

Under the **FAST-TRACK APPROVALS ACT 2024**

In the matter of an application for resource consents, concessions, wildlife approvals, an archaeological authority, and approvals relating to complex freshwater fisheries activities in relation to the Southland Wind Farm Project

By **CONTACT ENERGY LIMITED**

Applicant

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**RESPONSE BY CONTACT ENERGY LIMITED TO  
COMMENTS FROM INVITED PERSONS AND SECTION 51 REPORTS**

14 January 2026

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## 1. INTRODUCTION

1.1 This document and its appendices comprise the response by Contact Energy Limited (**Contact**) to:

- (a) comments on Contact's substantive application for approvals to enable the Southland Wind Farm (**Project**), provided by persons invited to comment by the Expert Panel (**Panel**) under section 53 of the Fast-track Approvals Act 2024 (**FTAA**);<sup>1</sup> and
- (b) advice / reports provided, under section 51 of the FTAA, by the Director-General of Conservation (**DOC**) and Heritage New Zealand Pouhere Taonga (**HNZPT**) / the Māori Heritage Council.<sup>2</sup>

1.2 At the outset, Contact notes the Panel's Minute 4 dated 19 December 2025, requesting information in relation to the new and amended national direction instruments released on 18 December 2025. The statement of evidence of Claire Hunter and Megan Hankey of Mitchell Daysh, included as Appendix 7 to this overall response to comments document, includes Contact's response to that request for information. This overall response to comments document also refers to the new national direction, particularly the amended National Policy Statement for Renewable Electricity Generation (**NPS-REG**).

1.3 The response to comments builds on (and does not seek to repeat) the detailed material in Contact's substantive application documents.

1.4 By way of introduction, Contact welcomes the feedback provided in respect of the Project and is grateful to all persons and entities who have taken the time to comment.

1.5 Contact thanks those commenters who express support for the Project and notes that many others (including some of those opposing a wind farm in this location) acknowledge the benefits that will flow from New Zealand and Southland gaining a major new source of clean, renewable electricity. As discussed further below, those benefits are central to Contact's application and the Panel's evaluation of it.

1.6 Contact again expresses its gratitude to the people and groups – including Te Rūnanga o Ngāi Tahu and Ngāi Tahu ki Murihiku, DOC, Environment Southland (**ES**), Southland District Council (**SDC**), Gore District Council

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<sup>1</sup> Addressed in minute 1 of the Panel dated 19 November 2025, [here](#).

<sup>2</sup> As requested in minute 1 of the Panel Convener dated 3 October 2025, [here](#).

(GDC), and HNZPT – whose feedback has (over several years) been pivotal in Contact's development of the Project and the suite of conditions and other measures that will ensure the Project has positive environmental outcomes.

- 1.7 Contact also acknowledges the concerns raised in the comments of people and entities who would prefer the Project to be located elsewhere, about its localised adverse effects. As the Panel will be aware, adverse effects are unavoidable for any large wind farm.
- 1.8 The potential and actual adverse effects of the Project are addressed in a comprehensive suite of conditions that have been developed based on detailed expert advice and in consultation with Ngāi Tahu, DOC, and the Councils. They will not only ensure that the Project's environmental footprint will be minimised as far as practicable, but will also deliver improved biodiversity at the site and elsewhere in the region over the longer term. The Project and associated conditions will also support community initiatives over its lifetime and otherwise provide positive social and environmental outcomes.
- 1.9 Contact remains of the firm view that there are numerous compelling reasons for the Panel to grant approvals for the Project, on conditions that will facilitate its delivery. To summarise:

(a) **New Zealand needs this Project.**

- (i) Immediate action is needed to reduce emissions to stave off the potentially catastrophic effects of human-induced climate change.<sup>3</sup> Enabling this Project will help New Zealand do its part by reducing our reliance on fossil fuels and accelerating the electrification of industry and the wider economy.
- (ii) This Project (and more like it) are essential to ensure affordable, reliable and clean electricity supply, because new renewable generation is acutely necessary due to declining natural gas production and the phasing out of fossil fuels.<sup>4</sup>
- (iii) Meeting forecast electricity demand requires major investment in new renewable generation.

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<sup>3</sup> [Chapter 3: Human Influence on the Climate System | Climate Change 2021: The Physical Science Basis](#)

<sup>4</sup> See for example: <https://www.mbie.govt.nz/assets/electricity-demand-and-generation-scenarios-report-2024.pdf>

- (b) **The Project is in the right place.** Delivering new renewable electricity generation is challenging. This Project is very well located, not only because of its excellent wind resource, but also because:
- (i) demand for electricity is forecast to grow in Southland;<sup>5</sup>
  - (ii) the Project is close to South Port (with a proven 'port to site' wind turbine component transportation route) and is in close proximity to the Transpower National Grid, but it is not:
    - (1) on conservation land or in a wilderness area;<sup>6</sup> or
    - (2) on land identified in any planning or other statutory instrument as an area of sensitivity, such as in ecological, landscape, or cultural terms;
  - (iii) current farming and forestry uses are complementary with a wind farm, and the landowners are willing hosts; and
  - (iv) the Project is well separated from towns and dwellings.<sup>7</sup>
- (c) **The Project's adverse effects are anticipated by and have been managed in accordance with the planning instruments:** the relevant national, regional, and local instruments under the Resource Management Act 1991 (**RMA**) are the result of robust democratic processes and, for the resource consents, must inform the weight given by the Panel to the Project's various environmental effects. As well as directing the Panel to enable significant infrastructure and recognise the benefits of renewable electricity (with recent changes to national planning direction adding further weight to this point, as is discussed in the evidence of Ms Hunter and Ms Hankey), those RMA instruments reflect that the Project is proposed to be built in a rural environment where economic activity is promoted, and where the adverse effects of activities cannot always be fully internalised.<sup>8</sup>

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<sup>5</sup> [Transmission Planning Report 2023](#) at 364; [Murihiku Southland Electrification Development Plan Final December 2023.pdf](#)

<sup>6</sup> Noting the discrete locations where concessions are required.

<sup>7</sup> The closest town is Wyndham, with 620 inhabitants, and is approximately 12km from the Project; [Wyndham, Place and ethnic group summaries | Stats NZ](#) as at 30 June 2025. The closest wind turbine to a dwelling is 2.3km - and there are only 8 dwellings within 3km of any turbine.

<sup>8</sup> Refer to section 8 of Part B of the substantive application for Mitchell Daysh's analysis of the Project against the relevant policy and planning instruments.

- (d) **Adverse effects that cannot be avoided will be comprehensively addressed** through proposed conditions and carefully developed offset/compensation measures, including enhancements to the Project and conditions proposed through and following the previous consenting process. Residual potential effects – primarily of wind turbines being visible from nearby properties and from viewpoints around the district – are not a valid reason for the Panel to decline the approvals sought.
- (e) Importantly, **the FTAA is deliberately and expressly enabling of this Project** and others like it. While the Project was developed to comply with the RMA and its associated instruments, in this process the primary impetus for the Panel's decision-making is to facilitate the delivery of infrastructure projects with significant regional or national benefits. This is such a project, as many commenters acknowledge; it is difficult to overstate the benefits to New Zealand and the Southland Region of a major new supply of electricity – which is a fundamental enabler of people's social, economic, and cultural wellbeing – from a clean, renewable, affordable and reliable source.

1.10 These contextual matters underpin Contact's response and are addressed in more detail throughout this document.

1.11 By way of response to the section 51 reports, DOC and HNZPT have raised a small number of technical matters that can readily be addressed, in line with the relatively straightforward and low-impact nature of the wildlife, concession, complex freshwater fisheries, and archaeological approvals being sought for the Project.

1.12 Against that background, Contact's response is set out in two parts, **A and B**.

1.13 **Part A** provides a response to the section 53 comments. In Part A, general responses are provided to comments regarding several recurring themes from comments, namely:

- (a) the need for and benefits of the Project;
- (b) the Project's ecological effects; and
- (c) the Project's landscape / visual / natural character effects.

1.14 A specific response is then provided to each set of comments, from:

- (a) the relevant local authorities: SDC, ES, and GDC;
- (b) Te Ao Mārama Incorporated (**TAMI**);
- (c) the relevant Ministers, namely the Minister of the South Island, the Minister for Regional Development, the Minister for Economic Growth, the Minister for Māori Crown Relations, the Minister for Energy, the Minister of Climate Change, the Minister Responsible for RMA Reform and for Infrastructure, the Minister for Rural Communities, and the Associate Minister for the Environment;
- (d) DOC;
- (e) the Southland Conservation Board and the NZ Game Animal Council, who were invited to comment because applications have been made for concessions and wildlife approvals;
- (f) several owners and occupiers of land within the Project Site, adjacent land, or other land in the general area (as listed in Appendices 3 and 4 to Minute 1 of the Panel), namely:
  - (i) Tim Story;
  - (ii) Matt and Joe McRae (occupiers of the Prime Range Farm Management Ltd property);
  - (iii) Warren Ayers;
  - (iv) Julie Clarke;
  - (v) Janet McDonald and Murray McDonald; and
  - (vi) Hamish Robinson;
- (g) Transpower New Zealand Limited; and
- (h) others invited to comment by the Panel:
  - (i) Environmental Defence Society (**EDS**);
  - (ii) Natalie McRae for West Catlins Preservation Society (**WCPS**);  
and
  - (iii) the Parliamentary Commissioner for the Environment (**PCE**).

1.15 **Part B** provides a response to the section 51 reports received from:

- (a) HNZPT in respect of the archaeological authority; and
- (b) DOC in respect of the wildlife approval, concessions and complex freshwater fisheries approvals.

1.16 Attached to this document and forming part of Contact's detailed response to comments are:

- (a) **Appendix 1:** a brief of evidence from Nicholas Goldwater responding to comments on ecology;
- (b) **Appendix 2:** a brief of evidence from Roger MacGibbon responding to comments on ecology;
- (c) **Appendix 3:** a brief of evidence from Brad Coombs responding to comments regarding landscape and visual amenity effects;
- (d) **Appendix 4:** a brief of evidence from Shannon Bray responding to comments regarding landscape and visual amenity effects;
- (e) **Appendix 5:** a memorandum from Leading Design Professionals in respect of aviation safety lighting effects;
- (f) **Appendix 6:** a brief of evidence from Miklin Halstead responding to comments on noise;
- (g) **Appendix 7:** a brief of evidence from Claire Hunter and Megan Hankey of Mitchell Daysh addressing planning-related comments (and providing Contact's response to the Panel's Minute / RFI 4);
- (h) **Appendix 8:** an updated set of the proposed conditions for the resource consents, showing the changes in track;
- (i) **Appendix 9:** an updated set of the proposed conditions for the concessions, showing the changes in track;
- (j) **Appendix 10:** an updated set of the proposed conditions for the wildlife approvals, showing the changes in track;
- (k) **Appendix 11:** an updated set of the proposed conditions for the complex freshwater fisheries activity approvals, showing the changes in track; and

- (l) **Appendix 12:** an updated set of the proposed conditions for the archaeological authority, showing the changes in track; and
- (m) **Appendix 13:** a table responding to matters raised in a 'Technical Review' included in the WCPS's comments.
- (n) **Appendix 14:** Contact's report on its eDNA sampling results in respect of the culverts subject to the complex freshwater fisheries activity application (which has been provided to DOC as requested).<sup>9</sup>

## **PART A – RESPONSE TO SECTION 53 COMMENTS**

### **2. COMMENTS REGARDING THE SIGNIFICANT NATIONAL AND REGIONAL BENEFITS OF THE PROJECT**

#### **Introduction – near-consensus on the Project's significant benefits**

- 2.1 Among the commenters there is near-universal acknowledgement of the benefits of renewable electricity generation, and of wind farms in particular.
- 2.2 This is the central theme of many of the comments,<sup>10</sup> including those by well-informed participants such as the Minister for Energy / the Minister of Climate Change, Hon. Simon Watts, who pointed to:
  - (a) the large contribution the Project will make to the security of New Zealand's energy supply and downward pressure on wholesale electricity prices, supporting more affordable energy for households and industry; and
  - (b) the fact that *"this project will likely have significant national and regional benefits in terms of climate mitigation and adaptation"*.
- 2.3 The importance to New Zealand and Southland of a large new wind farm is understood even by commenters who seek that this application be turned down (such as Matt and Joe McRae, who manage the Prime Range Farm Management Ltd property<sup>11</sup>) or that turbines on the Jedburgh Plateau be

<sup>9</sup> See the discussion on this matter in response to DOC's section 51 report on the complex freshwater fisheries activity application.

<sup>10</sup> Other commenters who emphasise these benefits include Environment Southland, Hon Chris Bishop - Minister Responsible for RMA Reform / Minister for Infrastructure, Hon James Meager – Minister for the South Island, the Department of Conservation, and Tim Story.

<sup>11</sup> *"We aren't against wind farms per se (...)"*.

deleted (such as EDS,<sup>12</sup> whose representatives may not be aware that this would make the Project unviable).

2.4 Natalie McRae for WCPS, however, raises a number of questions regarding the Project's benefits.<sup>13</sup> Contact responds to those questions by addressing the following topics in turn:

- (a) the fundamental societal benefits of a secure and affordable supply of electricity, and why New Zealand needs to generate more electricity to achieve a more secure system;
- (b) why renewable sources such as wind are best to meet that need, and why the Project is an efficient use of resources;
- (c) how the Project will help decarbonise the New Zealand and Southland economies; and
- (d) why the Project is in a highly favourable location compared to other potential sites.

### **The fundamental importance of electricity and why New Zealand needs more supply**

2.5 While well understood, it is worth the Panel reflecting on the critical importance of a secure, reliable, and affordable system of generation and supply of electricity. As the Environment Court observed twenty years ago in *Genesis Power Ltd v Franklin District Council*:<sup>14</sup>

*"(i) Electricity is a vital resource for New Zealand. There can be no sustainable management of natural and physical resources without energy, of which electricity is a major component.*

*(ii) New Zealand needs a more diverse electricity generation base, to avoid for example over-reliance on hydro which is susceptible to dry years; in any event new large hydro options are limited. (...)*

*(v) Wind is a source of renewable energy which is plentiful but which is best able to be utilised only in certain locations."*

2.6 There would be fundamental implications for our way and quality of life – spanning all facets including the provision of health services, education, other

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<sup>12</sup> At paragraph 2 of EDS's comments: *"EDS supports renewable electricity generation, in the right location"*.

<sup>13</sup> Paragraphs 27 to 55 of WCPS's main comments document.

<sup>14</sup> *Genesis Power Ltd v Franklin District Council* (2005) 12 ELRNZ 71 (EnvC) at [64(i)].

social services, employment, nutrition, housing, leisure, and so on – if we could not rely on the secure, reliable, and affordable provision of electricity.

