the stream reach, its bed, banks and margins, its riparian vegetation and its connections during high flow events?***

Following engagement with the technical reviewers for Otago Regional Council (see Engagement Update section below), TWP has made amendments to its Lee Stream tributary and wetland effects management proposals contained in its Substantive Application such that they constitute aquatic offsetting (as opposed to compensation) in accordance with the NPS-FM.

TWP is proposing to offset the loss of river values and extent of the Lee Stream tributary through a comprehensive and robust package of enhancement measures to secure the enhancement of river values at the proposed aquatic offset site. TWP is not proposing to offset the loss of extent of the Lee Stream tributary by creating new stream extent.

SLR has provided a Technical Memorandum regarding the proposed aquatic offsetting with respect to the Lee Stream tributary which is provided in **Appendix 2.** The Technical Memorandum outlines how the proposed offsetting measures are appropriate and consistent with the NPS-FM requirements, including how the proposed offsetting will ensure there is a net gain ecological outcome with respect to both lost river values and extent.

SLR's Technical Memorandum explains that the affected reach (approximately 50 m) is a highly modified section of stream that has been altered by historic land use, including stock access and excavation of the bed and banks, such that it now functions largely as a modified drainage channel with limited hydraulic and habitat diversity. In contrast, the aquatic offset site protects a longer reach of stream (approximately 160 m) with more natural hydraulic and habitat diversity and higher-value habitats. Protection and fencing of this reach will reduce sediment inputs and stock disturbance, support more stable bed substrates, improve bank stability and margins, and enhance riparian vegetation through the establishment of snow tussocks. The Technical Memorandum also confirms that high flow events will continue to be conveyed through the proposed culvert, retaining connections under both low and high flow conditions.

Overall, the Technical Memorandum concludes that, in this context, offsetting by way of protection and enhancement of stream values over a longer and more natural reach of stream is an appropriate response and will secure a better ecological outcome than seeking to create new stream extent.

For the reasons outlined below, TWP's proposed offsetting for the loss of value and extent of the Lee Stream tributary via enhancement of river values, as opposed to creating new stream extent, is consistent with the NPS-FM and with recent case law/decisions.

Policy 7 of the NPS-FM provides that the loss of river extent and values is avoided to the extent practicable. Clause 3.24(1) of the NPS-FM explicitly makes allowance for the loss of river extent and values where there is a functional need for the activity in that location and the effects of the activity are managed by applying the effects management hierarchy. The application material demonstrates that the functional need test is met, and that the effects management hierarchy has been conscientiously applied.

Recent case law supports that the loss of river extent can be offset by way of enhancing values elsewhere. In *Te Rūnanga o Ngāti Whātua v Auckland Council* [2024] NZHC 3794,[17] the High Court confirmed that: [18]

(a) While clause 3.24 (and Policy 7) of the NPS-FM generally require that the loss of river extent is avoided, Policy 7 expressly contemplates that the loss of river extent and values is to be avoided where "practicable"; and for activities with a functional need to occur in that location, clause 3.24 expressly provides a pathway for the management of effects from the loss of river extent by way of the effects management hierarchy. Clause 3.24 sets out a cascade of mechanisms to address effects by way of avoiding, minimising, remedying, offsetting, and compensating where "practicable".

(b) A loss of river extent may potentially be offset by way of enhancement of river values elsewhere, depending on the context. A key consideration will be the relationship/connection between the loss of wetland or river extent and values and any offset or other effects management proposed. It is the function served by the wetland or river extent that should be the focus. The Court stated, for example, that:[19]

> *An extensive network of open pipes and culverts might replace the extent of river loss but could be worthless ecologically or significantly worse for the environment than an extensive programme of river and stream enhancement.*

There are other examples of decisions where it has been found that loss of stream values and extent can be offset through restoration or enhancement measures on existing streams (as opposed to new stream creation). For example, although it predates the High Court decision noted above, the Expert Consenting Panel for Brookby Quarry – Stage 3 addressed the issue at length and found that a reduction in stream extent does not necessarily require the creation of equivalent new stream extent.[20] The Panel also observed that "loss of river extent and values" in the NPS-FM is a single concept and that drawing an artificial distinction between "loss of river extent" and "loss of river values" is not supported by the planning framework.[21]

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[17] It is noted that on 3 March 2026, the Royal Forest and Bird Protection Society of New Zealand Incorporated was granted, in part, leave to appeal the High Court's interpretation of certain NPS-FM policies when assessing the proposal under ss 104 and 104D of the Resource Management Act 1991. See *Royal Forest and Bird Protection Society of New Zealand Incorporated v Auckland Council* [2026] NZCA 51.

[18] At [298] - [300] in particular.

[19] At [300].

[20] At [254(a)].

[21] At [254(b)].

9. Please provide a comparison of the ecological state of the Scrappy Pines QEII covenant site prior to its protection and enhancement and in its current state.

Background

The 59ha Scrappy Pines QEII covenanted area was key mitigation/compensation measure when the Environment Court confirmed resource consents for up to 100 turbines. In its 2008 interim decision, the Environment Court recognised the retirement from farming activities and physical and legal protection as "*a positive benefit on the sustainable use of this land given the accepted importance of tussock lands*".[22]

Noting that the Scrappy Pines QEII block formed part of a modified landscape shaped by farming activities and a failed pine plantation,[23] the Court concluded that the mitigation would improve the ecological values of the Scrappy Pines area.[24] In particular, it found that fencing and covenant protection of the area, together with predator control, would provide a net protective outcome for the significant indigenous vegetation and habitat present, including a "*significant increase in snow tussock quality and protection within the Scrappy Pines area*." [25]

It is relevant to note that Scrappy Pines mitigation/compensation related to managing the effects of the *entire* wind farm project including works within high value habitat referred to as the Thomas Block which TWP now seeks to exclude from the Stage 2 Wind Farm Development Area.

Summary of comparison of the ecological state

As outlined in more detail below, the Scrappy Pines QEII covenanted area is achieving its intended ecological outcomes. Prior to development, the area comprised grazed tussock and exotic grassland with scattered exotic pines and areas of pasture, with snow-tussock vegetation present but patchy and influenced by grazing pressure.

Since that time, the Scrappy Pines QEII covenanted area has been retired from grazing, fenced, and actively managed, including removal and control of woody weeds and wilding pines. Monitoring reports now indicate that the covenanted area is in good ecological condition, with native shrubs performing well and mature tussocks thickening, demonstrating ongoing regeneration of snow-tussock grassland. Active pest plant management has also prevented the spread of broom, gorse, and wilding conifers, which would otherwise be likely to establish and expand in the absence of ongoing management.

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22 Upland Landscape Protection Society Inc v Clutha District Council ENC Christchurch C085/08, 25 July 2008 at [73].

23 At [99].

24 At [212].

25 At [225].

Importantly, the Scrappy Pines QEII covenanted area represents long-term ecological protection and enhancement that would not have occurred and the area would likely have remained grazed with woody weeds and wilding pines progressively spreading and suppressing indigenous tussock grassland. Instead, the retirement of the land from grazing and sustained weed control have allowed the structure and condition of native vegetation to improve over time.

Pre-QEII covenant ecological state

Environment Court evidence (2007)

Terrestrial ecologist expert Dr Ruth Bartlett, in her 2007 statement of evidence before the Environment Court, described the Scrappy Pines Block at paragraph 4.4 as "*exotic and grazed tussock pasture land*" containing grazed tussock with scattered pines (see **Plates 6 and 7 below**). Parts of the Scrappy Pines Block contained relatively large and dense snow-tussock grassland, with a diverse inter-tussock plant community (paragraph 4.8).

Overall, Dr Bartlett assessed the vegetation within the Scrappy Pines Block as variable in quality but generally comprising high-quality snow-tussock grassland, albeit modified by grazing and the presence of woody weeds and scattered exotic pines (paragraphs 5.15 and 7.3). The block also contains a high-quality gully wetland feature, contributing additional habitat diversity within the area (paragraph 7.3).

In her view the mitigation proposed, i.e. to covenant and allow to regenerate the Scrappy Pines Block, which will be protected in perpetuity, "*more than mitigated for the loss*" of approximately 1.4% of the Thomas block (paragraph 5.11). (As noted above, this application avoids development within the Thomas block).

Plate 6: Pasture and grazed tussock grassland in the "scrappy pines" area.

Plate 7: Tussock vegetation in the scrappy pines area.

Pre-construction vegetation assessment (2010)

A pre-construction vegetation assessment undertaken in September 2010 recorded the Scrappy Pines Block as approximately 50% pasture and around 37% snow tussock, with the remaining cover consisting of a small proportion of other species. Snow tussock was patchily distributed due to seasonal grazing, with some areas (such as gullies) supporting dense tussock cover while other areas were largely pasture. Bare ground was minimal (less than 1%), indicating generally intact ground cover. The assessment noted that retirement from grazing and re-establishment of removed tussocks during rehabilitation would assist in restoring a denser snow-tussock grassland over time.

Post-QEII covenant ecological state

Mahinerangi Wind Farm Annual Report (2021)

A site inspection of the Scrappy Pines Covenant was undertaken in August 2020 and reported in the Mahinerangi Wind Farm 2021 Annual Report. That Report found the area to be in good ecological condition overall.

The assessment recorded that the main issues affecting the covenant were weeds and localised pig damage, rather than broader degradation of vegetation condition. Scattered plants and patches of broom and gorse were identified, particularly along gully margins, along with a small number of Himalayan honeysuckle plants and wilding conifer seedlings, mostly associated with areas where earlier control had occurred. These weeds were generally considered manageable and were being regularly controlled by contractors undertaking site-wide weed control every two to three years.