- 2.7 As electricity demand increases, in particular in response to the transition from carbon-emitting energy sources to renewable ones, and as the country experiences fluctuations in hydro inflows and serious reductions in the supply of gas for the few remaining thermal power stations, there is an ongoing need for new generation capacity to be added to the system. In *Upland Landscape Protection Society Inc v Central Otago District Council*,<sup>15</sup> the High Court stated:

*"This Court recognises the notorious fact that there is an ongoing risk of the demand for electricity not being matched for supply. This past winter and previous winters there have been low levels of stored water in the hydro electric systems. The Court also takes cognisance of the notorious fact that where supply cannot match demand in electrical systems there has to be a partial shutdown of distribution networks. For these reasons it is in the public interests for power supply companies to increase generating capacity. **The question is not whether generating capacity should be increased but rather by what means and where**" (emphasis added).*

- 2.8 The issues identified by the High Court in 2008 are graver still now because, as noted in Part A of the substantive application, unprecedented electricity demand growth is forecast.<sup>16</sup> Technical Assessment #1: Electricity System Benefits in Part H of the application states that:<sup>17</sup>

*"The required pace of development is going to be particularly acute in the next five to ten years given that New Zealand's supply / demand balance is in a situation of relative scarcity, which is giving rise to the current situation of high wholesale electricity prices."*

- 2.9 While Ms McRae for WCPS expresses doubts about that forecast growth, the Panel should prefer the information provided by the relevant Government Ministers (such as the Minister for Energy) and participants in the electricity market. Transpower's comments, for example, link to [this discussion paper](#) from July 2025 which provides a useful summary of the issue; as Transpower states, its analysis shows that *"the time for action is now"*.

- 2.10 Put simply, the information in Contact's substantive application on these matters remains correct. There have been no material recent changes to the

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<sup>15</sup> *Upland Landscape Protection Society Inc v Central Otago District Council* (2008) 14 ELRNZ 403 (HC) at [64].

<sup>16</sup> [A02. Part A - Overarching Substantive Application Document](#) at 3–4.

<sup>17</sup> [H01.-Part-H-Technical-assessment-1-Electricity-System-Benefits.pdf](#) at 7.

information that was the basis for the Ministry of Business, Innovation and Employment (**MBIE**) report on electricity demand and generation scenarios, which projects that total electricity demand will grow by between 35% and 82% by 2050. The increased demand will be driven by industry switching from fossil fuel use to electricity (such as for space and process heating) in the short-term, and the electrification of the transport fleet through increased uptake of electric vehicles, particularly from the late 2030s.<sup>18</sup> As the report notes:<sup>19</sup>

*"To meet future electricity demand, and to replace existing plants scheduled for retirement, 9.4GW of new capacity will be required by 2050 in the Reference scenario. As at the end of 2022, MBIE statistics show 9.85 GW of installed capacity, so this represents a gross increase of 95 per cent."*

2.11 Put into context, the MBIE figures require approximately two new wind farms the scale of the Project to be built every three years until 2050 in order to meet the 'reference scenario' demand currently projected by the Government, leaving aside for the moment the different mix of generation types needed in the system (discussed below). Technical Assessment #1: Electricity System Benefits concludes that meeting the increased demand:<sup>20</sup>

*"(...) will require much faster build than has occurred over the past few decades, which averaged approximately 75 MW of renewable generation capacity build per year for the period 1990 to 2020. Further, as existing renewable generation projects reach the end of their economic life and need re-powering (as is already happening to some of New Zealand's oldest windfarms and geothermal power stations), the actual amount of renewable generation capacity needing to be built will be even greater."*

2.12 More recently, in October 2025 Transpower released draft potential future scenarios which forecast an increase equivalent to between 58% and 180% of present national electricity demand by 2050.<sup>21</sup> While these projections are not directly comparable to the MBIE demand scenarios, which formed the basis of Technical Assessment #1: Electricity System Benefits, they are higher than those produced by MBIE.

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<sup>18</sup> [Electricity Demand and Generation Scenarios: Results summary July 2024](#)

<sup>19</sup> At 39. The 'reference scenario' is explained as follows (at 8–9): *"The Reference scenario is our baseline scenario and considers both current trends and anticipated changes. It is the scenario against which the other scenarios are compared. We assume that economic, technological, and policy trends continue at the pace experienced in recent years. We account for currently implemented and upcoming policies and assume further electrification uptake."* Other scenarios modelled by MBIE (requiring even greater renewable electricity generation) include the 'environmental' scenario, where climate change-related policies require greater and faster reductions in carbon emissions.

<sup>20</sup> [H01.-Part-H-Technical-assessment-1-Electricity-System-Benefits.pdf](#) at 7.

<sup>21</sup> [Te Kanapu Consultation 2 - Potential Scenarios.pdf](#) at Table 2 and Figure 7.

2.13 That technical assessment also notes that:

- (a) wind generation should materially lower the cost of electricity supply;<sup>22</sup> and
- (b) if the Project does not proceed:<sup>23</sup>
  - (i) costs to electricity consumers will likely increase by between \$1.2 and \$2.6 billion; and
  - (ii) emissions will likely increase by 0.6 to 1.5 megatonnes of carbon dioxide equivalent (MtCO<sub>2</sub>e).

2.14 As the Panel will appreciate, if new generation infrastructure such as that provided by the Project is unable to be brought online in a timely way, large power outages and rapidly increasing costs to industry (including major exporters) and consumers are unlikely to be tolerable; rather, New Zealand would likely increase its reliance on imported and domestic coal and potentially also liquefied natural gas, which would have obvious consequences in terms of carbon emissions and cost.

### **The need for and efficiency of additional renewable wind energy generation**

2.15 Having a diverse mix of electricity generation types has advantages, and New Zealand's future demand growth will likely be met with mostly renewable electricity generation, like wind farms.

2.16 Ministerial comments note the importance of the Project as nationally significant infrastructure (if built today it would be the largest wind farm in the country), in:

- (a) supporting climate change mitigation;
- (b) improving resilience in the national electricity supply; and
- (c) putting downward pressure on wholesale electricity prices.<sup>24</sup>

2.17 Under the RMA, these benefits carry significant weight. In Part 2 terms, the Project is a highly efficient use of natural and physical resources because it will utilise the high-quality (and free) wind resource present at the site to

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<sup>22</sup> At 9.

<sup>23</sup> At 18.

<sup>24</sup> These were also among the reasons that the Minister for Infrastructure referred the Project into the FTAA process: [13.-FTAA-2504-1041-Southland-Wind-Farm-Stage-2-Notice-of-Decisions\\_Redacted.pdf](#)

generate renewable electricity and contribute significantly to New Zealand's decarbonisation goals.<sup>25</sup>

- 2.18 Ms McRae for WCPS makes specific criticism of wind as an inefficient source of generation. It is not the case that increasing wind capacity "*spreads inefficiency*", as she suggests; rather, it improves system resilience, reduces variability, and lowers reliance on fossil fuels through geographic diversity and by working alongside hydro storage, which acts as a natural 'battery'. Wind provides significant systemwide benefits including adding to renewable supply, helping conserve hydro storage for winter peaking, and enabling alignment with New Zealand's decarbonisation goals. This is why Transpower, MBIE, and the Climate Change Commission all identify wind as a crucial component of New Zealand's future energy supply, even after accounting for the inherent variability of wind.
- 2.19 Ms McRae points to Australian examples to argue that rooftop solar is a more efficient generation source than wind, with peak hydro capacity in winter able to offset the lower solar generation during that season.
- 2.20 Ms McRae is correct that solar performs less well in winter, but it is not the case that hydro lake levels in New Zealand are highest in winter. Hydro inflows are strongly seasonal and typically lowest in late winter/early spring, which is when security of supply pressures occur. During 'dry years', hydro storage can become critically low, leading to reliance on thermal generation. Available wind can substitute for hydro generation and help conserve lake storage for periods when it is most needed.
- 2.21 Furthermore, wind generation in New Zealand, by contrast:
- (a) has higher capacity factors in winter than summer; and
  - (b) is one of the few renewable sources that performs well during cold, stormy periods when electricity demand spikes.
- 2.22 Therefore, wind contributes meaningfully to meeting winter peaks, whereas rooftop solar contributes very little (in this country).
- 2.23 Further, comparing New Zealand to Australia ignores fundamental differences:

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<sup>25</sup> RMA, s 7(b).

- (a) Australia has a higher solar irradiance and a different residential seasonal demand profile, peaking in summer (when cooling is required);
- (b) Australia's grid relies heavily on coal and gas; large amounts of rooftop solar help offset daytime fossil fuel generation; and
- (c) New Zealand's grid is already supplied by around 90% renewable sources and has a need for winter peaking (unlike Australia whose peak demand is in summer), which is a role that solar generation cannot effectively fill.

2.24 What is effective in Australia therefore does not translate directly to New Zealand's electricity market or climate conditions.

2.25 Also relevant to efficiency is that the Project will, as Minister Watts commented, support more affordable energy for households and industry.

2.26 Ms McRae challenges this statement. She argues that power prices for consumers are high in New Zealand despite having around 90% of electricity generated from renewable sources, and despite lower wholesale spot prices being experienced in 2025.

2.27 While spot prices can fluctuate materially based on short-term supply / demand differences, the longer-term trend is better observed through the electricity forward curve which indicates the market's collective view of future wholesale electricity prices.<sup>26</sup> For the South Island, projected spot prices remain elevated at around \$150/MWh out to 2029, signalling the need for more generation to be built. Recent analysis published by the Boston Consulting Group shows that by 2030 prices can revert back to \$100/MWh - \$120/MWh through increased renewable build and strengthening backup fuels.<sup>27</sup>

2.28 In terms of consumer costs, it is a misconception that these are particularly high in this country. New Zealand is currently ranked ninth out of 99 countries on the World Energy Council Energy Trilemma Index, which accounts for energy costs.<sup>28</sup> Other sources have New Zealand in the bottom

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<sup>26</sup> [https://www.asxenergy.com.au/futures\\_nz](https://www.asxenergy.com.au/futures_nz)

<sup>27</sup> [Energy to Grow: Securing New Zealand's Future](#)

<sup>28</sup> <https://trilemma.worldenergy.org/#!/country-profile?country=New%20Zealand&year=2023>

quartile of consumer electricity prices (ie prices are higher in most countries).<sup>29</sup> Increasing supply is needed to maintain this global position.

- 2.29 Also relevant to Part 2 of the RMA is the fact that the Project will positively contribute to New Zealand's efforts to mitigate climate change by providing a significant new source of renewable electricity and reducing reliance on non-renewable sources of energy.<sup>30</sup>
- 2.30 Ms McRae considers that Contact should not be credited with these benefits if developing the Project is simply a response to current market conditions. As other Panels under the FTAA have found,<sup>31</sup> responding to market conditions is not inconsistent with delivering significant regional and national benefits. In fact, market signals are a central mechanism through which the electricity sector delivers outcomes that align with national energy, climate, and economic objectives. Characterising these benefits as being undertaken "*under the guise*" of national renewable energy goals overlooks that private-sector investment is essential to achieving those national goals. New Zealand's electricity sector is primarily privately funded; without commercial entities investing in new renewable generation, government policy targets cannot be met.
- 2.31 Contact's response to concerns raised about the Project's ecological effects (such as by EDS) is later in this document. Another, more fundamental point to make, though, is that it is climate change, not earthworks or limited vegetation clearance on a particular site, that poses an existential threat to species and ecosystems (at the site and everywhere else). Its effects are already manifesting around the world and will continue to worsen unless substantial steps are taken rapidly to reduce emissions. This point needs to be properly acknowledged, and it underscores the importance of enabling the Project and the renewable electricity it will generate.
- 2.32 While WCPS suggests that section 6 RMA matters should be given greater weight than section 7(j), that is not the correct position under the RMA (where weight is ultimately a question for the decision-maker, bearing in mind the relevant statutory requirements (ie to "*have particular regard to*" or "*recognise and provide for*" the various matters, as relevant)).

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<sup>29</sup> <https://www.comparethemarket.com.au/energy/features/changes-in-electricity-prices-globally/>

<sup>30</sup> RMA, s 7(j).

<sup>31</sup> See for example the decisions in relation to the [Tekapo Power Scheme](#), [Kings Quarry Expansion](#), [Drury Quarry Expansion - Sutton Block](#), and [Waihi North](#).

2.33 The more significant point for the Panel's decision, though, is that here it is the purpose of the FTAA – to facilitate the delivery of infrastructure projects with significant regional or national benefits, like this Project – that must be given the most weight.

### **The Project will make a major contribution to decarbonisation**

2.34 Ms McRae for WCPS asserts that the Project's decarbonisation benefits are overstated. In doing so, she queries the point at which the Project will 'break even' in carbon terms (ie factoring in the Project's carbon footprint versus the clean electricity generated) and points to other renewable electricity projects and/or asserts a lack of local demand to argue that the Project is not needed to support decarbonisation of industry in Southland or elsewhere. These matters are addressed below.

#### *When the Project will break even in carbon terms*

2.35 As noted at page 4 of Part A to Contact's substantive application, the short answer to Ms McRae's query is that the Project will **very quickly** break even and become net positive in carbon terms, and those benefits will continue to grow significantly over the life of the Project.

2.36 A recent independent study has been released regarding the carbon and energy footprint of wind farms in New Zealand, focusing on the Harapaki Wind Farm (one of the most recently constructed wind farms in New Zealand).<sup>32</sup> The study looked at the energy and carbon footprint of the wind farm through a full Life Cycle Assessment using information collated during construction of the wind farm and from the supply and manufacturing of the turbines. The study also reviewed the Harapaki site against other international onshore wind farms for comparison; it found the results for the Harapaki site to be close to the median of the international study results.

2.37 The results from this study showed that wind farm to have an energy payback time (**EPBT**) of 0.4 to 0.5 years – ie just a handful of months. The energy payback is described as the time period for the energy generated by the wind farm to balance with the energy required over the whole life cycle of the power plant (ie to manufacture, operate and decommission it).

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<sup>32</sup> Isabella Pimentel Pincelli, Jim Hinkley & Alan Brent (14 May 2024): Developing onshore wind farms in Aotearoa New Zealand: carbon and energy footprints, Journal of the Royal Society of New Zealand. The abstract can be accessed here: [Full article: Developing onshore wind farms in Aotearoa New Zealand: carbon and energy footprints](#)

- 2.38 The carbon footprint of Harapaki was calculated as 10.8-9.7 g CO<sub>2</sub>e/kWh, factoring in the carbon emissions equivalent produced during the full wind farm lifecycle (i.e. manufacturing, construction, operation, and decommissioning), versus the energy generated from the wind farm. This can be used to create a measure of the time it takes for the wind farm to balance the carbon emissions from its creation through the calculation of the greenhouse gas payback time (**GPBT**) compared with offsetting emissions from other generation types on the National Grid.
- 2.39 For Harapaki, the study calculated a GPBT of **1.5 to 1.7 years**, assuming that the electricity generated would replace generation from combined cycle gas turbines, and therefore avoid the associated carbon emissions of that generation type. If instead considering the average carbon emissions for all generation feeding into the National Grid, the GPBT for Harapaki was calculated as **3.1 years**.
- 2.40 Contact has analysed these results and compared them with the proposed parameters of the Southland Wind Farm. Contact expects a substantially similar result for the EPBT, carbon footprint, and the corresponding GPBT as was calculated for the Harapaki Project – perhaps even a lower carbon footprint, given the high-quality wind resource at the site and the size of the proposed wind farm.
- 2.41 That is, in just several years' time (at most) after the Project is commissioned it will break even in carbon terms.

*Why the Project helps decarbonisation despite other potential renewable projects in Southland / Otago*

- 2.42 Ms McRae for WCPS expresses doubt that there is an energy deficit in Southland that the Project will address, that electricity demand in Southland will increase, and that the Project is needed in light of other plans for renewable generation in the region and in Otago.
- 2.43 A short version of the response is that Contact is likely to invest over \$1 billion in constructing the Project, which it could not and would not do if the Project was unnecessary and unviable. If the Project were somehow to become unviable due to unforeseen market conditions, it would not be built.
- 2.44 The fact is that demand for electricity is forecast to grow in Southland as core industries reduce their reliance on fossil fuels and convert process heat and

other energy needs to electricity.<sup>33</sup> Peak demand in Otago/Southland (excluding Tiwai Point) is expected by MBIE to rise from 556 MW (2023) to 900 MW by 2038.<sup>34</sup>

- 2.45 Further, new sources of demand, both in the region and outside it, are expected – not only Fonterra's new electrode boilers at Edendale, mentioned by WCPS, which alone are enough to consume one-third of the Project's output ie 360+GWh.<sup>35</sup> The Southland Regional Economy Transition Accelerator report, published in October 2022 by the Energy Efficiency and Conservation Authority,<sup>36</sup> addresses 40 sites in the region, many of which have boilers larger than 500kW, that collectively consume 1,518GWh/5,460TJ of energy, primarily in the form of coal, and currently produce 519kt per annum of greenhouse gas emissions.
- 2.46 It is correct that other generation projects are being investigated within Southland and Otago, as is the case all around New Zealand. In Southland, this Project is the most advanced and so is very well placed to meet the growing demand for electricity in the immediate future – and is very well sited, as discussed further below.
- 2.47 Contact has no knowledge of, and so is unable to comment on, Ms McRae's assertion that a possible further stage of the Kaiwera Downs wind farm may be built.
- 2.48 It is also correct that Contact has recently acquired Manawa Energy, through which Contact has acquired a 50% holding in the Kaihiku Wind farm project in South Otago. Based on forecast demand for electricity, Contact believes there is a role for both Southland Wind Farm and Kaihiku to meet New Zealand's future electricity demand requirements. In any case, the correlation between different power generation across New Zealand is factored into any investment decision and is signalled through wholesale electricity prices.

### **The Project's location is highly favourable**

- 2.49 There does not appear to be any serious challenge to the notion that the Project (and many other wind farms and other renewable projects) must be built quickly as part of New Zealand's efforts to have secure, affordable

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<sup>33</sup> [Transmission Planning Report 2023](#) at 364; [Murihiku Southland Electrification Development Plan Final December 2023.pdf](#)

<sup>34</sup> [Transmission Planning Report 2023](#) at 363.

<sup>35</sup> [H02.-Part-H-Technical-assessment-2-Economic-Framing-and-Impacts.pdf](#) at [39].

<sup>36</sup> [Southland RETA | EECA](#)

energy and combat the potentially catastrophic effects of climate change. Rather, several commenters (such as Ms McRae for WCPS, and EDS in respect of the turbines proposed on the Jedburgh Plateau) would prefer a wind farm to be built in some hypothetical 'better' location.

2.50 While Contact duly considered alternatives in developing the Project, as explained in the application documents,<sup>37</sup> it is not now incumbent on the Panel to evaluate the environmental effects of other potential projects in Southland or Otago to justify enabling the Project, as Ms McRae suggests.

2.51 It is clear, though, that the Project site is an excellent location for a wind farm, as summarised in Part A to the application (including its appendix)<sup>38</sup> especially when considering the following key factors:

- (a) **A high-quality wind resource:** the wind resource for the Project is very attractive, with the elevated site, exposure to the prevailing westerly winds, and the low occurrence of extreme wind speeds, all being favourable for the installation of a wind farm at this location. The strong, consistent wind speeds have been proven through the wind monitoring undertaken at the site.
  - (i) On this point, Contact does not understand Ms McRae's assertions that the generation efficiency of the Project will be at 36%, lower than the modern average of 38%; Contact confirms that the estimated capacity factor for the Southland Wind Farm is relatively high (due to the high-quality wind resource), and expected to be approximately 42%.<sup>39</sup>
  - (ii) Further, Ms McRae points to a single low-wind day to assert that Contact has overstated its claims as to the output of the Project being sufficient to power 150,000 homes. Obviously, the efficiency of wind generation cannot be assessed based on a single calm day, and doing so misrepresents how wind farms are designed and evaluated. The long term annual capacity factor of approximately 42% for this Project already incorporates periods of no/low wind. The output from the wind farm will range from 0% (no wind periods) to 100% (when the wind is at rated speeds for

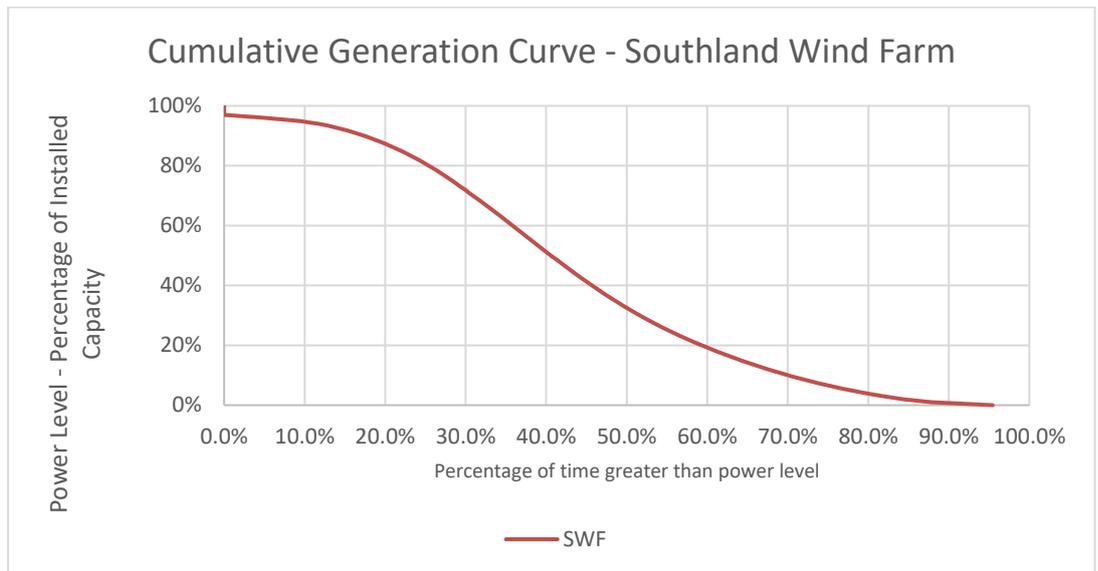
<sup>37</sup> Section 7 of Part B: [https://www.fasttrack.govt.nz/\\_data/assets/pdf\\_file/0018/11655/B01.-Part-B-Resource-Consent-Approvals-Application\\_Redacted.pdf](https://www.fasttrack.govt.nz/_data/assets/pdf_file/0018/11655/B01.-Part-B-Resource-Consent-Approvals-Application_Redacted.pdf)

<sup>38</sup> A02. Part A - Overarching Substantive Application Document at 5–10; [6e8dd4fd5564b02a510780fc3cb31035a44afff1.pdf](https://www.fasttrack.govt.nz/_data/assets/pdf_file/0018/11655/B01.-Part-B-Resource-Consent-Approvals-Application_Redacted.pdf) at [1.26]–[1.27].

<sup>39</sup> The final capacity factor will depend on the precise turbine model used.

the wind turbine). Based on the measured (and extrapolated long term) wind resource, a conservative estimate is that the annual generation from the Project will be equivalent to that consumed by 150,000 households annually.

- (iii) Moreover, modern turbines operate efficiently across a wide range of wind speeds, not a narrow optimum band, and generate electricity most of the year. Variations in wind output are a normal feature of renewable generation and are fully accounted for in national electricity modelling. The graph below demonstrates the percentage of time that this Project will generate above a certain percentage of the installed capacity. The capacity (or output) from the SWF varies with wind speed and the cumulative generation curve is shown below.<sup>40</sup>



- (b) **Proximity to a port and suitable road access:** in the New Zealand context, the port-to-site route for the Project is straightforward. The route from South Port in Bluff to the site has largely been verified by the transport of wind turbine components to the Kaiwera Downs project. The larger turbine components being considered for the Project have been modelled and assessed independently and this

<sup>40</sup> The Y-axis represent the % of wind farm power output from 0% to 100%. The X-axis represents the % of time. As an example, for 30% of time the wind farm will exceed 70% of its rated output and 20% of time the wind farm will exceed 90% of its rated output. The graph shows that the wind farm will generate some output for about 96% of time, i.e. there will be no generation for about 4% of time. From the graph it can also be seen that the wind farm never reaches 100% of output. This is due to electrical transmission and reticulation losses. To summarise, each turbine will reach its full output, however the sum of those, measured at the point of connection into the Transpower transmission system will be slightly lower than the rated wind farm capacity.

work shows that very few (and only minor) public road modifications will be required.

- (c) **Proximity to transmission line infrastructure** with sufficient available capacity: there is a 220 kV Transpower transmission line in close proximity to the Project. That line (the North Makarewa to Three Mile Hill line) is currently one of the most underused high-voltage lines in the region and has capacity to take electricity from a new large wind farm of the size of the Project.
- (d) **Suitability of the site and current land uses for co-locating a wind farm:** farmland is very well suited for wind farm development, as is plantation forestry.
- (e) **Isolation / remoteness of the site:** the Project Site is a good distance away from most dwellings and population centres, which helps minimise potential effects on residents, including from construction noise and dust, operational noise, and 'shadow flicker' effects. This distance can also be relevant to changes in visual amenity, albeit that a change in view may not, of itself, constitute an adverse visual effect given the various subjective factors in play. In any event, as noted earlier, the closest town is Wyndham, located approximately 12km to the west and the closest dwelling is 2.3km from the nearest turbine. Conversely, the Project's location is not so remote as to disturb a valued wilderness experience or create significant challenges in transporting equipment to the site.
- (f) **No specific RMA planning constraints:** the appropriateness of the site in ecological and landscape terms is discussed further below and is addressed in detail in various technical assessments provided with Contact's application. The Project site is not a scheduled ONL or ONF in any of the applicable statutory plans or policy documents, nor is the Project site identified as a locally distinctive and valued natural feature or landscape in any statutory document. Irrespective of any such classification, Mr Coombs and Mr Bray consider that the Project represents an appropriate development in its context.
- (g) **The influence of the existing uses on the ecological value of the site:** the natural ecological values of the Project site have been compromised, and continue to be put under pressure, by the historic

(e.g. large-scale vegetation clearance, including by fire) and existing agricultural and forestry activities that occur on the site, and by the heavy influence of feral browsing pest animals. In that context, the Project will support and enhance biodiversity in a very real way, through various measures contained within the generous offset/compensation package. These measures will result in an overall net benefit to biodiversity (in particular through the reduction and control of the pests and predators that adversely affect rare and threatened species).<sup>41</sup>

- (h) **The landowners are willing to host the wind farm**, without which the wind resource and other attributes of this site would not be available.
- (i) **Proximity to increased electricity demand**: as discussed in Contact's application, the Southland region is a particularly good location for new renewables because it has generally, in recent years, been a net importer of electricity.

2.52 On this last point, Ms McRae for WCPS argues that new renewable generation projects should be sited near demand centres to minimise transmission losses. New Zealand's current generation development pipeline – which obviously includes this Project – does generally reflect where demand is situated, including Southland, where demand currently exceeds generation. Furthermore, having a reliable generation supply in a particular area enables new industry and encourages growth in that area. Nonetheless, from a generation and efficiency perspective, the best place to build electricity generation projects is where the resource is located / the strongest.

2.53 In that regard, Ms McRae's argument that renewable generation should only be built "*where electricity is required*" oversimplifies how New Zealand's transmission system and electricity market function. Generation is not consented or planned on the basis of perfectly matching local demand; it is built where the renewable resource is strongest, where it contributes most effectively to national supply, and where it strengthens grid resilience. Southland and Otago have some of the best wind resources in the country, which is why national scale modelling repeatedly identifies them as priority

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<sup>41</sup> [H05.-Part-H-Technical-assessment-5-Terrestrial-and-Wetland-Ecology.pdf](#) at [12] and [14]–[15]; [H07.-Part-H-Technical-assessment-7-Review-of-Terrestrial-and-Wetland-Ecology-and-Ecology-Offsetting-and-Compensation.pdf](#) at [14].

regions for new renewable generation. Building renewable generation where resources are strongest delivers higher annual energy production, lower overall system cost, and better security of supply for all regions, regardless of where demand occurs.

- 2.54 Moreover, transmission line losses do not undermine the value of Southland based generation. Transmission losses are associated with all projects to varying degrees – and cannot be avoided. Large quantities of power are exported regularly between the North and South Island via the existing HVDC links. Up until the turn of the 21<sup>st</sup> century, the flow was more commonly south to north, but over the past twenty-five years this has changed with a growing increase in demand in the South Island. The flow between the North Island and South Island is now more balanced – and in particular, there is more often a flow from north to south when hydro storage is low.
- 2.55 Transpower's planning documents recognise that new renewable generation – especially large wind farms – will be required in multiple regions across the country and that the grid is being incrementally upgraded to accommodate this. Exporting surplus renewable electricity from Southland is both expected and appropriate; it supports national security of supply, compensates for dry year risk, and reduces reliance on fossil fuel-based generation in the North Island.
- 2.56 Lastly, Ms McRae for WCPS has questioned NZIER's analysis regarding local spending and economic benefits during construction but has no basis for doing so; the expert analysis of Mr Clough should be preferred.

### **Conclusion regarding the Project's benefits**

- 2.57 The very significant extent of the Project's national and regional benefits, as a major new source of clean energy, are unarguable. Those benefits, and the FTAA's enabling purpose, must be central in the Panel's consideration of Contact's application.

## **3. COMMENTS ADDRESSING EFFECTS ON ECOLOGY**

- 3.1 Contact and its experts have gone to considerable lengths to assess current ecological values, and the actual and potential effects of the Project on those values.
- 3.2 Like any wind farm, the Project will affect ecological values. Those effects (actual and potential) will be addressed through a comprehensive package of

measures, developed by experts and discussed in detail with DOC, the Councils and TAMI on behalf of Ngāi Tahu. Design and other effects management measures have been adopted to avoid effects where practicable, while effects that cannot be avoided will be addressed through a combination of mitigation, offset and compensation measures.