The report concluded that active weed management and ongoing monitoring had largely maintained the ecological values of the covenant, and that the vegetation within the Scrappy Pines Covenant remained in good ecological condition.

As part of the Annual Report, attached was a summary of the Tussock survival and vegetation monitoring results undertaken by Ahika. This summary set out a comparison of survey results with condition of Consent RM1409 Rehabilitation of tussockland in Scrappy Pines Covenant, with the results outlined below:

Attribute	Target	Status 2020	Status Overall
Tussock area	1.5ha of exotic and 0.5ha of lower tussock density to be planted	1.5 ha of exotic grassland and 0.5 ha of lower tussock density as identified in Figure 1 of consent planted in Winter 2019.	Complete
Hare browse	Monitoring for hare browse to occur immediately after planting	Site visited September 2019. No hare browse evident, but some pig damage noted.	Complete
Tussock density	Planting at about 1m spacing	Plantings at a higher density than this and post-planting monitoring showed initial losses have resulted in a tussock spacing of 0.95 m	Complete
Tussock survival	80% or greater survival of tussocks in plots 3 years after initial translocation.	Though the 70% survival of plants over the first years has been lower than 80%, the higher density of plantings has ensured that the target density is being achieved. The target for survival over the next 3 years is >80% survival of the >1 year old tussocks.	On target
Tussock establishment	Number of live tillers in 10 randomly selected monitored tussocks has increased by 10% or more in two successive years	Baseline measurement of 6.04 tillers.	Underway
Monitoring	Establish four 10 x 10 m plots to assess survival and health of tussocks for up to five years.	Plots established and baseline measurements obtained.	Underway
Monitoring	Site to be inspected twice in spring summer to ensure no developing problems or weed issues.	Site visited April 2020 by M. Thorsen. No problems observed	Ongoing

The summary noted that, as detailed in Section 7.1 of the Rehabilitation Plan, the target is to rehabilitate the tussock grassland in the Scrappy Pines Block to a density and species composition comparable to that in Section 4.2 of the pre-construction vegetation survey as measured in 31 randomly placed 1m vegetation plots or in 4 10 x 10m permanent plots.

The results are outlined below:

Attribute	Target	Status 2020	Status Overall
Snow Tussock density	15%[26] (± 5.72%)	15.58% tussock cover	On target
Snow tussock height	45 cm (± 7.81 cm)	76.7 cm	On target[27]
Maximum pasture and clover cover	55%	73%	Above target
Maximum bare ground cover	<5%	4.74	On target
Maximum weed cover	<5%	3.45	On target
Weeds	Less than the weed cover present in nearby tussock areas with a current grazing regime	Appears less during a visual assessment	On target
Woody weeds	Zero woody weeds present in rehabilitation area	Broom, Gorse, Wilding conifers, Himalayan honeysuckle present	Not on target

QEII National Trust post-monitoring (2025)

In a recent post-monitoring letter from QEII National Trust (dated 17 December 2025), it recorded that the Scrappy Pines Covenant was inspected on 26 November 2025 as part of the routine covenant monitoring programme undertaken by QEII National Trust.

[26] Percent ground cover by tussock canopy.

[27] Noting there was a difference in measurement methodology.

The monitoring report concluded that the covenant remains in good ecological condition, with vegetation continuing to recover following retirement from grazing. Native shrubs are largely performing well and mature tussocks are thickening, indicating ongoing regeneration of the snow-tussock grassland. Early successional development was also observed, with some mānuka (*Leptospermum scoparium*) establishing, potentially signalling the gradual development toward woody native vegetation in some areas.

Management measures supporting ecological values were also noted. Fencing was largely in good to very good condition, with only a minor repair required near a creek, and predator trapping along the boundary was acknowledged as contributing positively to biodiversity protection. The inspection also recorded the presence of rare non-migratory galaxiid in the stream, highlighting the ecological value of aquatic habitats within the covenant.

Ongoing pest plant control has successfully prevented broom and wilding pines from establishing and threatening native vegetation, and continuation of this maintenance programme was recommended. The only notable vegetation issue identified was two small, localised patches of tussock dieback, possibly caused by herbicide spray drift, with advice provided to minimise spray drift during any future weed control operations.

Comparison photographs from 2014 (left) and 2025 (right) were also provided and are set out below.

Location: Yellow Triangle. On wooden 50x50 post east of tower 06 in gully on true bank of stream

20 November 2014

26 November 2026

Location: Same reference point Ppt02 - On wooden 50x50 post east of tower 06 in gully on true bank of stream

20 November 2014

26 November 2026

10. Provide an assessment of health and safety considerations and responses where there is a predicted blade overhang in relation to the public access route.

The presence of unformed 'paper' roads within wind farm sites is not uncommon. El Dorado track extends as an unformed 'paper' road within Puke Kapo Hau. While no part of any turbine tower or foundation is permitted to be located within the road reserve (see proposed consent condition 17B), Turbine 11 may overhang the airspace of the unformed road reserve.[28]Whether turbine blades do indeed overhang the unformed road will depend on whether:

1. TWP decides to construct a turbine(s) in a Contingency Zone resulting in blades extending into the airspace of the unformed road (noting that TWP has sought to retain more Contingency Zones than potential turbines provided for in condition 12); and

2. TWP is granted a licence to occupy the airspace above the road reserve by Clutha District Council in its capacity of road controlling authority under the Local Government Act 1974.

Puke Kapo Hau is located on private land and access to the wind farm site is restricted. Public use of the unformed road is infrequent and limited to foot access only. In addition, there are existing gates restricting access to Puke Kapo Hau and the unformed paper road.

Matters of health and safety are principally dealt with under the Health and Safety at Work Act 2015, and the wind farm contractor will have a key responsibility for meeting the requirements of that Act during the construction of Puke Kapo Hau.

[28] In the event of movement of turbines within other Contingency Zones there could be (but not unnecessarily) additional blade overhang.

Measures to ensure compliance may include staff training, hazard identification, PPE, restricting access to the construction site to authorised personnel only, hazard signage, and adherence to strict health and safety policies and procedures by workers and visitors to the construction site. During the construction period, restrictions on public access to the paper road may be necessary. Such restrictions will be addressed by the contractor and the road controlling authority, for example temporary restrictions on access along the unformed road. Temporary restrictions on the use of roads is commonplace around the country for work on or near roads.

TWP will have ongoing health and safety responsibilities under the Health and Safety at Work Act 2015, including during construction and operation of Stage 2.

The FTAA explicitly deals with health and safety requirements in very limited circumstances.[29]

While health and safety considerations and risk more generally have arisen as relevant under the Resource Management Act 1991 ("RMA"), the Environment Court has emphasised that the RMA is not a "no risk" statue. In *Shirley Primary School* the Court noted *"since life cannot be made completely safe for anybody, a no risk approach is (logically) impossible. There is also authority that the RMA is not a "no risk" statute and therefore it is not the role of this Court to ensure that Telecom's cellsite can operate with absolute safety"*.[30]

Existing land use consent RM1409 presently does not prescribe a minimum ground clearance of turbine blades. However, part of TWP's application to change consent conditions includes the insertion of a new condition 12A which reads "*the minimum ground clearance of the turbine blades shall be 20 meters*". Once operational, management of health and safety considerations with respect to the paper road will effectively be dealt with by that minimum ground clearance (i.e. turbine blades will be at least 20m above the road surface).

Any residual risk associated with limited public access (via the paper road) to an area of blade overhang (if any) is negligible. For context, daily public access is provided to Meridan's Brooklyn Wind Turbine in Wellington, which attracts thousands of visitors a year.[31]

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[29] See grounds for Ministerial call-in of decisions on concessions where the project may pose significant risks to public health and safety (see Part 1, clause 6, 6th Schedule); the Director-General of Conservation's report on land exchanges (see Part 2, clause 26, 6th Schedule); criteria for the panel considering a land exchange (see Part 2, clause 29(1)(v), 6th Schedule); grounds for ministerial call-in of decision for access arrangements and variations to access arrangements (see Part 1, clause 6, 11th Schedule); when mining permits must not be granted (see Part 2, clause 20(1)(f) 11th Schedule).

[30] *Shirley Primary School v Christchurch City Council* [1999] NZRMA 66 (NZEnvC) at [106].

[31] https://www.meridianenergy.co.nz/power-stations/wind/brooklyn

ENGAGEMENT UPDATE

Since the application lodgement in October 2024, TWP has continued to engage with Te Rūnanga o Ōtākou, Otago Regional Council, Clutha District Council, the Department of Conservation and landowners.

This feedback has informed amendments to the management plans and regional consent conditions. Further discussions and refinements are ongoing, and updated management plans and conditions will be provided to the Panel in due course.

A summary of the engagement to date is provided below.

Te Rūnanga o Ōtākou

TWP has continued to engage meaningfully with Te Rūnanga o Ōtākou since the application was lodged including feedback on conditions via Aukaha on behalf of Te Rūnanga o Ōtākou. At this stage, TWP is not in a position to update the Expert Panel on the outcome of those discussions given the engagement remains on-going.

Department of Conservation

Two workshops/meetings have been held with the Department of Conservation to discuss the Wildlife Approvals sought[32]. Key areas of discussion were on the Wildlife approvals including matters of detail on:

- The capture, attachment of identification leg bands and GPS transmitters, and handling of carcasses for falcon
- Necropsy for falcon
- Staging and duration of lizard salvage
- Predator control at the Lizard release site
- Mitigation and monitoring of lizards
- General technical clarification.