- 3.3 The comments of ES, SDC and DOC on ecology matters are constructive, and acknowledge the significant effort Contact has made (including in engaging with those key stakeholders and their experts), and the ecological benefits the effects management package will deliver. The overall comfort with the Project and its effects expressed by TAMI is also important in the context of ecological effects, which are closely associated with cultural values.
- 3.4 As anticipated, there is a particular focus in the comments on the potential effects of the Project on the ecological values of the wetlands and other habitat types on the Jedburgh Plateau – an elevated area at the southern end of the site covering approximately 530ha and containing 14 of the 55 proposed turbines, the wind farm substation (where the power generated by all of the wind turbines is collected before being transmitted to the National Grid), and access roads to enable the connection between the Matariki property and Jedburgh Station. Mr Goldwater and Mr MacGibbon have carefully considered those comments, and respond in detail in their evidence (**Appendices 1 and 2**). A number of condition refinements have been made by Contact in response to comments and on the advice of Mr Goldwater and Mr MacGibbon (for example, in respect of the proposed post-construction monitoring of wetland hydrology<sup>42</sup>).
- 3.5 Contact and its consultant experts have been open in acknowledging the ecological values associated with the Jedburgh Plateau. The effects management package, and in particular the offsetting and compensation proposals, are an appropriate and conservative response to those values, and the effects of the Project. We do not repeat all the elements of that offset and compensation package here, noting they are summarised in the legal analysis document submitted with the substantive application and in Mr Goldwater's evidence.<sup>43</sup>

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<sup>42</sup> Condition EC11B.

<sup>43</sup> Paragraph 1.21(c) of the legal analysis document; paragraph 146 of Mr Goldwater's evidence (Appendix 1 to this response to comments).

- 3.6 The end result is that the Project will deliver net ecological benefits, including for the Jedburgh Plateau. Other experts involved in this process agree that the offsetting and compensation scheme is or at least “*appears*” (the framing of Mr Harding, for EDS<sup>44</sup>) generous / “*involves significant commitments from [Contact]*”.<sup>45</sup><sup>46</sup> The Panel can be confident that the net ecological benefits position will be realised, bearing in mind the fulsome monitoring, reporting and performance target requirements set out in the conditions.
- 3.7 In this FTAA process, it is that overall net outcome that is most relevant: as discussed in Contact’s response to the comments from EDS, the FTAA requires the Panel to consider the overall effects position, and not apply any technical inconsistency with individual provisions in planning instruments as if they are insurmountable bottom lines. That said, Contact and its experts are firmly of the view that the Project is consistent with the key relevant RMA planning and policy provisions.
- 3.8 Of particular note, there is a “*functional need*” for the Project in its proposed location,<sup>47</sup> and the direct loss of approximately 2ha of wetlands can appropriately be addressed through offsetting and compensation, as proposed by Contact.<sup>48</sup>
- 3.9 Overall, the effects of the Project on ecological values, including on the Jedburgh Plateau, will be comprehensively addressed through the measures proposed by Contact. There is no justification for imposing additional condition obligations. In particular:
- (a) As discussed in the response to EDS’s comments below, there is no sound basis for the deletion of the significant portion of the Project that is to be sited on the Jedburgh Plateau, and to do so would jeopardise the delivery of the Project; and
  - (b) Nor is there any effects basis for attempting through the conditions of the consents for the Project to require the removal of stock from the Jedburgh Plateau (or any other part of the Project Site). Stock access and grazing is an existing dynamic to be managed by the

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<sup>44</sup> At paragraph 55 of Mr Harding's statement of evidence filed with EDS's comments.

<sup>45</sup> As framed in the ES comments at 2.1.

<sup>46</sup> Mr Davis, advising SDC, states in his conclusion that: “*the suite of measures set out in the offset and compensation package are considerable and can result in the project achieving a net positive benefit for most of the ecological values recorded across the site.*”

<sup>47</sup> Applying clause 3.22 of the NPS-FM, overlaid with the more specific analysis in respect of functional need for renewable electricity generation now required under Policy C of the NPS-REG.

<sup>48</sup> Contact has always acknowledged that the wetland restoration site at Davidson Road is not “like for like” in terms of compensation for wetland loss at the Plateau. That does not mean the proposal is not appropriate or is not consistent with the principles for offsetting and compensation in the NPS-FM.

landowner, noting the existing obligations under the Southland Water and Land Plan (**SWLP**).<sup>49</sup>

3.10 There are only a small number of comments made by those advised by experts (the Councils, DOC and EDS) that relate to ecological values beyond the Jedburgh Plateau. In particular, DOC is comfortable with the position reached in respect of bats, and the comments on matters of detail in respect of operational effects on birds have been addressed by minor updates to the proposed conditions. For completeness, though, Contact and its experts have provided responses to the comments of the WCPS and others in relation to those other ecological matters.

#### **4. COMMENTS ADDRESSING LANDSCAPE AND NATURAL CHARACTER EFFECTS**

4.1 Like nearly all New Zealand wind farms, the Project is in a prominent, elevated location in order to access a high-quality wind resource, so will be visible from nearby properties and across a much wider area. Like all wind farms, night lighting is needed on some Project turbines to ensure the safety of aircraft and passengers. Further, many people feel a connection with prominent, elevated places, and inevitably some people see wind turbines as an unwelcome change.

4.2 Putting to one side the scheme of the FTAA and its tolerance of adverse effects, the Panel's key task is to consider whether the Project is an appropriate development in this location. That is a question that requires context, because a proposal which adversely affects landscape and natural character values for no recognised purpose or benefit would clearly be inappropriate.

4.3 That context is provided by relevant planning and other instruments, such as:

- (a) the National Policy Statement for Renewable Electricity Generation (**REG**) 2011 Amended December 2025; policy C of that document requires the Panel to *"recognise and provide for REG assets and activities that have an operational need or functional need to be in particular locations and environments"*, and to recognise that these needs *"include (...) the need to be located where a renewable*

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<sup>49</sup> Discussed in the evidence of Ms Hunter and Ms Hankey (Appendix 7 to this response to comments).

*electricity resource is located and available at a viable scale and quality to sustain the REG activity”;*

- (b) the Southland Murihiku Regional Energy Strategy 2022-2050, which notes that *“onshore wind is likely to make up the majority of new generation”* and identifies potential locations (including Pawakataka / Slopedown), all of which are on hills and/or the coast; and
  - (c) the regional and district plans, evaluated and analysed in the substantive application, which recognise the benefits of renewable energy and promote its development.
- 4.4 In terms of the comments received, SDC's feedback includes a memorandum prepared by a landscape architect, Rhys Girvan of Boffa Miskell. Notably, there is a high degree of agreement between Mr Girvan and Mr Coombs and Mr Bray (of Isthmus and Wayfinder respectively, advising Contact) on numerous matters relating to their assessments.
- 4.5 While a number of differences in view are expressed, the key point of contention relates to potential effects on the landscape character and natural character of the Jedburgh Plateau, and specifically to what measures are appropriate to protect natural values within the site. Mr Girvan is of the view that ongoing measures are necessary to protect natural values from further degradation, including the exclusion of stock from the Plateau.
- 4.6 Mr Coombs and Mr Bray respond to Mr Girvan's memorandum in detail in **Appendices 3 and 4**. The short point to make, though, is that the landscape / natural character matters at issue overlap to a very considerable degree with the ecology / wetland issues discussed above. As explained above, Contact is strongly of the view that the Project's effects on the wetlands and other habitats / biodiversity on the Jedburgh Plateau will be addressed through the measures already proposed and enshrined in conditions, in a fulsome and appropriate way, leading to an overall improvement in the ecological condition of the vast majority (98%) of the wetlands not impacted by the wind farm. By extension, Contact is also confident that natural character effects on the Jedburgh Plateau will be acceptable.
- 4.7 While Mr Girvan's views appear to rely heavily on assumed or predicted ecological outcomes, it is unclear whether (and the extent to which) he has reviewed the detailed expert ecological assessments provided by Mr Goldwater, Mr MacGibbon, and others in support of Contact's application, or

the draft management plans which set out the detailed measures that will be carried out to protect ecological and landscape values, as Mr Coombs and Mr Bray have.

- 4.8 WCPS also comments on these matters, and WCPS and a number of landowners also comment on related issues, such as how the Project will affect views from local properties or the local cemetery, effects on rural character, and the effects of aviation warning lighting on dark skies. These comments are addressed in later sections of this document.

## **5. COMMENTS BY LOCAL AUTHORITIES**

### **Southland District Council (SDC)**

- 5.1 SDC has adopted a neutral position in respect of the Project. In doing so, SDC acknowledges and thanks Contact for its willingness to engage with SDC prior to and following lodgement of the Application.
- 5.2 Contact is grateful for SDC's ongoing efforts in that regard and considers the relatively confined comments on the consent conditions from SDC reflect the efforts made by Contact and SDC to discuss and address potential issues and ensure the conditions are enforceable.
- 5.3 SDC has engaged consultant experts to provide peer reviews, as follows:
- (a) acoustic: Dr Jeremy Trevathan (peer review appended and summarised in 'Topic 2' in the overall SDC comments);
  - (b) ecology: Glenn Davis (appended, and summarised in 'Topic 3');
  - (c) landscape and natural character: Rhys Girvan (appended, and summarised in 'Topic 4'); and
  - (d) planning: Ralph Henderson (comments provided in 'Topic 5' and 'Topic 6' in the overall SDC comments, no separate peer review document is provided).
- 5.4 Mr Halstead's evidence responds to the acoustics peer review (**Appendix 6**). Contact's overall response on ecology as it relates to landscape / natural character matters is set out above, while Mr Goldwater's and Mr MacGibbon's evidence responds specifically to the ecology peer review, and Mr Coombs and Mr Bray's evidence responds to the landscape peer review.

- 5.5 Claire Hunter and Megan Hankey of Mitchell Daysh have prepared a statement of evidence in response to Mr Henderson's commentary on planning and conditions (**Appendix 7**). That evidence addresses the condition amendments proposed by SDC (including as set out in the conditions review attached to the SDC comments).
- 5.6 SDC make minor transport / roading network comments, including suggested edits to the Construction Traffic Management Plan (**CTMP**). The CTMP will be updated in discussion with SDC as necessary through the post-consenting management plan certification process.

*Waihōpai Toetoe Community Board submission*

- 5.7 SDC attaches comments from the Waihōpai Toetoe Community Board. Contact is grateful for the Board's recognition of Contact's proactive approach to consultation, and for recording that while *"certain sectors of [the] community are strongly opposed to the proposed project"* (primarily on visual impact and landscape grounds), others *"do not have any issues with the project or remain neutral"*.
- 5.8 Contact's response to the other comments from the Waihōpai-Toetoe Community Board is as follows:
- (a) Red lighting on turbines: Contact has worked hard to reduce the impact of turbine lights at the Southland Wind Farm: as a result of pursuing a formal review process with the Civil Aviation Authority, only 16 of the 55 turbines will need to be lit, with one light on the nacelle (as opposed to the initial Civil Aviation Authority requirement to place several lights on all 55 turbines).<sup>50</sup>
  - (b) Impact of multiple wind farms: cumulative effects have been considered, particularly in landscape and visual terms; Mr Coombs, Mr Bray, and Mr Girvan consider the Project's effects to be acceptable in this regard.
  - (c) Local business engagement: the Community Board *"strongly recommends that, where possible, local contractors be given opportunities for any contractual work arising from this proposed project"*, and this is certainly something that Contact naturally welcomes and prefers, depending on local capability and availability

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<sup>50</sup> Refer to condition WF25.

of necessary equipment. Contact's website for the Project encourages local contractors and service providers to register their interest for supplying goods and services as the Project progresses.

- (d) **Roading infrastructure and traffic management:** Contact agrees that effects on local road infrastructure need to be assessed and addressed, and to be reflected within its traffic management plans. Conditions to that end have been proposed and agreed with GDC and SDC (noting the minor updates Contact is proposing in response to SDC's comments). The traffic management conditions specifically require consideration of stock movements (TR2(n)).
- (e) **Ongoing liaison:** the conditions provide for ongoing community engagement (SC1 – SC10), including the establishment of a Community Liaison Group (SC6). The Community Board will be invited to appoint a representative to the Community Liaison Group (SC9).
- (f) **Community benefit fund:** there will be a substantial community benefit fund established and provided for in the conditions of consent (SC10).

## **Environment Southland (ES)**

### 5.9 Contact acknowledges ES's:

- (a) support, in principle, of the development of further renewable energy resources in the Southland Region;
- (b) recognition that renewable energy projects, such as the Project, contribute to meeting New Zealand's national and international commitments to lower emissions; and
- (c) recognition that the Project has the potential to be an energy enabler to other projects which will benefit the Southland region socio-economically.

5.10 Contact values the ongoing dialogue it has had with ES for over the past three years. Contact appreciates ES's acknowledgement that, for this application, in relation to the aspects of the Project that are of key interest to ES (wetlands, biosecurity and biodiversity, ecology and hydrology and hydrogeology):

- (a) Contact has gathered considerable further and refined information, helping to clarify the effects of the Project;
- (b) that additional information has been of assistance and has addressed a number of ES's concerns in relation to the Project; and
- (c) Contact has made some modifications to the Project to reflect the feedback from ES.

5.11 ES's submission then addresses *"any remaining technical areas where ES considers the panel should focus its attention during the consenting process"*. As anticipated, those comments relate primarily to biosecurity and biodiversity, and in particular to wetlands. Those comments are addressed by Mr Goldwater and Mr MacGibbon in **Appendices 1 and 2**. The responses from Mr Goldwater and Mr MacGibbon demonstrate the comprehensive nature of the work that has been carried out to assess, and address, effects on ecological values. On the advice of Mr Goldwater and Mr MacGibbon, Contact proposes targeted refinements to the relevant resource consent conditions.<sup>51</sup>

5.12 Beyond ecology, the *"technical areas"* addressed by ES include:

- (a) construction effects;
- (b) landscape;
- (c) cultural effects; and
- (d) electricity system resilience and need.

5.13 Responses to some of the other specific comments from ES are provided below.

#### *Construction effects*

5.14 ES confirms it is generally comfortable with the construction management effects. Again, that reflects the care taken in designing the Project and effects management measures, as well as the detailed engagement with ES as the primary regulatory body in respect of construction management. Contact of course agrees that it is important these conditions are given effect

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<sup>51</sup> These are shown in the updated conditions, attached to this memorandum.

to, and notes the detailed monitoring and reporting requirements included in the conditions.

### *Landscape*

- 5.15 ES has not previously focussed on landscape matters (either in the previous consenting process, or in this FTAA process), preferring to leave those matters to SDC. Its brief comments are generally addressed above in Contact's overall response to comments on landscape.
- 5.16 Contact does wish to add context to ES's comment that the previous Southland Regional landscape study "*did not make its way fully through the First Schedule RMA process*": as far as Contact is aware, no formal steps that could properly be considered part of a First Schedule RMA process (such as consultation on a draft plan change) have been taken in respect of the landscape study, insofar as it relates to the Southland District.

### *Cultural effects*

- 5.17 Contact is grateful for ES's acknowledgment of the agreement reached between Contact and Ngāi Tahu, including in respect of the mana whenua conditions, and that ES has no further comment to make on cultural effects.