[32] The capture, attachment of identification leg bands and GPS transmitters, and handling of carcasses for falcon; the collection of the carcass of any native bird with a conservation status of threatened or at-risk, including falcon, found by staff or contractors within the Wind Farm Development Area and undertake necropsy to establish the cause of death where it is undetermined and may be related to the operation of the wind farm; and the handling, salvage, relocation and incidental killing of lizards to enable to undertake vegetation clearance and earthworks within the project site.

It is anticipated that once the Department's s51 report is received, then further detail on conditions/management plans may be provided as part of the Applicant's response to the s51 report.

Otago Regional Council

Two site visits, a meeting on conditions and a workshop on management plan and monitoring responses have been undertaken. Key ORC feedback relates to:

> Lee Stream Tributary – fish passage and culvert design
> Wetland identification and delineation
> Wetland hydrology
> Aquatic and Wetland effects management hierarchy (NESF)
> Wetland monitoring and management
> Water quality monitoring.

Amongst other things, SLR on behalf of TWP has reviewed the effects management hierarchy under the NPS-FM to ensure the approach to managing freshwater effects was evidence-based and appropriately justified - particularly with respect to the transition between offsetting and compensation.

As a result of this review, the proposed protection and enhancement of an existing nearby wetland and a section of the Lee Stream tributary is retained. However, these measures are now characterised as offsetting, rather than compensation, for the two waterbody crossings (Wetland 43 and Lee Stream tributary) described in the lodged application.

This shift from compensation to offsetting requires consequential amendments to the proffered consent conditions and associated management plans. Updated versions of these documents will be provided to the Panel once finalised.

Clutha District Council

Clutha District Council have attended a site visit, with no comments have been received to date.

Landowners

TWP has kept landowners informed about the progress of the Project.

CLOSURE

We trust the above information addresses the matters raised in your further information request. If the Panel requires any further information, we are happy to assist you in this regard

APPENDIX 1 | Statement of Evidence Richard Turner and Sarah Edwards

BEFORE THE MAHINERANGI WIND FARM FAST-TRACK PANEL **FTAA-2510-1125**

IN THE MATTER	of an application for approvals under section 42 of the Fast-track Approvals Act 2024 ("FTAA")
AND	
IN THE MATTER	Stage 2 of the Mahinerangi Wind Farm known as "Puke Kapo Hau", a project listed in Schedule 2 of the FTAA

JOINT STATEMENT OF EVIDENCE OF RICHARD JONATHON TURNER AND SARAH MARGARET EDWARDS

PLANNING – NATIONAL POLICY STATEMENTS

16 MARCH 2026

Solicitors Acting: JR Welsh
ChanceryGreen
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INTRODUCTION

Qualifications and experience

1. Our names are Richard Jonathon Turner and Sarah Margaret Edwards.

2. I, Richard Turner:

   (a) Hold a Bachelor of Planning (Hons) from the University of Auckland, which I obtained in 2000. I am a full member of the New Zealand Planning Institute.

   (b) Am a planning consultant with, and chief executive of, Mitchell Daysh Limited – an environmental consulting practice with eight offices around New Zealand.

   (c) Have practiced as a planner and resource management professional for the last 25 years. My experience includes a mix of in-house and consultancy resource management work and has involved the preparation of resource consent applications for a range of electricity generation projects around New Zealand. This includes the consenting of the Waipipi and Kaiwaikawe Wind Farms in South Taranaki and Kaipara Districts respectively.

3. I, Sarah Edwards:

   (a) Hold the qualification of a Bachelor of Resource and Environmental Planning from Massey University, Palmerston North. I am a Full Member of the New Zealand Planning Institute and a member of the Resource Management Law Association.

   (b) Am an Associate of the resource management and environmental consultancy Mitchell Daysh Limited. I am based in the firm's New Plymouth office, although my work has a national focus where I provide consultancy advice on projects ranging from nationally significant infrastructure projects to strategic growth planning and district plan changes and smaller scale, individual developments. I have been working for Mitchell Daysh Limited since April 2024.

   (c) Have 25 years' experience working as a planner, primarily in District Plan policy development where I have been the lead planner or involved with numerous plan changes, full plan reviews, growth and structure planning, strategic policy development, land development/resource consent matters and public consultation. I have also prepared evidence for, and appeared in, the Environment Court.

4. Ms Edwards has visited the site on three occasions, the most recent of which was on 4 February 2026. Mr Turner last visited the site in 2024.

Code of Conduct

5. We confirm that we have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note (2023) and referred to in the Fast-track Approvals Act 2024 Panel Conveners' Practice and Procedure Guidance 25 July 2025, and we agree to comply with it. In that regard, we confirm that this evidence is written within our expertise, except where we state that we are relying on the evidence of another person. We have not omitted to consider material facts known to us that might alter or detract from the opinions expressed.

SCOPE OF EVIDENCE

6. In this evidence, we respond to the further information request, dated 5 March 2026, from the Mahinerangi Wind Farm Expert Panel (the Panel) under section 67 of the Fast-track Approvals Act 2024 (the Act) in relation to the Puke Kapo Hau Mahinerangi Wind Farm Stage 2 substantive application.

7. In particular, this evidence responds to the request by the Panel to *"provide a supplementary assessment of the implications of any relevant amendments to national direction that came into effect in January 2026."*

NATIONAL DIRECTION INSTRUMENT AMENDMENTS

8. On 18 December 2025 the Government announced ten new or amended national direction instruments under the Resource Management Act 1991 that subsequently came into effect on 15 January 2026.

9. The following instruments are directly relevant to the consideration of this application:

   (a) National Policy Statement for Renewable Electricity Generation Amendment 2025 ("**NPS-REG**");

   (b) The National Policy Statement for Freshwater Management Amendment 2025 ("**NPS-FM**"); and

   (c) Resource Management (National Environmental Standards for Freshwater) Amendment Regulations 2025 ("**NES-FW**").

10. This evidence identifies the amendments to the above instruments that are relevant to the Substantive Application under section 42 of the FTAA and provides an assessment of the Project against those amended provisions.

11. For completeness, we note that the following instruments also released by the Government on 18 December 2025 are not relevant to the Project for the reasons noted below:

    (a) The National Policy Statement for Indigenous Biodiversity Amendment 2025 ("**NPS-IB**") is not relevant to the Project as clause 1.3(3) of the NPS-IB states that it does not apply to renewable electricity generation activities;

    (b) The National Policy Statement for Electricity Networks Amendment 2025 ("**NPS-EN**") replaces the National Policy Statement on Electricity Transmission 2008. As set out in clause 1.3(1), the NPS-EN applies to electricity network activities, including all electricity transmission and distribution networks and ancillary network activities across New Zealand. The Project (including the proposed transmission line) is not part of the National Grid and does not meet the definition of an electricity network activity., Therefore, the NPS-EN does not apply to the Project[1];

    (c) The Resource Management (National Environmental Standards for Detached Minor Residential Units) Regulations 2025 are not relevant because the Project does not involve the construction of Detached Minor Residential Units;

    (d) The National Policy Statement for Natural Hazards 2025 ("**NPS-NH**") is not relevant to the Project as clause 1.3.2 of the NPS-NH states that it does not apply to apply to infrastructure as defined in the Resource Management Act 1991 ("**RMA**"). Facilities for the generation of electricity (i.e. renewable electricity generation activities) are included in the definition of infrastructure under the RMA;

    (e) The National Policy Statement for Infrastructure 2025 ("NPS-I") is not relevant the Project as clause 1.3(a) of the NPS-I states the NPS-I does not apply to

[1] Electricity network activity means the construction, operation, maintenance, development, upgrading, replacement, decommissioning or removal of electricity network assets, and includes ancillary electricity network activities. Electricity network means the electricity transmission network (ETN) (being the National Grid operated by Transpower) and the electricity distribution network (EDN). The Project does not involve the distribution of electricity or activities associated with the ETN.

renewable electricity generation activities and assets managed under the NPS-REG;

(f) The National Policy Statement for Highly Productive Land Amendment 2025 (**"NPS-HPL**") is not relevant to the Project because the site is not located on Highly Productive Land as defined by the NPS-HPL (as outlined in section 9.5.1 of Part A of the Substantive Application); and

(g) The New Zealand Coastal Policy Statement Amendment 2025 ("**NZCPS**") is not relevant because the Project is not located in, or near, the coastal environment.

National Policy Statement for Renewable Electricity Generation Amendment 2025

12. The amendments to the NPS-REG are relevant to the Project. The relevant provisions of the NPS-REG have been strengthened to ensure greater clarity and clearer direction for decision-makers regarding the importance of enabling renewable electricity generation activities and the national significance of these activities. In this respect, a complete assessment of the amended NPS-REG is provided below, and this supersedes the assessment provided in section 9.5.4 of Part A of the Substantive Application.

13. The definition of renewable electricity generation activities in the amended NPS-REG is as follows:

Renewable electricity generation (REG) activities include the full range of activities required for REG, including small-scale and community-scale REG, including:

a) the investigation, construction, operation, monitoring, maintenance, upgrade, repowering, decommissioning and removal of REG assets;
b) the storage of generated electricity, whether connected to REG, the electricity network or directly to a site or community;
c) the conveyance of generated electricity to electricity networks or directly to end users;
d) all ancillary REG activities; but
e) does not include electricity network assets as defined by the National Policy Statement for Electricity Transmission 2008 and its amendments.