### *Electricity system resilience and need*

- 5.18 There appears to be some confusion in respect of the transmission line connecting the wind farm to the National Grid. Contact only ever proposed to build one line. Previously (in the Covid Fast-track process) it put forward three options for consenting purposes, but subsequently that has been narrowed to a single, identified transmission line corridor, as outlined in the application. It would be unusual for any project to have more than one grid connection.
- 5.19 ES has asked that Contact demonstrate that appropriate resilience risk management has been factored into the reticulated design for the transmission line. The Transmission Connection Code approved by the Electricity Authority sets out the technical requirements and standards for developers to connect to the National Grid. It includes mandatory grid reliability standards set out in the Electricity Industry Participation Code 2010 to ensure a level of performance, security, and maintainability consistent with 'good electricity industry practice' and this will be used to help inform the detailed design and construction of the connecting line.

- 5.20 Any outages of the line, due to storm damage or ground movements will affect the ability of the wind farm to provide power to the National Grid, which is something Contact is incentivised to manage and minimise, including by reference to the standards and practices above. As such, the design of the line and the towers supporting it will appropriately consider the ground conditions and climatic conditions to ensure it can withstand any seismic, ground instability or climatic conditions that could adversely damage the transmission line in this particular location.
- 5.21 ES has also noted the electricity system benefits are focussed on national level benefits. The scope of Technical Assessment #1: Electricity Systems Benefits was focussed on national benefits. However, Technical Assessment #2: Economic Framing and Impacts addressed some of the renewable energy benefits for the Southland region (which has been a net importer of electricity), including meeting new local demands caused by electrification of existing activities and investment in new industries. The earlier section on the necessity of the Project for decarbonising the Southland economy provides further details on this point.

#### *Ongoing community input*

- 5.22 Contact notes ES's support for the measures proposed in terms of ongoing community engagement, including the Community Liaison Group; and for the Community Benefit Fund. Contact looks forward to working with ES on the implementation of those measures; the draft conditions of consent provide for an ES representative on the Community Liaison Group.

#### *Decommissioning and the potential for a bond*

- 5.23 Conditions are proposed in relation to decommissioning the Project.
- 5.24 ES commented, in relation to the question of a bond to secure decommissioning requirements, that it understands Contact's position to be that such a bond is not required because the value of the materials to be salvaged is likely to be such that there will be economic incentives to decommission the turbines rather than leave them *in situ*.
- 5.25 Contact expects that the scrap value of the wind farm will exceed the cost of decommissioning. The scrap value of the steel, copper and aluminium in an individual wind turbine has a value of approximately \$520,000 at current market rates. The scrap value of the 55 turbines would therefore be in the order of \$28m. This excludes the residual value of the wind farm electrical

infrastructure (transformers, grid connection and electrical reticulation network). There are other reasons, however, why Contact considers a bond to be unnecessary and inappropriate, especially in the context of resource consent conditions (and associated enforcement powers) requiring decommissioning.

5.26 Bonds may be useful to impose when there are concerns about the incentives on the consent holder to decommission, or about the solvency of the consent holder or its willingness to comply with conditions. In *Wason v Two Kooner Properties Ltd* the Environment Court stated: "*Risk of insolvency and uncertainty about a party's willingness to comply have been cited as reasons for the imposition of a bond in previous cases.*"<sup>52</sup> Similarly, in *Cross Group Limited v Dunedin City Council* the Court noted that bonds are imposed "*not as a penalty for past infringement, but because past events justify uncertainty about the appellant's willingness to comply with its obligations under the Act.*"<sup>53</sup> These concerns are not applicable here.

5.27 Further, bonds for wind farms are uncommon. In *Re Meridian Energy Ltd*, the Environment Court heard that a bond had only been imposed in relation to one wind farm (the Mt Cass wind farm). The Court determined that a performance bond was not required for the following reasons:<sup>54</sup>

*"[539] In submissions Meridian rejected the Society's proposed conditions relating to a performance bond for three reasons: that remediation of a wind farm does not give rise to significant environmental effects or health and safety concerns such as may occur with mining activities or sanitary landfills; that the residual value in copper and steel is generally commensurate with the cost of its removal so that there is a commercial incentive to remove turbines; and that Mt Cass is the only wind farm with such conditions, possibly as a result of similar provisions applying to the Kate Valley Landfill. (...)*

*[541] In our view there are some significant differences between the Mt Cass proposal and this Hurunui wind farm proposal, including the landscape classification of Mt Cass and the establishment and management of the "Mt Cass Conservation Management Area". We are satisfied that it is not necessary to require a performance bond as proposed by the Society. There are adequate powers under the Act to enforce the conditions of consent. ..."*

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<sup>52</sup> *Wason v Two Kooner Properties Ltd* [2023] NZEnvC 194 at [14].

<sup>53</sup> *Cross Group Limited v Dunedin City Council* EnvC Christchurch C7/2008, 24 January 2008 at [17].

<sup>54</sup> *Re Meridian Energy Ltd* [2013] NZEnvC 59.

5.28 The Environment Court also declined to impose a performance bond in *Upland Landscape Protection Society Inc v Clutha District Council*, noting the Court had "no reason to believe that the condition would not be met, nor is it a standard requirement of conditions of consent".<sup>55</sup>

5.29 On this basis, a bond is not required here because, as set out above:

- (a) there are no concerns about Contact's solvency;
- (b) there are strong incentives to decommission, including consent conditions and contractual obligations to the landowners;
- (c) there is no history of non-compliance;
- (d) there are other methods such as enforcement action if required; and
- (e) decommissioning activities themselves will not give rise to significant adverse environmental effects (as compared to say mining activities or landfills, per *Re Meridian Energy Ltd*).

5.30 Lastly, imposing a bond would simply impose a further financial burden on Contact that would be factored into its future investment decision on whether to commit to constructing the Project. In that sense, a bond condition would not facilitate delivery of the Project.

### *Conditions*

5.31 ES has made a number of targeted condition recommendations. Each of these is addressed in the updated consent conditions included as **Appendix 8**. Where recommendations have not been accepted, an explanation has been provided in comment boxes.

### **Gore District Council (GDC)**

5.32 GDC has previously confirmed its support for the Project, and for the Application to be granted. GDC's formal section 53 comments are brief, addressing only proposed resource consent condition TR3. That condition addresses physical improvements to the local road network to accommodate access to the Project site.

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<sup>55</sup> *Upland Landscape Protection Society Inc v Clutha District Council* EnvC Christchurch C140/08, 15 December 2008 at [28(b)].

5.33 As confirmed in GDC's comments, and in Contact's response to the Panel's RFI #3,<sup>56</sup> the updated form of TR3 as set out in GDC's comments has been agreed between Contact and GDC. The updated conditions of consent provided alongside this memorandum reflect that updated agreed wording.

## **6. COMMENTS BY RELEVANT IWI AUTHORITIES AND TREATY SETTLEMENT ENTITIES AND TE AO MARAMA INCORPORATED**

6.1 Part A of the application sets out in detail Contact's extensive engagement with Ngāi Tahu ki Murihiku, TAMI and Te Rūnanga Ngāi Tahu, including the agreed conditions.<sup>57</sup> TAMI has provided comments on the Application.

Those comments:

- (a) set out relevant key principles of the Ngāi Tahu Claims Settlement Act 1998 and confirm those have been considered by Contact in its engagement with Ngāi Tahu and throughout the design of the Project;
- (b) confirm support for the updated archaeological authority conditions, agreed between TAMI and Contact, and appended to this response to comments (refer to the section 51 discussion later in these comments); and
- (c) reiterate the importance of Ngāi Tahu ki Murihiku being actively engaged and consulted on in respect of any further potential condition updates.

6.2 TAMI concludes by reiterating that:

*"Ngāi Tahu ki Murihiku and Te Rūnanga have no objections to the substantive application provided the substantive application continues to be made on substantially the same basis as the application made to the EPA for the Southland Wind Farm Project, originally processed under the COVID-19 Recovery (Fast Track Consenting). We will continue to work closely with Contact throughout the Fast-track Approvals Act process."*

6.3 Contact is grateful for TAMI's comments, and for the extensive and ongoing effort that Ngāi Tahu ki Murihiku, Te Rūnanga and TAMI have put into engaging with Contact on the Project. Contact is committed to continuing to work closely with mana whenua through the remainder of this consenting

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<sup>56</sup> Refer to the response to question 5, at paragraphs [22] – [30] of Contact's memorandum of counsel.

<sup>57</sup> [A02. Part A - Overarching Substantive Application Document](#) at section 6.

process, and beyond. The position expressed by mana whenua weighs strongly in favour of Contact's substantive application being granted.

## **7. COMMENTS BY MINISTERS**

- 7.1 A number of invited Ministers provided comments on the Application.<sup>58</sup>
- 7.2 The Minister for the South Island (Hon. James Meager), Minister for Regional Development (Hon. Shane Jones) and Minister for Economic Growth (Hon. Nicola Willis) provided comments reiterating the renewable electricity generation and economic benefits the Project will provide.
- 7.3 Minister Meager emphasised that Southland is currently a net importer of electricity and that the Project will support regional resilience. He noted that the Project's contribution to energy infrastructure aligns with national and regional priorities for renewable generation and energy security.
- 7.4 In a hand-written note, Minister Meager stated that *"for the avoidance of doubt, I strongly support this project, it is a game-changer for Southland"*.
- 7.5 As discussed above, the Minister for Energy (Hon. Simon Watts) confirmed his view that the Project *"has significant regional and national benefits"* in terms of contributing to New Zealand's renewable electricity generation capacity, and associated contributions to New Zealand meeting its climate change targets, security of energy supply and downward pressure on wholesale electricity prices.
- 7.6 The Minister for Rural Communities (Hon. Mark Patterson), via a letter to the West Catlins Protection Society, stated: *"I acknowledge the Catlins is an area of outstanding natural beauty and understand the concerns you have expressed. On balance, however, I consider this proposal to deliver a net benefit to New Zealand."*
- 7.7 The Minister for Infrastructure (Hon. Chris Bishop) recorded his *"broad support for projects which deliver positive outcomes for New Zealand"*. In respect of the Project specifically, he reiterated the benefits the Project will bring for Southland and New Zealand in terms of the generation (and transmission) of renewable electricity. Minister Bishop recorded his view that the Project is consistent with the National Policy Statement for Renewable

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<sup>58</sup> The Minister for Arts, Culture and Heritage (Hon Paul Goldsmith) confirmed he has no comments.

Electricity Generation 2011 and the National Policy Statement on Electricity Transmission 2008 (and will remain consistent with the updated versions of those documents the Government intends to release (and has since released)).

- 7.8 Minister Bishop also referred to the National Policy Statement for Freshwater Management 2020 (**NPS-FM**). He states:

*"Based on the information provided, I note the proposal may not be consistent with the aquatic offsetting and compensation principles of the National Policy Statement for Freshwater Management 2020. However, I understand the panel will consider all information available to them in order to inform their decision."*

- 7.9 For completeness, Contact reiterates that its consultant ecologists consider the Project is consistent with the aquatic offsetting and compensation principles in the NPS-FM.<sup>59</sup>
- 7.10 The Associate Minister for the Environment (Hon. Andrew Hogg) records his view that section 6 of the RMA and "the national direction" including the National Policy Statement on Indigenous Biodiversity (**NPS-IB**) and NPS-FM are particularly relevant. Contact's application includes a fulsome analysis of the Project in light of section 6 and the national direction (which of course also includes the NPS-REG, not referenced by Minister Hogg). Contact reiterates that the NPS-IB does not apply to the Project.
- 7.11 Minister Hogg goes on to ask the Panel to *"ensure that the total area of restored wetlands matches or exceeds the area lost"*, stating that would be *"consistent with the government's no net loss biodiversity goal"*. Contact proposes to restore and enhance a significantly larger area of wetlands than that which will be lost, and the offset and compensation measures will lead to improvements to the vast majority (98%) of wetlands on the Project Site that will remain unaffected by the wind farm construction works; Wildlands' advice is that a net benefit will be delivered in respect of wetland area and values.
- 7.12 The Minister for Māori Crown Relations (Hon. Tama Potaka), recorded that he *"supports the application [subject] to reasonable consideration being given to the comments provided by relevant Māori groups"*, and also specifically encouraged the Panel to consider:

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<sup>59</sup> Including in terms of irreplaceability and vulnerability, which is a consideration under principle 2 (for both offsetting and compensation).

- (a) the statutory acknowledgment over the Mataura River, and whether it should be extended to its tributaries relevant to the Project area – Mimiha Stream and Mokoreta River; and
- (b) the association of Ngāi Tahu with taonga species that are found within the Project area.

7.13 Contact's response to the Panel's RFI #3 addressed the statutory acknowledgment over the Mataura River, stating that while it does not directly apply to the Project site, that *"taking a holistic view, the statutory acknowledgement for the Mataura River does have some relevance to the Panel's decision-making"*. As set out in that response, the Panel of course invited Te Rūnanga o Ngāi Tahu and Ngāi Tahu ki Murihiku (as well as TAMI) to comment on the substantive application under section 53, which appropriately reflects the intention of the statutory acknowledgement.

7.14 The agreement reached between Contact and the Ngāi Tahu entities confirms Ngāi Tahu's comfort with the application's approach to cultural and ecological values (including the treatment of taonga species).

7.15 Contact is grateful for the comments made by the Ministers, which reiterate the significant benefits the Project will deliver.

## **8. THE RELEVANT ADMINISTERING AGENCIES**

### **Comments by the Director-General of Conservation**

8.1 Contact is grateful for DOC's acknowledgment in respect of the lengthy and detailed engagement with Contact in respect of the Project. DOC's overall view is summarised in its conclusion, including as follows:

*"DOC has been intensively involved with this project under both the previous [Covid Fast-track] process and the FTAA. Contact has committed substantial resources to liaise with key DOC staff on the Application to address the environmental issues associated with it. As discussed above, DOC is generally comfortable with the Application and is of the view that Contact has been diligent in addressing the environmental effects of the proposal."*

8.2 Of note, that engagement has resulted in DOC's agreement that potential effects on long-tailed bats are more than adequately addressed. DOC does make a number of specific comments, particularly in respect of effects on wetlands at the Jedburgh Plateau. Mr Goldwater and Mr MacGibbon address those more specific comments in their statements of evidence.

- 8.3 DOC has proposed a relatively small number of resource consent condition amendments, which Contact understands would address its comments. Mr Goldwater responds to those recommendations and Contact is comfortable adopting those condition recommendations, subject to some refinements as proposed by Mr Goldwater.
- 8.4 Contact considers that DOC's general comfort with the application should be particularly influential for the Panel when considering ecological effects.

#### **Comments by Heritage New Zealand Pouhere Taonga**

- 8.5 HNZPT's section 53 comments relate to the conditions of the archaeological authority and are addressed in Part B below.

### **9. THOSE INVITED TO COMMENT BECAUSE THE APPROVALS SOUGHT INCLUDE CONCESSIONS AND WILDLIFE APPROVALS**

- 9.1 The Panel was required to invite comments from the Southland Conservation Board (**SCB**) and NZ Game Animal Council because the approvals sought include concessions and wildlife approvals. Neither entity has had any previous involvement with the Project.