14. Ancillary renewable electricity generation activities are defined as:

An activity that supports and is subsidiary to a REG activity, including but not limited to:

a) vegetation clearance and tree trimming;
b) earthworks and land disturbance;

c) *construction, maintenance, repair and upgrading of access tracks, bridges and culverts; and*

d) *construction, maintenance, repair and upgrading of power supply and telecommunication cables and devices.*

15. The definition of ancillary renewable electricity generation activities is inclusive rather than exclusive by virtue of the words "including but not limited to" immediately preceding clauses (a) to (d). Therefore, it is our assessment that the NPS-REG applies to all activities associated with the Project - including all construction activities associated with the Project such as vegetation clearance, earthworks and roading upgrades (including waterbody crossings).

16. 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;*

c) *enable REG to support the social, economic and cultural well-being 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.*

17. The amended objective shifts from a general recognition of renewable electricity generation and its benefits to a more enabling, outcome-focused objective that seeks to significantly increase renewable generation to meet climate change, energy supply and resilience goals. It also includes a focus on managing the adverse effects of renewable electricity generation activities - which was not an as prevalent focus of the former version of the NPS-REG.

18. The Project directly advances the outcomes sought by the objective of the NPS-REG by delivering a large, nationally significant source of renewable electricity and generating local, regional and national economic benefits. It also does this in a manner that reduces the footprint of the currently consented wind farm layout.

19. In terms of supporting community wellbeing and strengthening electricity supply security and resilience, the Project contributes to these outcomes through increased

generation diversity, proximity to the National Grid, and the associated improvements in security of supply. In addition, the Project makes a material contribution to New Zealand's emissions reduction targets by displacing up to approximately 554,000 tCO_2-e annually.

20. Overall, the Project is aligned with the strengthened objective of the NPS-REG.

21. Policy A of the NPS-REG requires the Panel to recognise and provide for the national significance and benefits of renewable electricity generation activities and notes in clause (2) that the benefits of these activities include:

    1) *avoiding, reducing and displacing greenhouse gas emissions;*
    2) *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;*
    3) *providing for the social, economic and cultural wellbeing of people and communities and for their health and safety;*
    4) *using renewable rather than finite sources of energy;*
    5) *avoiding reliance on imported and domestic fossil fuels for the purposes of generating electricity;*
    6) *the temporary and reversible nature of adverse effects on the environment of some REG technologies;*
    7) *reducing electricity losses by locating REG activities close to electricity demand and existing electricity networks; and*
    8) *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*

22. As noted above, the Project will achieve a number of the benefits set out in Policy A(2) as outlined in section 3.3.1 of Part A of the Substantive Application and within the Economic Assessment provided in Part B. In this regard, the Project will generate a nationally significant source of renewable electricity that will increase the security and resilience of New Zealand’s electricity supply.

23. The electricity generated by the Project will also contribute to New Zealand’s decarbonisation goals and reduce reliance on non-renewable energy sources by displacing up to 554,000 tCO2-e annually and aligning with national and international climate change obligations.

24. The Project is expected to contribute approximately $220 million of expenditure into the national economy during construction (over approximately three years), plus another $22.5 million for the BESS construction. Of this, $73 million would be economic value added to the Otago Region. The Project will provide for approximately 200 full-time equivalent jobs during peak construction.

25. Furthermore, the Project is located in a suitable location for a wind farm - noting that the Environment Court confirmed the site as suitable for the establishment of a wind farm in 2009 (subject to the implementation of various consent conditions to manage potential adverse effects) and Stage 1 of Puke Kapo Hau is already established and is positioned in proximity to the National Grid.

26. Under the amendments to the NPS-REG, Policy B has been replaced with the following:

> 1) *Decision-makers on REG assets and activities must recognise and provide for the importance of:*
>
> 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.*
>
> 2) *Decision-makers must have regard to any potential and reasonably foreseeable reduction in the utilisation of renewable electricity resources from inappropriate subdivision, use and development*

27. As noted in the Economic Assessment in Part B of the Substantive Application, Stage 1 of Puke Kapo Hau has an annual electricity output of approximately 130 GWh per year which implies a capacity factor of 41.2%[2]. Stage 2 of Puke Kapo Hau enables the previously consented development to be implemented in a more efficient manner, and in response to wind turbine technology that is now available and will further increase renewable electricity generation capacity and output in the Otago Region.

28. This is important as the New Zealand Government has set a target of doubling renewable electricity by 2050[3], and significant investment in renewable electricity generation activities is required to achieve this goal. The Project will make a significant

[2] Page 31, Economic Assessment, NZEIR, September 2025.
[3] Pages1-2 'Statement of Government Policy to the Electricity Authority under section 17 of the Electricity Industry Act 2010' October 2024.

contribution towards this goal, generating approximately 549 GWh of electricity generated each year. Accordingly, the Project is well aligned with the amended policy.

29. Any reductions in the ability of TWP to use the renewable energy resource at the Project Site as efficiently as possible, such as via limits on the number, size or location of the turbines, would be contrary to the direction of Policy B (unless it was not practicable to avoid such restrictions).

30. Policy C of the NPS-REG has been amended to provide clearer direction on the operational or functional need of renewable electricity generation activities to be located 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.*

31. Operational need and functional need in the context of Puke Kapo Hau are established through the existing resource consent. Operational need[4] arises because turbine placement, supporting infrastructure, and access tracks are intrinsically linked to efficiently harnessing the wind resource across the site. Functional need[5] arises where certain ancillary activities, such as access tracks, must be located in particular places to enable the renewable electricity activity to be generated.

32. These needs were confirmed by the Environment Court during the original consenting process. At that time, it was demonstrated that the quality and consistency of the wind resource at the Project Site are suitable for a large-scale wind farm, and it confirmed

[4] The NPS-REG defines "operational need" as having the same meeting as the National Planning Standards 2019. The National Planning Standards 2019 defines this as follows: *Operational need: means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints.*

[5] The NPS-REG defines "functional need" as having the same meeting as the National Planning Standards 2019. The National Planning Standards 2019 defines this as follows: *Functional need: means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.*

the appropriateness of the site for renewable electricity generation. The applications do not require a revisiting of the suitability of the site or fundamentally reassess turbine locations or the wind farm layout. Instead, the applications involve refinements, primarily relating to larger turbines and updated design, within the already established and consented wind farm footprint.

33. Where a functional need arises for Stage 2, it relates specifically to ancillary renewable electricity generation activities. In particular, access tracks must be constructed in specific locations to ensure that turbine components can be transported safely and efficiently to their platforms.

34. Although the design has avoided waterbodies wherever practicable, there are two instances where access tracks must traverse waterbodies due to functional need. These are:

    (a) Wetland 43: The only alignment that enables safe turbine component delivery to wind turbine 20 without creating non-compliant curves or forcing the turbine platform into the more sensitive Wetland 37. The proposed crossing follows a natural saddle, reducing hydrological effects.

    (b) Wetland 20 / Lee Stream Tributary: The existing track is suitable only for light vehicles and has unsuitable vertical geometry for heavy construction vehicles. The proposed new crossing location provides the necessary vertical alignment for construction traffic and an optimal location for the stream culvert.

35. The functional need of the Project to traverse Wetland 43 and / Lee Stream Tributary is described in detail in section 7.8, 9.5.2 and 9.5.3 of Part A to the substantive application document and in the technical memorandum provided by Riley Consultants as part of the 16 March 2026 response to the Request for Information from the Panel dated 5 March 2026.

36. As stated in Policy C (3), an assessment of alternatives is not required to demonstrate that an operational or functional need exists. As such, the Panel should not have regard to any other alternative sites that may also be suitable for the development of Stage 2 of Puke Kapo Hau in forming its decision on the Substantive Application.

37. In addition, the Project Site is located in proximity to transmission infrastructure. The Transpower 110kV Halfway Bush - Roxburgh National Grid transmission line is located approximately 6 km south of the Project Site.:

38. The previous policies E1-E4, F and G have been revoked and are therefore no longer relevant to the Project. New policies E-H have been inserted. Policy E seeks to recognise and provide for Māori interests in renewable electricity generation activities:

> *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.*

39. With respect to Policy E(1)(a), we note that Te Rūnanga o Ōtākou were consulted and involved in the original consenting process and ultimately concluded that matters that they had raised through the process had been adequately avoided, remedied and/or mitigated, as reflected in the following statement by Edward Ellison on behalf of Te Rūnanga o Ōtākou:

> *More specifically, Kai Tahu has discussed the issues raised in the CIA, and our subsequent submission to the Clutha District Council and Otago Regional Council with TrustPower. We feel that, as a result of these discussions, the issues raised in the submission have now been adequately avoided, remedied and/or mitigated. Further, TrustPower have agreed to involve Kai Tahu on an ongoing basis throughout the development phase of the proposal*[6]*.*

40. Engagement with mana whenua in relation to Stage 2 of the Project has been ongoing since 2024. The purpose of this engagement has been to identify values and understand cultural effects associated with the proposed changes to the layout and new resource consents sought. This engagement resulted in a signed Process Agreement with Te Rūnanga o Ōtākou on 7 April 2025 outlining how engagement

[6] Paragraph 48, Evidence of Edward Ellison on behalf of Te Rūnanga o Ōtākou.

would take place between the parties. A summary of the engagement undertaken prior to lodgement is described in full in section 10 of Part A of the Substantive Application.

41. Engagement between Te Rūnanga o Ōtākou and TWP has continued since the Substantive Application has been lodged. An update on this engagement is included in the 16 March 2026 response to the Panel's Request for Information dated 5 March 2026.

42. In addition, Policy F provides direction on enabling and managing the effects of renewable electricity generation 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.*

43. Policy F(1) must enable renewable electricity generation activities in all locations and environments. This is particularly pertinent to Puke Kapo Hau in relation to the two instances where there is a functional need to cross Wetland 43 / Lee Stream Tributary. As outlined in paragraphs 13 to 15 of this evidence, the definition of Renewable Electricity Generation Activities expressly includes Ancillary Renewable Electricity Generation Activities, such as the construction, maintenance, repair, and upgrading of access tracks, bridges and culverts. These ancillary activities are integral components of the Project and are necessary to enable safe access and operation of the wind farm. As such, the policy direction in the NPS REG applies equally to these activities, reinforcing that their presence in these locations is anticipated and supported where functional need is demonstrated.

44. Policy F(2) states that where renewable electricity generation activities may be located in or likely to have adverse effects on environments and values provided for in section 6 of the RMA (such as the natural character of wetlands and their margins), the provision of Policy F must be read alongside other national direction, regional policy statements and regional and district plans.

45. For this Project, the most relevant complementary direction in is provided by the NPS FM and NES F, along with the Otago Regional Policy Statements (Operative and Proposed), the Regional Plan: Water for Otago and the Clutha District Plan. As assessed in detail in section 9 of Part A of the Substantive Application, the Project is consistent with the policy direction set out in these documents, including the application of the NPS-FM effects management hierarchy.

46. Policy F(4) requires decision-makers to have regard to adaptive management measures. Adaptive management is not proposed as part of Stage 2 of Puke Kapo Hau as the suitability of the site for a wind farm has already been confirmed through the Environment Court, with the variation to the consent relating primarily to amendments to conditions to accommodate larger turbines and refinements to the layout. That said, the proposed regional consent conditions include monitoring requirements and the ability to adjust construction methods if necessary to appropriately manage effects. Such provisions are typical construction management measures for the projects of the scale of Puke Kapo Hau.

47. Policy F(5) recognises that where adverse effects cannot be avoided, remedied or mitigated, regard must be given to offsetting and compensation measures, including those that benefit both the environment and the affected community. While this policy adopts a less prescriptive effects management approach than the NPS-FM and Proposed Otago Regional Policy Statement, it is complementary to the assessment undertaken for the Project.

48. In this regard, for the two instances where residual effects cannot be avoided, remedied or mitigated, offsetting measures are proposed. These measures are consistent with the direction in Policy F(5) and, for Puke Kapo Hau, further support the conclusion that the residual effects on wetlands and /the Lee Stream Tributary are appropriately managed.

National Policy Statement for Freshwater Management Amendment 2025 and Resource Management (National Environmental Standards for Freshwater) Amendment Regulations 2025

49. The amendments to the NPS-FM and NES-FW apply to quarrying and mineral extraction activities in natural inland wetlands and are, therefore, not relevant to the Project. In this respect an assessment of the amendments to the NPS-FM or the NES-FW is not required and the assessment set out in sections 9.5.2 and 9.5.3 respectively of Part A of the substantive application remains applicable.

CONCLUSION

50. The recent amendments to most of the national direction instruments are not relevant to the Project and do not alter the conclusions reached with respect to the statutory planning assessment included in section 9 of Part A of the Substantive Application.

51. However, the amendments to the NPS-REG are highly relevant to the Project, and we consider these amendments weigh further in favour of the granting of the approvals sought for the Project in accordance with section 85 of the FTAA, particularly noting the recognition of the national benefits of renewable electricity generation activities and the need for increased renewable electricity generation in New Zealand.

52. Moreover, it remains our view that the Project aligns with the policy direction set out in all relevant regional and district planning documents.

_____

Richard Jonathon Turner and Sarah Margaret Edwards
Mitchell Daysh Limited

16 March 2026

MITCHELL DAYSH

APPENDIX 2 | Taonga Species and Aquatic Offsetting

Technical Memorandum

To:	Ryan Piddington – Mercury NZ Limited	**From:**	Ben Ludgate
			SLR Consulting New Zealand
cc:	Sarah Edwards – Mitchell Daysh	**Date:**	16 March 2026
		Project No.	810.031205.00001

RE: Puke Kapo Hau Mahinerangi Wind Farm Stage 2 - Response to Further Information Request

A further information request has been received from the Mahinerangi Wind Farm Expert Panel under section 67 of the Fast-track Approvals Act 2024 in relation to the Puke Kapo Hau Mahinerangi Wind Farm Stage 2 substantive application.

This technical memorandum provides responses to requests relating to wetlands and aquatic ecology.

For the Panel's benefit, it is important to outline key background context that informs the responses provided below. Following lodgement of the substantive application, Tararua Wind Power (TWP) has been engaged in post lodgement discussions with Otago Regional Council (ORC) since December 2025. A central focus of these discussions has been the application of the freshwater effects management hierarchy.

Through this process, SLR has reviewed the effects management hierarchy under the NPS-FM to ensure the approach to managing freshwater effects was evidence-based and appropriately justified - particularly with respect to the transition between offsetting and compensation.

As a result of this review, the proposed protection and enhancement of an existing nearby wetland and a section of the Lee Stream tributary is retained. However, these measures are now characterised as offsetting, rather than compensation, for the two waterbody crossings (Wetland 43 and Lee Stream tributary) described in the lodged application.

This shift from compensation to offsetting requires consequential amendments to the proffered consent conditions and associated management plans. Updated versions of these documents will be provided to the Panel once finalised, as they represent the outputs of the ORC discussions and subsequent refinement of the freshwater management approach.

2. What is the anticipated means of legal protection, if any, for the wetland and aquatic compensation sites?

The wetland and aquatic offsetting sites will be protected by restrictive covenants.

The Wetland and Aquatic Offsetting Plan notes '*In order that the wetland offsetting persists (long term outcomes; see Principle 6 in Appendix B), the offsetting site will be protected by a covenant*.' This will be amended to include the Aquatic Offsetting Site.

The section 127 variation to the existing land use consent (RM1409) includes new condition 14A that requires that the Wetland Compensation Site[1] be protected via a covenant or similar legally binding mechanism. A new condition will be added to the ORC consent authorising the installation of the culvert in the bed of the Lee Stream tributary requiring TWP to secure legal protection via a restrictive covenant for the Aquatic Offsetting Site.

3. What is intended to be done to protect taonga species under Schedule 97 of the Ngāi Tahu Claims Settlement Act, similar to protections undertaken in relation to Threatened or At-Risk species?

Schedule 97 includes the following plant species that have been found in or near the wind farm:

Aruhe (bracken; *Pteridium esculentum*): Listed as present within the Recommended Area for Protection (RAP) 9 Black Rock. No works for Stage 2 of the wind farm are proposed within the RAP, and bracken will therefore not be affected by the proposed works.

Taramea (speargrass; *Aciphylla* spp): Occurs widely across the wind farm site within tussock grasslands and areas of rough pasture. Despite being near its southern distributional limit at Puke Kapo Hau, golden speargrass remains a common element of snow tussock grasslands both at the site and more broadly in Otago. Its presence is often linked to historical burning events, and in some locations it may now be more abundant due to the removal of dense tussock by past fires.

Speargrass is known to be very difficult to transplant due to the deep taproot that is sensitive to damage. Speargrass are ubiquitous throughout the wind farm site, including within the wetland offsetting site and will be afforded the same protection as the wider offset site.

Whaririki (mountain flax; *Phormium cookianum*): Identified in shrubland on a steep face in a gully to the east of turbine site 1. No works for Stage 2 of the wind farm are proposed within this gully.

Wīwī (rushes; *Juncus* spp): Identified in groundcover in gully floor shrublands and wetlands. Wetlands will be avoided, aside from the wetlands associated with required crossings, which have been offset. Rushes are also present within the wetland offsetting site.

In addition, the proposed planting plan for the wetland offsetting site includes several species listed in Schedule 97, including toetoe (*Austroderia richardii*) and whaririki (*Phormium cookianum*).

6. Assess how the offset and compensation principles contained in the proposed Otago Regional Policy Statement relate to the identified compensation sites.

The principles in the proposed Otago Regional Policy Statement for aquatic offsetting (APP4A) are the same as the principles for aquatic offsetting in the NPS-FM (Appendix 6 of the NPS-FM).

The aquatic offsetting principles are outlined below, with accompanying commentary on how each principle is met through the proposed offsetting at both the Wetland Offsetting Site and the Aquatic Offsetting Site in the Lee Stream tributary.

[1] To be renamed “Wetland Offsetting Site”.