#### **Comments by the Southland Conservation Board**

- 9.2 The SCB raises concerns about the Project's impacts on ecological values. The comments made are high-level, and do not indicate any real understanding of the likely effects or the proposed effects management scheme. SCB's comments appear to be made without any expert input, and (as stated in the comments) are generally contrary to the overall view of DOC and its expert advisors.
- 9.3 Mr Goldwater and Mr MacGibbon briefly address the SCB comments in their appended statements of evidence; the general concerns raised are addressed in the section above on ecological effects. Otherwise, Contact notes the following:
- (a) Noting the significant survey efforts, there is no credible basis for the comment that wetland extent on the Jedburgh Plateau has likely been underestimated (DOC and ES do not share that concern).
  - (b) Potential effects on hydrology have been carefully considered and will be largely avoided, as discussed above, and minimum flow

- requirements for the proposed water take are clearly set out in proposed conditions.
- (c) Earthworks and fill disposal effects have also been carefully assessed and will be addressed through a detailed condition and management plan regime. ES and DOC (as well as SDC and TAMI) are generally comfortable with that management scheme.
  - (d) SCB is concerned about the proposed on-site concrete batching, considering that "*concrete washwater is highly alkaline*" and poses a contamination risk. The need to manage concrete batching has been considered, and the conditions specifically require the Earthworks Management Plan to set out "*the specific measures to contain and manage contaminant runoff and stormwater runoff from the concrete batching plants*" (CM3(k)). Those measures will be subject to certification by ES. The 'concrete washwater management plan' sought by SCB is not necessary. On-site concrete batching is a relatively standard practice for wind farms, and specific management plans are not usually required.<sup>60</sup>
  - (e) Contact and DOC disagree with SCB's contention that the surveys carried out in respect of bats "*do not meet DOC's best practice requirements*". Contact understands the surveys undertaken were the most comprehensive for any wind farm project to date in New Zealand. Following detailed discussions, DOC is comfortable with the application in terms of effects on bats.
  - (f) Avifauna surveys have been extensive, noting that Contact accepts the minor condition adjustments proposed by DOC in that respect.
  - (g) Drs Goldsmith and Ryder have carefully assessed potential effects on Clutha flathead (and indigenous fish generally) and have recommended appropriate culvert design (in relation to fish passage) accordingly. As discussed in response to DOC's section 51 comments, culvert design will protect native fish movement while blocking invasive species at specific locations, as sought by SCB.

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<sup>60</sup> The concrete batching plant facilities will not be in or near any sensitive or high value ecological areas. Indicative locations are shown in Figure Project Description-5 (Part G) on pasture and within plantation forestry.

- (h) Residual effects are to be addressed through a combination of offsetting and compensation, via a comprehensive long-term regime that will deliver net ecological benefits.

9.4 Lastly, Contact notes that the FTAA requires SCB to be invited to comment by the Panel because the approvals Contact seeks include concessions and wildlife approvals, yet none of the comments they have made are specific to those matters.

### **Comments by the NZ Game Animal Council**

9.5 NZ Game Animal Council has acknowledged that the Project areas do not include public land. The Project will not have any effect on hunting access, and so no management measures in that respect are required.

## **10. COMMENTS BY OWNERS AND OCCUPIERS OF LAND ON WHICH THE PROJECT WILL BE UNDERTAKEN, ADJACENT LAND AND THE GENERAL AREA**

### **Tim Story**

10.1 Mr Story is the owner of [REDACTED], which forms part of the Project site. Mr Story explains his family's history with the site, and his own role running [REDACTED] since the 1960s. He makes the point that the wind farm will be complementary to his traditional farming operation, which Contact agrees with: the productive agricultural use of the site will be able to continue, while (as Mr Story notes) ecological restoration measures will improve the overall state of the land. Those are benefits of the Project that should factor into the Panel's overall analysis.

10.2 Mr Story provides his own observations in terms of issues with pest animals on his land, which is well-aligned with the expert analysis of Mr Goldwater and Mr MacGibbon (among others). He describes pest animals as "*out of control*" and reiterates the significant benefits Contact's pest control efforts will deliver. Again, that is well aligned with the expert analysis.

10.3 Finally, as a counterbalance to others who suggest there is strong community opposition to the Project, Mr Story gives his perspective that "*there is a lot of support for the wind farm*". This is generally aligned with the balanced perspective provided by the Waihōpai-Toetoe Community Board in terms of community sentiment, and certainly Contact's experience is that Project

opponents tend to be more vocal than those who support (or do not feel strongly about) proposed developments.

### **Prime Range Farm Management Ltd**

- 10.4 The managers of the Prime Farm Management Ltd property (Matt and Joe McRae) raise landscape and in particular visual effects concerns. Those matters are addressed in general terms above. Mr Coombs has assessed visual effects on the dwelling at 1623 Wyndham Road (4.1km from the nearest proposed turbine) as Adverse – Moderate; the proposed visual effects mitigation condition (WF26) will apply to that dwelling.<sup>61</sup>
- 10.5 The comments also reference the re-clad iron shed on the Prime Farm Management property that "*stands out from several kilometres away*", and potential plans for luxury accommodation and a helicopter pad; that illustrates the point made by Mr Coombs that this is a working rural landscape, and that structures are not uncommon (or unexpected).
- 10.6 In terms of the noise impacts raised in the comment, Mr Halstead's analysis confirms that the dwellings at 1623 Wyndham Road will be well outside the 35dBA contour for the Project. The experts are agreed that any operational noise effects that can be discerned at this location will be acceptable.
- 10.7 Contact notes the aspirations in respect of recreation and tourism reflected in the Prime Range Farm Management comment. There is no evidence to suggest the Project would prevent those aspirations being realised (though of course any luxury accommodation is not part of the existing environment in RMA terms). Promoting recreational opportunities, including local events, could potentially be a suitable use of the Community Benefit Fund proposed by Contact.

### **Warren Ayers**

- 10.8 Mr Ayers raises three transport related matters: road condition, school buses and stock movements. In response, Contact notes the following conditions, which address those concerns:<sup>62</sup>
- (a) condition TR2(n) requires the Construction Traffic Management Plan to include details of the management practices to be adopted to:

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<sup>61</sup> Mr Girvan considers Mr Coombs' assessment of effects on dwellings to be reasonable.

<sup>62</sup> Contact amended the conditions during the previous Covid Fast-track consenting process to address these concerns.

- (i) reduce conflict with stock droving on the relevant roads; and
  - (ii) minimise any risk to students travelling to and from school; and
- (b) condition TR6 addresses roading maintenance, repair or reconstruction.

10.9 Mr Ayers raises landscape and visual effects concerns, including his residence at [REDACTED], which Mr Ayers states is 200 metres southeast of viewpoint 11 (refer to Mr Coombs' evidence). Mr Coombs assesses effects at viewpoint 11 as adverse – low. This viewpoint (and Mr Ayers' residence) is 5km to the south of the closest turbine.

10.10 Mr Ayers raises concerns about lighting, stating that he understands there will be 50 wind turbines with two red lights shining from each of them. This is not the case, as discussed above in response to the Waihōpai-Toetoe Community Board.

10.11 Mr Ayers' comments relating to decommissioning and to limiting the location and design of turbines to those consented are appropriately addressed by the proposed decommissioning conditions (DT1 – DT3), and the turbine scope and turbine envelope zone conditions (WF1 – WF4).

10.12 Mr Ayers also requests that, if consents are granted for the Project, the Project is restricted to the individual sites of each individual turbine with no right of replacement or design changes of a turbine without a new consent. From a legal perspective, counsel can confirm that the current application describes the proposal for which consents are sought, and therefore sets the 'outer envelope' for what would be enabled by the resource consents.

### **Julie Clarke**

10.13 Julie Clarke's brief comments raise visual effects and query the electricity supply benefits of the Project for Southland. Visual effects are addressed below, in response to the comments by WCPS, and the Project's benefits are addressed above.

### **Janet and Murray McDonald**

10.14 Janet and Murray McDonald raise general landscape, 'night sky' and ecological concerns; again those matters are addressed elsewhere in this response. They comment that "*turbines reduce farmland for food production*"; in response Contact again notes Mr Story's point about the

complementary nature of the Project and the ongoing agricultural use of the Project site.

### **Hamish Robinson**

10.15 Mr Robinson focusses in his comments on Contact's approach to consenting the Project, in terms of its use of fast-track processes, and its engagement with the local community. Contact has addressed comments relating to consultation in its response to WCPS, below.

10.16 Mr Robinson refers to Contact's ongoing actions and consent requirements in respect of the Clyde and Roxburgh Dams. While not relevant to the Panel's consideration of this Project, Contact is actively involved in supporting various measures (including the Kawarau Arm Community Project) to address silt / sedimentation and lagarosiphon.

10.17 Contact takes seriously its commitment to complying with the obligations of its resource consents and other authorisations, including public reporting about its compliance record in its annual report, and more generally, its desire and duty to be a responsible neighbour and trusted member of local communities. Contact will bring that approach to the Southland Wind Farm, both through formal mechanisms set out in conditions (including the Community Benefit Fund and Community Liaison Group), and engaging more generally and informally as part of the community.

10.18 Mr Robinson's comments raise issues with the efficiency and economic feasibility of wind farms, electricity pricing, and the anticipated benefits of the Project. Those matters are addressed earlier in this response to comments.

10.19 Similarly, Mr Robinson's concerns about decommissioning, and the landscape and visual effects of the Project, are addressed earlier in this document.

10.20 Finally, Mr Robinson raises concerns about land values decreasing as a consequence of the Project. Contact does not accept that land values are likely to decrease (and in particular it is difficult to see how the Project could lead to any decrease in productive land value for nearby properties, as

suggested by Mr Robinson); rather, it is the productive nature of rural land that tends to drive its value.<sup>63</sup>

10.21 For completeness, Contact notes that the Panel cannot have regard to effects on property values. If the Panel were to have regard to the Project's purported effects on property values, as well as the Project's direct effects, that would amount to 'double-counting'.<sup>64</sup>

## 11. COMMENTS BY TRANSPOWER

11.1 Contact appreciates Transpower's support for new renewable generation in New Zealand. The need for more generation to meet load growth and electrification objectives is set out in the linked document in Transpower's comment.<sup>65</sup>

11.2 Transpower has also confirmed that it has reached an agreement with Contact in respect of connecting the Project to the National Grid.

## 12. COMMENTS FROM OTHER PERSONS INVITED TO COMMENT BY THE PANEL

### Environmental Defence Society (EDS)

12.1 EDS considers that the Project should only be granted in part; it asks the Panel to refuse consent for the 14 turbines proposed on the Jedburgh Plateau. In the alternative, EDS seeks that additional conditions be imposed, primarily in respect of potential effects on the Plateau.

12.2 However, EDS also records that it:

- (a) recognises that deployment of renewable electricity generation needs to occur at scale and pace to transition the economy to net zero by 2050; and
- (b) supports renewable electricity generation in the right location (though EDS does not specify where that might be).

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<sup>63</sup> Contact notes that a recent American study concluded that wind farms tend to have a positive effect on property values: [Uplifting winds: The surprisingly positive community-wide impact of wind energy installations on property values - ScienceDirect](#)

<sup>64</sup> *Foot v Wellington City Council* EnvC Wellington W73/98, 2 September 1998 at [254]–[256]. See more recently *Re Meridian Energy Ltd* [2013] NZEnvC 59 at [483]–[485]; *Tram Lease Ltd v Auckland Transport* [2015] NZEnvC 137 at [57]–[60]; and *City Rail Link Ltd v Auckland Council* [2017] NZEnvC 204 at [62]–[63]. The Expert Consenting Panel considering the Waiuku Wind Farm proposal confirmed at [575] that effects on property values are not a consideration a panel under the Fast-track Act should give weight to in its decision.

<sup>65</sup> [Building the renewable generation we need to deliver New Zealand's energy future - a discussion document for consenting authorities.pdf](#)

12.3 Its comments comprise legal submissions and a statement of evidence on terrestrial ecology prepared by Mike Harding. Mr Goldwater and Mr MacGibbon respond to Mr Harding in their evidence; below we respond to the legal submissions.

*Decision-making framework for resource consent approvals*

12.4 EDS addresses the decision-making framework for resource consents under the FTAA. The legal analysis document appended to Part A of the substantive application sets out Contact's summary of (and position on) the decision-making framework. We do not repeat that analysis here, but provide specific additional comments in response to EDS's commentary.

12.5 EDS contends that the purpose of the FTAA as set out in section 3, being to "*facilitate the delivery of infrastructure and development projects with significant regional or national benefits*" is "*procedurally focussed on an efficient one-stop process for all relevant approvals applied for; it does not mean 'grant' or 'approve' projects.*" That is an artificially narrow reading of section 3. As set out in Contact's legal analysis document:<sup>66</sup>

- (a) facilitating the delivery of projects means 'helping to make them happen' (noting that Parliament deliberately changed the wording of section 3 through the select committee process to ensure that outcome); and
- (b) while the FTAA process requires rigorous assessment, and applications can be declined in specific circumstances, there is a strong starting presumption of 'facilitating delivery' by granting approvals.

12.6 The purpose of the FTAA flows through to the Panel's decision-making under sections 81 and 85. In particular:

- (a) the Panel must give the greatest weight to the purpose of the FTAA, ahead of all other considerations that the Panel is required to take into account under section 81(2) (including ahead of the usual RMA considerations when considering resource consent applications);
- (b) while the Panel has discretion to decline an application, that discretion only applies where the threshold under section 85(3)(b) is met: where "*adverse impacts*" are "*sufficiently significant to be out*

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<sup>66</sup> At paragraphs 2.7 - 2.9.

*of proportion to the project's regional or national benefits*" (even after considering conditions); and

- (c) section 85(4) directs that the Panel "*may not form the view that an adverse impact meets the threshold in subsection (3)(b) solely on the basis that the adverse impact is inconsistent with or contrary to a provision of a specified Act or any other document that a panel must take into account or otherwise consider in complying with section 81(2)*".

12.7 EDS contends that clauses 17(3) and (4) of Schedule 5 of the FTAA should be read in conjunction with section 85(4) to "*[navigate] the intersection between the purpose of the FTAA and directive avoidance policies in planning instruments*". However, clauses 17(3) and (4) of Schedule 5 do not relate to policies in planning instruments. Instead, those clauses establish that provisions of the RMA (or other Acts) that would require a decision-maker to decline an application for resource consent must be taken into account, but must not be treated as requiring the panel to decline the application. The example given in clause 17(3) is section 87A(6) of the RMA, which prevents resource consent from being granted for prohibited activities.

12.8 Under section 85 (and in particular as a consequence of section 85(4)), there can be no 'bottom lines' based on the application of 'avoid' policies in planning instruments.<sup>67</sup> Again, the discretion to decline an application under the FTAA applies only where "*adverse impacts*" are "*sufficiently significant to be out of proportion to the project's regional or national benefits*". Inconsistency with an 'avoid' policy cannot drive a decision to decline consent under the FTAA.<sup>68</sup>

#### *Effects on the environment, and the planning framework*

12.9 EDS's comments address the effects of the Project on the ecological values of the Jedburgh Plateau, as well as the application of the NPS-FM and SWLP in relation to those effects.<sup>69</sup>

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<sup>67</sup> Contrary to EDS's contention, the Waihi North decision accurately captured that position.