Appendix 6 NPS-FM -Principles for aquatic offsetting	Comment
These principles apply to the use of aquatic offsets for the loss of extent or values of natural inland wetlands and rivers ("extent or values" below).	
1. **Adherence to effects management hierarchy**: An aquatic offset is a commitment to redress more than minor residual adverse effects, and should be contemplated only after steps to avoid, minimise, and remedy adverse effects are demonstrated to have been sequentially exhausted.	The effects management hierarchy has been worked through in the Vegetation, Wetland, and Terrestrial Invertebrate Assessment and Aquatic Ecology Assessment, with some details provided below. Aquatic offsetting is proposed to address more than minor residual effects. For wetland offsetting: Avoidance: Iterative changes to alignment and design, with design avoiding all wetlands except parts of wetlands 20 and 43. Minimisation: Designs refined at impact sites; disturbance areas minimised; best practice guidelines for sediment/erosion control to be followed; designs to maintain water flows to wetlands. Remediation: Restoration of pasture at disturbed sites in farmland. For aquatic offsetting at the Lee Stream tributary site: Avoidance: Not practicable as there is a functional need for the culvert/roading in this location due to the requirement for a crossing of the stream. Minimisation: Keeping culvert length as short as possible and works footprint as small as practicable; fish passage provided through culvert; best practice guidelines for culvert installation and sediment/erosion control to be followed; working offline to install culvert to minimise instream construction period; works to be undertaken during dry periods; and fish (if present) to be recovered from areas and translocated upstream prior to works being undertaken. Remediation: Low impact remediation will be undertaken including creating stable landforms, contouring and establishing pasture cover, and removing existing culvert from the stream.
2. **When aquatic offsetting is not appropriate**: Aquatic offsets are not appropriate in situations where, in terms of conservation outcomes, the extent or values cannot be offset to achieve no net loss, and preferably a net gain, in the extent and values. Examples of an offset not being appropriate would include where: (a) residual adverse effects cannot be offset because of the irreplaceability or vulnerability of the extent or values affected: (b) effects on the extent or values are uncertain, unknown, or little understood, but potential effects are significantly adverse: (c) there are no technically feasible options by which to secure proposed no net loss and preferably a net gain outcome within an acceptable timeframe.	The affected wetlands do not contain irreplaceable features. Vulnerable features are managed by management plans. For example, vegetation monitoring will be used to determine potential adverse effects of changes in wetland hydrology on wetland values. Aquatic offsetting is appropriate for the Lee Stream tributary culvert as the values can be offset (i.e., improving habitat quality within the offset site) to achieve a net gain. For both sites the effects on values and extent are known and have been quantified. The offset sites are a practical solution that will bring ecological benefits to the wetlands and Eldon's galaxias in the short-medium term. The extent and values impacted can be offset to achieve a net gain.

Appendix 6 NPS-FM -Principles for aquatic offsetting	Comment
3. **No net loss and preferably a net gain**: This is demonstrated by a like-for-like quantitative loss/gain calculation and is achieved when the extent or values gained at the offset site (measured by type, amount and condition) are equivalent to or exceed those being lost at the impact site.	The offset wetland is 20 times larger than the extent of the directly affected wetlands and planting, fencing, and weed control will be undertaken resulting in higher biodiversity values than those of the affected wetlands. The offset site in the stream upstream of the new culvert is 165 m long. The affected stream reach adjacent to the new culvert is 49 m long. This provides a ratio of 3.3:1 for protection (that is, 3.3 units of stream 'restoration' for every unit of stream 'degraded'). Also, as the stream habitat (assessed using the rapid habitat assessment) is currently of higher quality at the offset site (before any offsetting) than in the affected reach, and the condition of the habitat in the offset site will be improved following offsetting (by fencing to prevent stock access, planting riparian vegetation which provides shading for the stream), there will be a net gain in values to exceed those being lost at the impact site.
4. **Additionality**: An aquatic offset achieves gains in extent or values above and beyond gains that would have occurred in the absence of the offset, such as gains that are additional to any minimisation and remediation undertaken in relation to the adverse effects of the activity.	All wetlands within the Wind Farm Site are adversely affected by stock, drainage, and clearance of riparian vegetation and there are no plans or requirements for protection of these wetlands from ongoing effects. The background biodiversity trajectory at the wetland impact and offsetting sites is for a continued decline in biodiversity values, predominantly due to the current land use. The Lee Stream tributary at the culvert site and upstream areas are adversely affected by stock, clearance of riparian vegetation and channel excavation as a result of the current land use. In the absence of the offset, there would be no improvement in extent or values throughout this area. The offset therefore provides for gains above and beyond any gains (i.e., no gains) in the absence of the offset.
5. **Leakage**: Aquatic offset design and implementation avoids displacing harm to other locations (including harm to existing biodiversity at the offset site).	No leakage will occur for both sites, as there will be no displacing harm to other locations.
6. **Long-term outcomes**: An aquatic offset is managed to secure outcomes of the activity that last at least as long as the impacts, and preferably in perpetuity. Consideration must be given to long-term issues around funding, location, management and monitoring.	The proposed wetland offsetting actions will improve ecological values in the wetland by addressing the main causes of biodiversity loss. The offset site will be fenced and legally protected so that gains are secured for the life of the wind farm. Monitoring (weeds, planting success, wetland condition, fence integrity) will be undertaken to ensure ecological gains are achieved and maintained. The aquatic offsetting will improve ecological values in the tributary that will continue to provide outcomes beyond the length of time of impacts on the stream reach to be diverted. The permanent fencing and planting of tussocks in this area will continue to provide benefits in the longer term.

Appendix 6 NPS-FM -Principles for aquatic offsetting	Comment
7. **Landscape context**: An aquatic offset action is undertaken where this will result in the best ecological outcome, preferably close to the impact site or within the same ecological district. The action considers the landscape context of both the impact site and the offset site, taking into account interactions between species, habitats and ecosystems, spatial and hydrological connections, and ecosystem function.	The wetland offset site is located near the impact sites and in the same ecological district. The impact and offsetting wetlands have similar habitats and perform similar ecosystem functions. The aquatic offset site is within 50 m of the impact site and therefore meets landscape context requirements.
8. **Time lags**: The delay between loss of extent or values at the impact site and the gain or maturity of extent or values at the offset site is minimised so that the calculated gains are achieved within the consent period or, as appropriate, a longer period (but not more than 35 years).	No net loss is expected to be achieved in the medium term, with improvements in biodiversity value and wetland function beginning immediately after works are completed. In recognition of the time lag for ecological gains, the applicant has opted to secure a significantly larger peat wetland in the wetland offset site than will be directly affected. At the aquatic offset site, improvements in the values at the offset site will begin immediately upon fencing and planting of tussocks (to be demonstrated using rapid habitat assessment methods). Further improvements (e.g., reduced sediment inputs from bank erosion) may take longer; however, to provide site specific meaningful gains in ecological values (i.e., in protection and enhancement of habitat for Eldon's galaxias), the offset site is significantly longer than the stream reach that will be directly affected.
9. **Science and mātauranga Māori**: The design and implementation of an aquatic offset is a documented process informed by science where available, and mātauranga Māori at place.	For both the wetland and aquatic offsetting sites, scientific methods have been used to quantify adverse effects, develop practical solutions to offset those effects, and undertake monitoring to measure success. Consultation on the Project with iwi has been undertaken. Taonga plant species, taramea (speargrass) and wīwī (rushes), have been identified within the wetland offsetting site and will be protected within this site.
10. **Tangata whenua or stakeholder participation**: Opportunity for the effective and early participation of tangata whenua or stakeholders is demonstrated when planning aquatic offsets, including their evaluation, selection, design, implementation, and monitoring.	The extensive consultation undertaken by the applicant is documented in the consent application.
11. **Transparency**: The design and implementation of an aquatic offset, and communication of its results to the public, is undertaken in a transparent and timely manner.	The extensive consultation undertaken by the applicant is documented in the consent application. Monitoring and reporting of the results will be guided by resource consent conditions.

7. To what extent do the proposed aquatic and wetland compensation meet or exceed the requirements of the Resource Management (Stock Exclusion) Regulations 2020 (e.g. Regulation 17)?

The Resource Management (Stock Exclusion) Regulations 2020, regulation 6, requires '*A person who owns or controls stock must comply with these regulations*'. TWP do not own or control stock and therefore TWP are not required to comply with these regulations.

Despite this, regulation 16 requires:

> '*Exclusion of stock from natural wetlands identified in regional or district plan operative on commencement date: All stock must be excluded from any natural wetland that is identified in a regional or district plan or a regional policy statement that is operative on the commencement date.*'

There are no natural wetlands or Wetland Management Areas (which are identified in Schedule 9 of ORC's Regional Plan: Water for Otago, or the Clutha District Plan) present within the Wind Farm Site.

Regulation 17 requires:

> '*Exclusion of stock from natural wetlands that support threatened species described in National Policy Statement for Freshwater Management 2020*
>
> *(1) All stock must be excluded from any natural wetland that supports a population of threatened species as described in the compulsory value for threatened species in the National Policy Statement for Freshwater Management 2020.*
>
> *(2) A natural wetland referred to in subclause (1) includes a natural wetland identified in a regional plan that becomes operative after the commencement date.*'

The National Policy Statement for Freshwater Management (Appendix 1A – Compulsory values: 3 Threatened species) states:

> '*This refers to the extent to which an FMU or part of an FMU that supports a population of threatened species has the critical habitats and conditions necessary to support the presence, abundance, survival, and recovery of the threatened species. All the components of ecosystem health must be managed, as well as (if appropriate) specialised habitat or conditions needed for only part of the life cycle of the threatened species.* '

Fencing the wetland offsetting site, and stock exclusion from this wetland, will protect an existing population of *Carex tenuiculmis*, a sedge which has a national threat classification of At Risk-Declining.

8. Given that the proposed works at Lee Stream include the loss of stream extent and associated margins, to what extent are you compensating for the loss of the physical form, structure and extent of the stream reach, its bed, banks and margins, its riparian vegetation and its connections during high flow events?

The physical form and structure of the affected stream reach is limited to a gentle bend of stream that has been heavily modified by historic and ongoing land use, including stock access to the stream and excavation of the bed and banks. These modifications have altered the stream reach to essentially comprise a modified drainage channel with little hydraulic or habitat diversity. Protection of a more natural stream reach (with diverse hydraulic and habitat types throughout), and prevention of further excavation activities in this longer reach will offset for the affected reach and its limited form and structure.

The extent of stream reach in the affected reach is approximately 50 m, while the offset site has a stream reach of approximately 165 m. The aquatic offset site is not directly offsetting for the loss of stream extent, however the longer stream reach being offset and protected provides higher value habitats than in the shorter stream reach being lost.

The stream bed throughout the affected reach is generally comprised of sediments and plants, with excavation activities over time altering the bed and exposing some gravel

substrates. The excavation has reduced the quality of the bed substrates. Protection of the offset site will provide for more stable, 'hard bottomed' substrates (e.g., reduced sediment inputs and disturbance by stock movements and protection of gravels and cobbles), enhancing bed substrate values over a longer reach of stream than that in the affected reach.

The banks and margins of the stream within the affected reach are limited to very low bank heights (much of the reach has no banks above the water edge) and the margins have primarily pasture grasses. The banks and margins through the affected reach have been altered over time by excavation activities and stock access and therefore do not currently support natural values. Protection of a longer reach of stream channel by fencing and planting of tussocks will improve bank stability and structure and allow for stream margins to be more natural and what would be expected within the catchment if no previous farming activity had taken place.

Riparian vegetation is generally limited to grazed pasture. Riparian vegetation will be enhanced in the offset site with high densities of snow tussocks within the fenced areas, increasing the riparian vegetation values of the stream over a longer reach of stream than that affected.

High flow events will be conveyed through the new culvert, retaining connections under both low and high flow conditions.

Regards,

SLR Consulting New Zealand

Ben Ludgate
Principal Ecologist

APPENDIX 3 | Taonga Species – Avifauna

Boffa Miskell

Memorandum

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Attention:	Ryan Piddington
Company:	Mercury NZ Limited
Date:	11/03/2026
From:	Stephen Fuller, Lee Shapiro
Message Ref:	Puke Kapo Hau Mahinerangi Wind Farm Stage 2 Fast-track approval application - Response to Further Information Request - Technical Note on Taonga Species (Avifauna)
Project No:	BM240855

Introduction

A request for further information was received from the Mahinerangi Wind Farm Expert Panel (the Panel) under section 67 of the Fast-track Approvals Act 2024 (the Act) in relation to the Puke Kapo Hau Mahinerangi Wind Farm Stage 2 (MWF Stage 2) substantive application. The request included the following question:

> *"3. What is intended to be done to protect taonga species under Schedule 97 of the Ngāi Tahu Claims Settlement Act [1], similar to protections undertaken in relation to Threatened or At-Risk species? "*

This technical note seeks to address Question 3 as it relates to indigenous avifauna.

Schedule 97 of the Ngāi Tahu Claims Settlement Act

Schedule 97 lists 63 individual avifauna species and one avifauna family (albatrosses) as taonga species (See Attachment 1). This list covers birds present across much of the South Island and for that reason includes a wide range of habitats for a range of birds that aren't present within MWF Stage 2. The taonga species range from oceanic species (e.g. albatrosses, shearwaters, petrels and penguins), birds of the coastline and estuaries (e.g. reef heron, godwit, and pied shag) indigenous forest obligates (e.g. blue duck, kakariki, rifleman, kiwi, and yellowhead), species limited to alpine habitats (e.g. kea and kakapo), and a number of species only found on offshore islands (e.g. Snares Island snipe and tomtit) as well as native birds within rural land.

Taonga Avifauna Observed at MWF Stage 2

Of the taonga species listed in Schedule 97, only seven have been observed within MWF Stage 2 (Table 1). The overall avifauna assemblage recorded within MWF Stage 2 includes these seven taonga species, a further 11 native species (not listed as taonga species), and 25 introduced bird species which commonly occupy pastoral landscapes and were generally the most numerous bird species recorded.

[1] Ngāi Tahu Claims Settlement Act 1998, Schedule 97 Taonga Species

Table 1: List of Taonga Species observed within MWF Stage 2 during surveys in 2006 (Kingett Mitchell) and in 2025 (Boffa Miskell) and their national and regional conservation status.

Name in English	Name in Māori	National Conservation Status	Regional Conservation Status
New Zealand falcon (eastern)	Kārearea	Nationally Vulnerable	Regionally Vulnerable
New Zealand pipit	Pīhoihoi	At-Risk - Declining	Regionally Not threatened
Australasian harrier	Kāhu	Not threatened	Regionally Not threatened
Southern black-backed gull	Karoro	Not threatened	Regionally Not threatened
Grey warbler	Riroriro	Not threatened	Regionally Not threatened
Paradise shelduck	Pūtakitaki	Not threatened	Regionally Not threatened
South Island fantail	Pīwakawaka	Not threatened	Regionally Not threatened

Collision Risk for Taonga Species

Of the seven taonga species observed within MWF Stage 2, to date there are no recorded turbine strike mortalities for four of these species (falcon, NZ pipit, grey warbler, and South Island fantail) at any wind farm in New Zealand including Mahinerangi Stage 1. NZ pipit, grey warbler and fantail rarely fly up to the height of the lower turbine blade (20 m for MWF Stage 2) and so their flight behaviour puts them in a very low risk group. Falcon do fly at turbine blade height but are sufficiently aware of their surroundings that they demonstrate a very high level of avoidance. This is not unique to New Zealand falcon, internationally small falcon with the same hunting style rarely suffers turbine collision mortalities.

For the three remaining taonga species (Australasian harrier, paradise shelduck, and Southern black-backed gull), turbine strike mortalities have been recorded at Mahinerangi Stage 1 as well as at other wind farms within New Zealand, and this appears to be primarily due to their flight behaviour.

An overview of the collision risks to all seven of the taonga species of avifauna observed at MWF Stage 2 are outlined below in Table 2.

Table 2: Risk profile for the seven taonga species observed within the wind farm.

Name in English	Discussion
New Zealand falcon (eastern) (Nationally Vulnerable)	• During construction, this ground nesting species will be protected by mechanisms described in the Avifauna Management Plan including buffers around nest sites. • In terms of Operation this species exhibits very high levels of collision avoidance and is considered to be low risk. However, monitoring will occur post construction, repeating the earlier monitoring for Stage 1.
New Zealand pipit (At-Risk – Declining)	• During construction, past experience with this species suggests it is likely to be attracted to open earthworks, and the population may even increase slightly over the period of works. • In terms of Operation, this species rarely flies high enough to be at risk from turbine collision. At five windfarms where this species is present there have been no recorded mortalities.
Australasian harrier (Not threatened)	• Several pairs of harrier forage across the wind farm site. In terms of construction, there is unlikely to be any effect on these birds. • In terms of operation, this species is the most at risk of turbine collision based on the experiences at this and other wind farms. However, observations at other wind farms have shown that following losses there is rapid recruitment, and there is no evidence of local or national population decline. The result of the collision modelling also suggests

Name in English	Discussion
	that the reduction in turbine numbers combined with the increase in blade height will reduce risk for this and other bird species.
Southern black-backed gull (Not threatened)	• A very abundant species locally with over 630 birds observed over Lake Mahinerangi and associated complexes, and 200 observations within the site, often flocking over recently cropped land. • In terms of construction, there is unlikely to be any effect on these birds, and they may increase in number during periods of exposed earthworks as they are attracted to open earthworks, cropping. • Over the life of the windfarm there may be turbine collisions by this species, however, based on recorded collision mortalities from Stage 1 monitoring it will not be at a level that will impact the local population.
Grey warbler (Not threatened)	• 24 of 28 observations were at one small bush remnant that lies outside the site footprint (PC4). The remainder were at the southernmost end of the site near a vegetated gully. • This species will not be affected by construction as the habitat they occupy lie outside the Wind Farm Development Area. • In terms of operation, this species rarely flies high enough to be at risk from turbine collision. At five windfarms where this species is present there have been no recorded mortalities.
Paradise shelduck (Not threatened)	• Almost all observations were at Lake Mahinerangi and associated complexes of the Waipori Hydro Scheme. Within the wind farm site there were observations of several pairs, mostly within the Stage 1 Windfarm at the south end of the site nearest Lake Mahinerangi. • Construction is highly unlikely to have an adverse effect on these birds. • During operation there is a risk of collision for this species, however, the number of collisions observed during Stage 1 was low and at those levels it is highly unlikely to impact on the local population of this species.
South Island fantail (Not threatened)	• There was one observation once at a small bush remnant just outside the site (PC4). • This species will not be affected by construction as the habitat it has been observed in lies outside the Wind Farm Development Area. • In terms of operation, this species rarely flies high enough to be at risk of turbine collision. At five windfarms where this species is present there have been no recorded mortalities.

Measures to manage effects on taonga species

The conditions of consent variation application seeks several changes that will minimise and mitigate potential effects on avifauna (including taonga species) compared to the consented wind farm. Turbine numbers have been reduced from a consented maximum of 100 (as per condition 12) to 56 (comprising the 12 existing plus 44 proposed turbines), with associated increases in spacings between turbines, and a requirement for the lower turbine blade tip height above the ground. These reduction of turbine numbers and increased spacing will reduce collision risk for any species of bird which flies sufficiently high to be enter the blade swept area. The minimum ground separation to the lower blade tip height avoids those birds that do not typically fly higher than the minimum 20m ground separation.

For the taonga species which are at risk of turbine strike mortalities (falcon, Australasian harrier, paradise shelduck, and Southern black-backed gull) the consent variations being sought will reduce the number of turbines and the total rotor swept area (RSA) within MWF Stage 2, which will reduce the collision risk for

these species within MWF Stage 2 compared to the consented wind farm. For these same four taonga species, raising of the lower turbine blade tip height will reduce the percentage of flights that are within the rotor swept area (RSA) when these species traverse MWF Stage 2. For falcon, the collision risk modelling concluded that with fewer turbines and a lower blade height of 20 m, the collision will reduce by about 46%.