<sup>68</sup> Contact accepts that effects of the type directed to be 'avoided' by a policy in a planning instrument may be relevant "adverse impacts" for the purpose of the section 85(3) analysis.

<sup>69</sup> In that respect, EDS states that the Panel may treat the factual findings of the previous Covid Fast-track panel as persuasive. Contact addressed the decision of the Covid Fast-track panel in the legal analysis document in part A of the substantive application. That decision is of limited relevance for this FTAA Panel, which must base its decision on the materials provided to it and on the FTAA framework.

- 12.10 Those matters are addressed in detail in Contact's substantive application, and in the evidence of Mr Goldwater and Mr MacGibbon in response to Mr Harding and other commenters. Contact acknowledges that the Project will have effects on the Jedburgh Plateau, including the direct loss of approximately 2ha of wetlands. Contact's experts consider that the habitat loss effects can be appropriately offset and compensated for, and a comprehensive scheme of measures will be implemented to that end.
- 12.11 EDS contends that under the NPS-FM and SWLP there is a policy direction, and an environmental 'bottom line', requiring that wetland loss be avoided. However, the clause 3.22 NPS-FM direction to avoid wetland loss does not apply here, because:
- (a) There is a "functional need" for the Project to be located as proposed. In that respect, the new Policy C in the amended NPS-REG directs decision-makers in respect of the consideration of operational and functional need for renewable electricity generation activities. That policy directly supports Contact's position in respect of functional need for the Project.
  - (b) The effects of the Project on wetlands will be managed, through applying the effects management hierarchy as proposed by Contact.
- 12.12 EDS and Mr Harding focus, in particular, on their contention that the wetlands that will be lost are 'irreplaceable'. This contention is relevant to the application of the effects mitigation hierarchy, in terms of clause 3.22 of the NPS-FM.
- 12.13 Contact is proposing to address the unavoidable loss of wetland extent through a combination of offsetting and compensation, as provided for under the effects mitigation hierarchy. Clause 3.22(3) provides that offsetting and compensation proposals should comply with the principles for aquatic offsetting and compensation in Appendix 6 and Appendix 7 in the NPS-FM. Those principles include that offsetting or compensation is not appropriate where the extent or values are not able to be offset or compensated for, including where the wetlands in question are irreplaceable.
- 12.14 Mr Goldwater and Mr MacGibbon are firmly of the view that the wetlands that will be lost are not irreplaceable, as they have explained in detail. In any event, and as explained above and in the Waihi North FTAA decision, there can be no policy-based 'bottom lines' under the FTAA. The Project cannot

be refused (or fundamentally changed, to delete a large proportion of the proposed turbines) based on a technical breach of an 'avoid' provision in the NPS-FM.

12.15 Beyond direct habitat loss, EDS raises other potential effects on the ecological values of the Jedburgh Plateau, focussing in particular on fragmentation. All of those potential effects have been carefully assessed, and addressed in the design of the Project and in the comprehensive effects management measures proposed by Contact. Mr Goldwater provides a detailed response to Mr Harding's comments in respect of fragmentation, including setting out the range of measures proposed to address those potential effects.<sup>70</sup>

12.16 The FTAA requires the Panel to consider the effects of the Project on wetlands and on the ecological values of the Jedburgh Plateau more broadly. Contact's position, informed by the analysis of its expert advisors is that ecological effects can and will be appropriately addressed through the effects management package that is proposed, and required by conditions. Mr Goldwater and Mr MacGibbon (and Dr Davidson-Watts and Mr Kessels in respect of bats) advise that the positive ecological benefits delivered by the effects management package will outweigh the residual adverse effects of the Project.

12.17 EDS acknowledges the effects management measures Contact proposes, and Mr Harding states that the proposed compensation "*appears generous*". Contact's advisors do not share the concern expressed by Mr Harding and EDS that there is a level of uncertainty about effects that "*means it is difficult to determine whether that compensation is adequate*"; in any event the conditions contain extensive monitoring and reporting requirements, and performance standards to ensure the anticipated gains are achieved.

### *Conditions*

12.18 EDS's request that the Panel require the deletion of all infrastructure from the Jedburgh Plateau, including 14 turbines, needs to be considered in light of the above.

12.19 Deleting 14 turbines would significantly change the Project, reducing the benefits it would deliver, and putting its delivery in jeopardy. The Panel will likely be aware that any reduction in turbine generation output reduces not

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<sup>70</sup> At paragraphs 135 – 144 of Mr Goldwater's evidence (Appendix 1).

only the benefits of the Project and the efficient use of the wind resource, but also the revenue available to meet the fixed costs of the Project.<sup>71</sup> Requiring those costs to be spread across fewer turbines increases the effective cost of the electricity produced by the wind farm (i.e. cost per megawatt hour (**MWh**)) and at some point, beyond the ability of the Project to ‘pay its way’. There is a high likelihood that deleting all infrastructure from the Jedburgh Plateau would render the Project unviable.

12.20 Furthermore, the wind farm substation (where the power from all of the wind turbines is collected before being transmitted to the National Grid) is also proposed to be located on the Plateau and roads are required to cross the Plateau in order to provide access routes between Matariki and Jedburgh Station.

12.21 Nor is that significant change required in order to address the effects of the Project: as set out above, the Project (with all 55 proposed turbines) will deliver ecological benefits that will outweigh its adverse ecological effects.

12.22 Contact is already proposing a suite of conditions to address effects on the Jedburgh Plateau, which the Panel must take into account under section 85(3) of the FTAA. Imposing further conditions deleting the Jedburgh Plateau infrastructure would be more onerous than necessary in terms of section 83 of the FTAA, would not be reasonable or appropriate, and would be inconsistent with the purpose of the FTAA.

12.23 Mr Goldwater addresses the additional / alternative conditions proposed by Mr Harding. EDS’s legal submissions seek, in the alternative to the deletion of all infrastructure from the Jedburgh Plateau, that the Panel impose:

- (a) An “adaptive management condition” with triggers that could ultimately require the removal of all infrastructure from the Plateau; and
- (b) A bond to address remediation costs.

12.24 Contact strongly opposes those requests:

- (a) the conditions as proposed already provide for a detailed effects management regime in respect of the Plateau, including regular

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<sup>71</sup> These include costs of the wind farm substation, the grid connection, the operations and maintenance facility, the main wind farm access roads, and other roading improvements, as well as the likely costs inherent in the mitigation, offset and compensation measures.

monitoring and reporting. A further “adaptive management condition” of the type sought by EDS is not necessary or appropriate; and

- (b) A bond condition is not necessary or appropriate, in light of the detailed condition requirements already proposed, and for the additional reasons set out in response to the ES request for a bond condition.

### **West Catlins Preservation Society**

12.25 Contact acknowledges the comments from WCPS, many of which are addressed above. WCPS's other comments are responded to in turn below.

#### *'Technical review'*

12.26 WCPS has attached a 'technical review' to its comments. It is unclear who has authored that report and what qualifications and experience they have – paragraph 22 of the comments from WCPS simply states “*We have received a technical report from a community source who specialises in report writing of this nature*”.

12.27 The 'technical review' is very long, and all the matters it raises are addressed in the substantive application (including the relevant technical reports). That said, to assist the Panel Contact has provided a response to the 'technical review'. Contact attaches that response as **Appendix 13**, in table format with input from the following experts:

- (a) Gerry Kessels and Ian Davidson-Watts (bats);
- (b) Greg Ryder and Ruth Goldsmith (aquatic ecology);
- (c) Luke Gordon (construction matters); and
- (d) Nick Goldwater and other Wildlands experts, and Roger MacGibbon (terrestrial / wetland ecology).

#### **FTAA**

12.28 In response to WCPS's comments on the purpose of the FTAA, Contact refers to its legal analysis document in Part A of the application.<sup>72</sup> WCPS considers that it is contentious whether the Project will have significant

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<sup>72</sup> At [2.7]–[2.9].

regional or national benefits. Contact has explained the significant regional and national benefits of the Project elsewhere in this response.

12.29 WCPS have commented that the Project site is not distinguishable from a Conservation Park, which should be given weight by the Panel because a project on a Conservation Park would be an ineligible activity under the FTAA. Even if the Project site were a Conservation Park, which it is clearly not, that would not make the Project an ineligible activity. Only conservation areas declared to be a wilderness or sanctuary area are ineligible.<sup>73</sup>

#### *Landscape effects*

12.30 Most of WCPS's comments on landscape and natural character effects are addressed earlier in this response, in the landscape section and by Mr Coombs and Mr Bray in **Appendices 3 and 4**. Comments in respect of rural character and amenity are addressed below.

12.31 WCPS refer to the strong amenity values Pawakataka has for WCPS's members and the community. As an owner and operator of large-scale electricity generation assets and a user of valued natural resources in many communities around the country, Contact understands and acknowledges the connection that people have with their properties and communities; but change in and of itself is not an adverse effect. It is also worth noting, for the resource consents,<sup>74</sup> that what the relevant district plan anticipates in terms of activities and environmental outcomes in the relevant location is important, including in relation to amenity values and the character of the environment.

12.32 The Project is largely located within the General Rural Zone under the Southland District Plan (**SDP**). The SDP explains that:

*"The District's rural areas, defined as the General Rural Zone, predominantly support farming-related activities but also provide for a range of land uses, such as infrastructure and renewable electricity generation activities. The character of the rural area is one where there is a mix of activities that require a rural location. (...)"*

12.33 While the SDP goes on to note that many areas within the General Rural Zone are valued for their rural character and amenity and includes a policy to maintain or enhance amenity values, the zone is clearly signalled as a place where low-density living is expected because rural activities can generate

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<sup>73</sup> FTAA, s 5(1)(h)(i) and sch 4.

<sup>74</sup> See generally *Blueskin Energy Limited v Dunedin City Council* [2017] NZEnvC 150 at [158].

effects – noise, odour, dust, etc – that cannot always be internalised to a property. These are activities *"that require a rural location"*, as noted in the SDP.

### *Dark skies and aviation safety lighting*

12.34 WCPS raises concern about the visual amenity effects of the aviation navigation safety lighting on the turbines, including on the 'dark sky'. WCPS refers to Mr Coombs' assessment from July 2024. That assessment was authored at a time when the initial CAA determination required medium intensity red lights on or above the top of the nacelle, as well as an array of three intermediate low intensity lights at around half the nacelle height on all 55 turbines.

12.35 Contact challenged that initial determination and worked through an appeal (or 'petition') process with the CAA with the aim of significantly reducing the number of lights required while ensuring aviation safety is maintained. Under the updated CAA determination, now only 16 turbines are to be lit, each with a single medium-intensity red light, with no intermediate low intensity lights required. Leading Design Professionals (lighting experts) concluded that the lighting effects of the aviation warning lights would be low to moderate and no more than minor (see **Appendix 5**); Mr Coombs concurred with that assessment.<sup>75</sup> Mr Coombs has also provided further information to the Panel that, generally speaking, some degree of light spill from intervening light sources (from dwellings, farm buildings and other structures located in the area between the viewpoint and the wind farm site) is anticipated at most viewpoints – light spill is already a feature of the existing environment.<sup>76</sup>

12.36 WCPS states, by reference to an internal CAA policy, that turbines over 150m will require additional lighting. While that is generally the case, the CAA is able to deviate from the internal policy as it is guidance only, and unlike Civil Aviation Rule Part 77, not compulsory to meet. Through the CAA petition process, Contact was able to obtain approval for a 'determination' stipulating that no intermediate low intensity lights would be required.

12.37 WCPS also comments that the Catlins is currently looking into becoming an accredited area with Dark Sky International. Navigation aids that comply with maritime or civil aviation requirements are often not required to comply with

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<sup>75</sup> [H03.-Part-H-Technical-assessment-3-Landscape,-Visual,-and-Natural-Character-Effects.pdf](#) at [283]–[284].

<sup>76</sup> [Claire Hunter - Letter 16.07.24](#) response to question 4.

relevant rules in respect of dark sky areas.<sup>77</sup> Further, Contact has undertaken significant effort to resolve effects from the aviation warning lights within the bounds of the aviation rule requirements.

### *Recreational values*

12.38 WCPS have commented that local residents and the Wyndham community are keen to reinstate recreational activities, but DOC is not in a position to fund tracks or walkways through the scarp. The Community Benefit Fund Contact has proposed in condition SC10 could be used to contribute to building or maintaining bike or walking tracks if that was recommended by the Community Liaison Group.

### *Hunting*

12.39 WCPS raises "*the unique idea*" that the proposed predator control will negatively impact current hunting activities. Predator control is of course a core component of the ecological restoration proposal for the Project, and all experts agree that it is warranted and will be beneficial. As acknowledged by the NZ Game Animal Council, the Project will not affect hunting access.

### *Wyndham Cemetery*

12.40 WCPS raises concerns about the effects of the Project on the Wyndham Cemetery, approximately 10km from the closest turbine, specifically in relation to the visual amenity for the people who have been buried there since 1860. Contact acknowledges that these may be genuinely-held concerns, but the rural environment, just like the urban environment, is not set in stone.<sup>78</sup> Contact respectfully suggests that the Panel should not give weight to the concerns expressed by WCPS in this regard.

### *Tourism*

12.41 WCPS raises concerns as to the Project's effects on tourism. There are currently no known commercial tourism activities on or near the Project site. Tourism is focused on the coastal area of the Catlins and the Catlins Forest

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<sup>77</sup> See for example rule NOSZ-PS4 of the Southland District Plan which applies to the Stewart Island / Rakiura Dark Sky Sanctuary and rule 21.1.11 of the Wairarapa Combined District Plan which applies to the Wairarapa Dark Sky Reserve.

<sup>78</sup> See generally *Raudner-Muller v Gisborne District Council* EnvC Wellington W157/96, 5 November 1996 at 9: "*In other words, the council recognised that the countryside cannot be looked upon as some kind of pastoral museum, but needs to be seen for what it is, a rural workshop that evolves and changes at a variable rate in response to changing physical, social and economic circumstances.*"

Park.<sup>79</sup> The tourism priorities identified for Waihōpai Toetoe in the Southland Murihiku Destination Strategy 2019-2029: *The Strategy & Vision* are not specific to the Project site or the surrounding area.<sup>80</sup>

12.42 To the extent that tourists may visit the area, some may consider wind farms to have an adverse effect on their experience, but others may see it as a symbol of clean green renewable electricity generation. There does not appear to be any clear evidence that wind farms have negative effects on tourism generally. International research indicates there is a mix of reactions to wind farms from a tourism perspective (ie neutral, positive and negative).<sup>81</sup>

### *Archaeology*

12.43 WCPS questions how Contact can state that G46/17 will not be affected by any Project related structures or activities since the proposed transmission line has a 200m wide corridor within which the final route (and tower locations) will be constructed. Technical Assessment #13 Archaeology is clear that G46/17 will not be affected as while it is only approximately 30m from the route of the indicative transmission line, it is over 200m from the nearest indicative transmission line tower – this being the location where the physical works would be located.<sup>82</sup>

12.44 While there is the ability of the line route and towers to move within the 200m wide corridor, site G46/17 is located in a valley between two hills and from an engineering perspective, it would not be sensible to locate any towers in the valley (the optimal design is to have the towers on hills so that the line straddles over the valleys). As such, despite the possibility of movement from their indicative locations, the only logical solution is for the towers of the transmission line to remain on the hills either side of (and well away from) where G46/17 is located.