Despite the reduction in the collision risk resulting from the consent variations, there may be collision mortalities of Australasian harrier, paradise shelduck, and Southern black-backed gull over the life of the wind farm. However, of the studies carried out to date on constructed wind farm sites in New Zealand there is no evidence that losses experienced for these three species have or are having a detrimental effect on the local populations and therefore will not have an adverse or material effect on the national populations. Each of these species is sufficiently abundant, widespread and efficient breeders that they appear able to replace the low levels of loss experienced. Although the proposed pest management has been designed for falcon, it will have some benefit for the other species.

Falcon have the highest conservation status of any bird active within the wind farm site, and accordingly construction and post construction monitoring and pest control undertaken as part of Stage 1 will be undertaken at MWF Stage 2, with pest control expanded to the entire MWF Stage 2 site.

To reduce the risk of turbine collisions for forest obligate species, turbines within MWF Stage 2 are set back from native forest remnants so that no turbine blades will overhang native forest remnants. The avoidance of blade overhang for key habitat and raising the lower turbine blade tip height to 20 m will minimise the potential collection risks for forest obligate species including grey warbler and South Island fantail.

Attachment 1: Taonga Species

Schedule 97
Taonga species

s 287

Birds

Name in Māori	Name in English	Scientific name
Hoiho	Yellow-eyed penguin	*Megadyptes antipodes*
Kāhu	Australasian harrier	*Circus approximans*
Kākā	South Island kākā	*Nestor meridionalis meridionalis*
Kākāpō	Kākāpō	*Strigops habroptilus*
Kākāriki	New Zealand parakeet	*Cyanoramphus* spp
Kakaruai	South Island robin	*Petroica australis australis*
Kakī	Black stilt	*Himantopus novaezelandiae*
Kāmana	Crested grebe	*Podiceps cristatus*
Kārearea	New Zealand falcon	*Falco novaeseelandiae*
Karoro	Black-backed gull	*Larus dominicanus*
Kea	Kea	*Nestor notabilis*
Kōau	Black shag	*Phalacrocorax carbo*
	Pied shag	*Phalacrocorax varius varius*
	Little shag	*Phalacrocorax melanoleucos brevirostris*
Koekoeā	Long-tailed cuckoo	*Eudynamys taitensis*
Kōparapara *or* Korimako	Bellbird	*Anthornis melanura melanura*
Kororā	Blue penguin	*Eudyptula minor*
Kōtare	Kingfisher	*Halcyon sancta*
Kōtuku	White heron	*Egretta alba*
Kōwhiowhio	Blue duck	*Hymenolaimus malacorhynchos*
Kūaka	Bar-tailed godwit	*Limosa lapponica*
Kūkupa/Kererū	New Zealand wood pigeon	*Hemiphaga novaeseelandiae*
Kuruwhengu/Kuruwhengi	New Zealand shoveller	*Anas rhynchotis*
Mātā	Fernbird	*Bowdleria punctata punctata* and *Bowdleria punctata stewartiana* and *Bowdleria punctata wilsoni* and *Bowdleria punctata candata*
Matuku moana	Reef heron	*Egretta sacra*
Miromiro	South Island tomtit	*Petroica macrocephala macrocephala*
Miromiro	Snares Island tomtit	*Petroica macrocephala dannefaerdi*
Mohua	Yellowhead	*Mohoua ochrocephala*
Pākura/Pūkeko	Swamp hen/Pūkeko	*Porphyrio porphyrio*
Pārera	Grey duck	*Anas superciliosa*
Pateke	Brown teal	*Anas aucklandica*
Pīhoihoi	New Zealand pipit	*Anthus novaeseelandiae*
Pīpīwharauroa	Shining cuckoo	*Chrysococcyx lucidus*
Pīwakawaka	South Island fantail	*Rhipidura fuliginosa fuliginosa*

Name in Māori	Name in English	Scientific name
Poaka	Pied stilt	*Himantopus himantopus*
Pokotiwha	Snares crested penguin	*Eudyptes robustus*
Pūtakitaki	Paradise shelduck	*Tadorna variegata*
Riroriro	Grey warbler	*Gerygone igata*
Roroa	Great spotted kiwi	*Apteryx haastii*
Rowi	Ōkārito brown kiwi	*Apteryx mantelli*
Ruru koukou	Morepork	*Ninox novaeseelandiae*
Takahē	Takahē	*Porphyrio mantelli*
Tara	Terns	*Sterna* spp
Tawaki	Fiordland crested penguin	*Eudyptes pachyrhynchus*
Tete	Grey teal	*Anas gracilis*
Tīeke	South Island saddleback	*Philesturnus carunculatus carunculatus*
Tītī	Sooty shearwater/Muttonbird/Hutton's shearwater Common diving petrel South Georgian diving petrel Westland petrel Fairy prion Broad-billed prion White-faced storm petrel Cook's petrel Mottled petrel	*Puffinus griseus* and *Puffinus huttoni* and *Pelecanoides urinatrix* and *Pelecanoides georgicus* and *Procellaria westlandica* and *Pachyptila turtur* and *Pachyptila vittata* and *Pelagodroma marina* and *Pterodroma cookii* and *Pterodroma inexpectata*
Tītitipounamu	South Island rifleman	*Acanthisitta chloris chloris*
Tokoeka	South Island brown kiwi	*Apteryx australis*
Toroa	Albatrosses and Mollymawks	*Diomedea* spp
Toutouwai	Stewart Island robin	*Petroica australis rakiura*
Tūī	Tūī	*Prosthemadera novaeseelandiae*
Tutukiwi	Snares Island snipe	*Coenocorypha aucklandica huegeli*
Weka	Western weka	*Gallirallus australis australis*
Weka	Stewart Island weka	*Gallirallus australis scotti*
Weka	Buff weka	*Gallirallus australis hectori*

MITCHELL DAYSH

APPENDIX 4 | Functional Need

16 March 2026

Response to EPA RFI (Ref FTAA-2510-1125) – Question 4

1.0 Introduction

This Technical Memorandum has been prepared by Riley Consultants Ltd (Riley) on behalf of Tararua Wind Power Limited (TWP) in response to the Environmental Protection Authority (EPA) Request for Information (RFI) dated 5 March 2026. This response addresses Question 4 of the RFI letter (File ref: FTAA-2510-1125), which seeks clarification on how 'functional need', as defined in the National Planning Standards and the National Policy Statement for Freshwater Management (NPS-FM), is demonstrated in relation to proposed activities that may affect freshwater. The request specifically references works at Wetland 43 (south of WTG 20) and Wetland 15 (south of WTG 5).

2.0 Summary of RFI Request – Item 4

Question 4 of the RFI requests clarification on the functional need for proposed civil works that occur within or adjacent to freshwater environments, including the access road crossing of Wetland 43 and the encroachment into the 10m buffer of Wetland 15. Functional need is defined in the NPSFM as "*the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment*".

3.0 Functional Need – Wetland 43

The proposed crossing of Wetland 43 will be located approximately 50m east of the existing farm track crossing. This location has been selected to achieve a suitable track alignment for turbine component delivery vehicles travelling to nearby WTG 20. Following the existing farm track alignment would result in non-compliant sharp horizontal curves, or require a rotation of the WTG 20 platform, which would result in earthworks further into Wetland 37 10m setback (located to the north of WTG 20) and likely within Wetland 37 itself. It is noted that Wetland 43 is currently subject to ongoing disturbance associated with the access track and farming activities, whereas Wetland 37 currently has no disturbance.

The proposed crossing lies at the natural saddle (high point) of the wetland, which minimises effects on surface water hydrology on either side of the embankment. Removal of the existing farm track and associated culvert will improve hydrological connectivity between Wetland 43 and Wetland 45, and the area will be rehabilitated in accordance with the Rehabilitation Management Plan.

The proposed track embankment height is less than 1.0m, limiting the footprint of works within the wetland to approximately 520m² and means construction can be undertaken and stabilised rapidly during dry weather spells.

Accordingly, the works within Wetland 43 have a clear functional need, as the road cannot be located elsewhere without introducing greater environmental effects or compromising safe delivery of turbine components, and the effects on the adjacent wetlands during the works will be minimal.

4.0 Functional Need – Wetland 15

A small encroachment (approximately 103m²) into the 10m buffer of Wetland 15 (but no works within the wetland itself), is required to accommodate the fill batter for the WTG 5 platform and associated access track.

Complete avoidance of the buffer to Wetland 15 is not practicable due to the fixed geometry requirements of the turbine platform. WTG 5 sits within a constrained corridor between the wind farm boundary and Wetland 15, which restricts alternative layout options.

Furthermore, while retaining walls were considered as an alternative to the fill batter (to reduce encroachment); these structures are generally avoided in wind farm construction due to safety risks and difficulty of operating large earthmoving plant adjacent to the retaining wall structure. In addition, retaining walls introduce construction inefficiencies (through the introduction of additional building trades).

The area of disturbance to the buffer of Wetland 15 is small and can be constructed and stabilised rapidly during dry weather spells.

Accordingly, the works within 10m buffer of Wetland 15 have a clear functional need.

5.0 Limitation

This Memorandum has been prepared for Tararua Wind Power, to inform the Expert Consenting Panel's consideration of Taraua Wind Power's application for approvals under the Fast-track Approvals Act 2024 and any subsequent regulatory processes.

Yours faithfully
Riley Consultants Ltd

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