### *Noise*

12.45 Mr Halstead responds to WCPS's comments relating to noise in **Appendix 6**.

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<sup>79</sup> See for example the Catlins' map which identifies attractions along the coastline but not near the Project site. [FINAL21-v2.PDF \(catlins.org.nz\)](#). The Destination Strategy on page 43 also identifies the most highly rated experiences in the region, including Catlins tours.

<sup>80</sup> [230814\\_GS\\_Destination-Management-Strategy\\_Compressed-Download.pdf \(greatsouth.nz\)](#) at page 41.

<sup>81</sup> See generally *Re Meridian Energy Ltd* [2013] NZEnvC 59 at [452]–[455].

<sup>82</sup> [H13.-Part-H-Technical-assessment-13-Archaeology.pdf](#) at [3] and [41] and Figure 8.

## *Ecology*

12.46 Most of WCPS's comments on ecological effects are addressed earlier in this response, in the ecology section and by Mr Goldwater and Mr MacGibbon in **Appendices 1 and 2**. Comments in respect of long-tailed bats are addressed below. The comments appear to be made without any apparent expert input and are generally contrary to the overall view of DOC and its expert advisor:

- (a) Contact and DOC disagree with WCPS' contention that there was inadequate data timeframes and a couple of seasons of very variable weather for the site. In the previous Covid Fast-track consenting process, DOC was complimentary of the surveying undertaken for the Project, commenting that the data obtained was of very high quality and should be the standard for wind farm developments.<sup>83</sup> DOC's position on the surveys has not changed.
- (b) Contact and DOC also disagree with WCPS' contentions that:
  - (i) turbine removal is required instead of curtailment; and
  - (ii) the compensation approach is not appropriate.
- (c) Following detailed discussions, DOC is comfortable with the application in terms of the Project's effects on bats.

## *Microplastics and asbestos*

12.47 Contact retains its position that microplastics have not been identified as a material issue resulting from any wind farm in New Zealand to date.

12.48 WCPS has also asked for confirmation that the wind turbines will not contain asbestos. The Imports and Exports (Asbestos-containing Products) Prohibition Order 2016 prohibits the importation of an asbestos-containing product unless authorised by a permit. There are strict conditions that apply to the grant of any such permits; the Panel can be comfortable that any hypothetical concerns in respect of asbestos are addressed by that separate statutory regime.

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<sup>83</sup> [H06.-Part-H-Technical-assessment-6-Long-tailed-Bat-Effects.pdf](#) at [6] and [30].

### *Shadow flicker*

- 12.49 WCPS has raised concerns about the effect of shadow flicker on plants and animals, including in the Catlins Conservation Park. Contact's position remains that:
- (a) there are no scientific studies or evidence from wind farms in New Zealand or overseas that shadow flicker – ie moving shadows – may affect plants or animals; and
  - (b) conversely, it is evident from operating wind farms around the country that animals are undeterred by the moving shadows on the ground and farm stock have been observed sheltering behind wind turbines to avoid the sun or avoid adverse weather.
- 12.50 Rather, shadow flicker occurs when rotating shadows of wind turbine blades pass over windows of buildings. The moving shadows create a flickering effect within the building, hence the term 'shadow flicker'. This occurs as the light source into the room varies as the shadow passes over the window. If a person stands in the outdoor environment where a rotating wind turbine shadow is present on the ground, the flickering effect observed indoors is not present. This is because the incident light source on the person is from many different directions.
- 12.51 Shadow flicker effects on horses was raised in respect of the Awhitu wind farm. Potential adverse effects on horses, including being frightened by shadow flicker, was one of the reasons why the council-level decision refused to grant resource consent. However, the Environment Court found that the effect of shadow flicker had been overstated.<sup>84</sup>

### *Decommissioning*

- 12.52 Contact's application and proposed conditions are clear that it will decommission the wind farm following completion of operation. When decommissioning takes place, Contact will:<sup>85</sup>
- (a) remove all wind turbines and above-ground structures from the Project site;
  - (b) re-vegetate any exposed surfaces; and

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<sup>84</sup> *Genesis Power Ltd v Franklin District Council* EnvC Auckland A148/2005, 7 September 2005 at [161]–[165].

<sup>85</sup> [A02. Part A - Overarching Substantive Application Document](#) at section 7.5; proposed conditions DT1 – DT3.

(c) for all turbine foundations, hardstand areas and other ancillary building foundations:

- (i) cover them with topsoil and/or cleanfill material; and
- (ii) re-vegetate them with like-for-like vegetation.

12.53 Contact is not proposing that a bond be conditioned, for the reasons given earlier in this response.

#### *Consultation*

12.54 WCPS refutes that Contact undertook adequate and numerous community consultation efforts. Contact's approach to engagement and the processes undertaken are summarised throughout the application,<sup>86</sup> so are not repeated here. Contact is confident that it has taken an open, responsive, and principled approach to its engagement with the community, respectfully noting that the WCPS do not represent the entire community. Contact notes the comment from the Waihōpai-Toetoe Community Board that:

*"In 2024 when this proposed project was first announced, Contact proactively approached [the Board] to discuss approaches to local consultation. They were receptive to the Board's advice and attended at least two [Board] meetings, as well as maintained regular phone communication to provide updates. The community consultation sessions were informative and scheduled at various times to accommodate different sectors of the community. These sessions were well received, with many attendees expressing interest and offering suggestions to Contact. Contact staff were available for individual discussions as needed."*

12.55 Provision for a Community Benefit Fund to support community activities and initiatives was a clear request made during community engagement, and has been included in the proposed conditions.

12.56 Contact thanks those in the community who took the time to participate for their valuable feedback and looks forward to continuing to work with the local community as the Project progresses.

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<sup>86</sup> [A02. Part A - Overarching Substantive Application Document](#) at section 5; [B01.-Part-B-Resource-Consent-Approvals-Application\\_Redacted.pdf](#) at section 4; [C01. Part C - Conservation Act Approvals Application.pdf](#) at section 6; [D01. Part D - Wildlife Act Approvals Application](#) at section 7; [E01.-Part-E-Archaeological-Authority-Approvals-Application\\_Redacted.pdf](#) at section 5; and [F01. Part F - Freshwater Fisheries Regulations Application.pdf](#) at section 4.

### *Vibrant community*

12.57 As noted elsewhere, community sentiment is not one-sided as WCPS alleges and there is support from the community for a Community Benefit Fund.

### *Social impacts*

- 12.58 WCPS criticises Contact for not providing a standalone assessment of the Project on people's wellbeing. Contact remains of the view that such an assessment would not materially assist the Panel, over and above the body of information already before the Panel regarding the Project's potential effects.
- 12.59 That information demonstrates that the physical adverse effects of the Project can readily be managed through the measures mandated by the conditions and extensive detailed and Council-certified management plans. In a broader sense, while people can sometimes struggle with change, the conditions require a good flow of information, on an ongoing basis, about construction and other Project-related activities. It also contains other mechanisms such as a Community Liaison Group and complaints procedures whereby people can raise issues, and Contact can provide any necessary support.<sup>87</sup>

### **Parliamentary Commissioner for the Environment**

12.60 The Parliamentary Commissioner for the Environment's comments summarise the difference in opinion, during the previous Covid Fast-track consenting process, between Contact's consultant experts and Mr Harding in respect of ecological effects on the Jedburgh Plateau.

12.61 He goes on to suggest that the Panel should ensure it has adequate information to form an informed opinion on:

- (a) how the ecology of the Jedburgh Plateau should be appropriately defined / delineated;
- (b) how the ecology of the Plateau is likely to change in the future, both under current management and under the proposed changes; and
- (c) whether the cost of the almost certain material harm, and potential 'loss' of significant indigenous biodiversity, is in proportion to the

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<sup>87</sup> See for example the proposed conditions regarding construction management (CM2(f) and CM27(b) and (f), construction and operational noise (NO3(d) and NO8), complaints procedures (SC1(a) to (f), SC2, SC3), community liaison and communication (SC4, SC5(a)-(d), SC6(a)-(c), SC7(a) and (b), and SC8).

benefits of the proposal and the extent to which those costs can be mitigated by restoration, the success of which is likely to be uncertain.

12.62 Ecological effects, including in particular in respect of the Jedburgh Plateau, are addressed above (and in the evidence of Mr Goldwater and Mr MacGibbon). Contact reiterates the significant, expert-led work that has gone into devising the integrated scheme of measures to address ecological effects; the monitoring and reporting requirements in respect of those measures, and the stringent performance standards set out in conditions. Contact does not agree that the success of the restoration efforts can fairly be described as uncertain.

## ***PART B – RESPONSE TO SECTION 51 REPORTS***

### **13. SECTION 51 REPORTS**

- 13.1 Since lodgement of the substantive application, Contact has continued detailed discussions and collaboration with DOC and HNZPT, including in respect of the approvals for which they would be the administering agencies. Given the responses from DOC and HNZPT in the section 51 reports, the Panel can be satisfied that the concessions, wildlife approvals, complex freshwater fisheries and archaeological authority can be granted. As anticipated, the focus of the comments from DOC and HNZPT are on matters of detail.
- 13.2 Contact's response to these matters of detail is provided below. One such matter is the imposition of standard conditions in the approvals. Ultimately, it is for the Panel to determine what conditions to impose under the FTAA, not the administering agencies.<sup>88</sup>
- 13.3 In respect of the DOC approvals Contact started with 'standard form' conditions of the sort that DOC would normally impose and adapted those as appropriate. Changes made were to ensure workability, rather than making changes for changes sake.

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<sup>88</sup> Except for any conditions recommended under s 78 of the FTAA in respect of the concession, which must be imposed.

## Archaeological authority

13.4 The section 51 report from HNZPT states that Contact advised HNZPT that "*it does not wish to amend or add to the conditions it has proposed*".<sup>89</sup> That framing misses the important context, which Contact discussed with HNZPT, that:

- (a) Contact discussed (and agreed) the proposed conditions of consent and of the archaeological authority with TAMI prior to submitting the substantive application for the Project;
- (b) TAMI requested that the proposed resource consent conditions retain conditions relating to the discovery of mana whenua-related archaeology material (as per proposed consent conditions CM22-CM26) and requested that these conditions were carried over into the archaeological authority conditions for "*strength and security*" to address any adverse effects across both approvals;
- (c) Contact confirmed it was comfortable with this approach, and the proposed archaeological authority conditions lodged with the substantive application were agreed between TAMI and Contact;
- (d) Contact engaged directly with HNZPT before and following lodgement of the substantive application, primarily via its assigned planner, to ensure the HNZPT understood the Project and the approach to the site-wide archaeological authority. Through that engagement, HNZPT confirmed it was comfortable with Contact's approach; and
- (e) Following the Panel convener's conference for the Project, Contact engaged with HNZPT's legal counsel to discuss the proposed conditions. The outcome was that HNZPT via their counsel recommended that Contact adopt its standard archaeological authority conditions that are relevant to the Project. Contact discussed these recommendations with TAMI, however, TAMI's preference was for the conditions to remain as they were initially proposed.

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<sup>89</sup> [s51-HNPZT-Southland-Wind-Farm Redacted.pdf](#) at [15].

- 13.5 Contact's position, as explained to HNZPT, is that it is critical that TAMI (representing mana whenua) is comfortable with the final form of the archaeological authority conditions.
- 13.6 Following receipt of the section 51 report, Contact engaged with TAMI again to specifically discuss the amendments to the archaeological authority conditions proposed by HNZPT, with a view to accommodating those as far as possible. Through that engagement, Contact and TAMI have agreed an updated set of archaeological conditions that largely incorporates the amendments proposed by HNZPT, whilst ensuring cultural values are appropriately provided for. That is confirmed in TAMI's section 53 comments.
- 13.7 On 11 December 2025 Contact shared these updated proposed conditions with HNZPT and informed HNZPT that it intended to include this set of conditions in its response to comments. In its section 53 comments, HNZPT has made further suggested changes to the proposed conditions.
- 13.8 Given HNZPT's section 53 comments, there remains some disagreement between TAMI and HNZPT as to the appropriate archaeological conditions. As indicated to HNZPT, Contact is proposing the version of the conditions that have been agreed with TAMI.
- 13.9 The updated proposed conditions that Contact has agreed with TAMI are provided alongside this memorandum. That version shows as 'tracked' the updates to the conditions as compared to the version lodged with the substantive application, with comment boxes included to explain how HNZPT's proposals have been incorporated.
- 13.10 Contact notes that HNZPT considers a term of five years is appropriate for the duration of the Archaeological Authority. Contact disagrees with this and considers it is more appropriate for the Archaeological Authority to be granted for a duration of 10 years, which is much shorter than the maximum 35 year term provided for in clause 6(2) of Schedule 8 to the FTAA. This aligns with the potential construction period of the Project, noting that it is possible the construction of the Southland Wind Farm may not be completed within five years of the granting of these approvals. This also aligns with the duration of the construction-related regional consents sought for the Project.
- 13.11 If Contact has not completed construction within the five-year period sought by HNZPT it will be required to re-apply for an additional Archaeological

Authority from HNZPT to cover the remaining construction period. Contact considers this is inefficient and inconsistent with the purpose of the FTAA. Contact therefore seeks that the Panel grants the Archaeological Authority for a period of ten years.

### **Concessions**

13.12 To recap, Contact seeks approval for the following concessions that would otherwise be applied for under the Conservation Act:

- (a) an easement for a right of way for the construction of a culvert stream crossing over the Mimihau Stream North Branch (subject to Part 4A (Marginal Strips) of the Conservation Act);
- (b) an airspace easement for a right to convey electricity to permit the transmission line crossing over part of the Mimihau Stream North Branch (subject to Part 4A (Marginal Strips) of the Conservation Act); and
- (c) an airspace easement for a right to convey electricity to permit the transmission line crossing over part of the Waiarikiki Stream, Mimihau Conservation Area (should this be required).

13.13 These are all relatively minor concessions, relating to small areas of land and with minimal environmental effects. DOC's section 51 report on the concessions is fulsome, but in summary addresses points of detail rather than any fundamental issues.

#### *Concession term and start date*

13.14 The Panel may grant an easement for a term not exceeding 60 years in exceptional circumstances.<sup>90</sup> DOC considers the 60-year concession term sought by Contact does not meet the test for exceptional circumstances and recommends a term of 30 years. Contact disagrees with that position.

13.15 The expression 'exceptional circumstances' is not defined in the Conservation Act. There are also no judgments addressing the meaning of 'exceptional circumstances' in the context of section 17Z of the Conservation

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<sup>90</sup> Conservation Act 1987, s 17Z(3)(a). Clause 13 of Schedule 6 of the FTAA states that "Section 17Z the Conservation Act 1987 applies to the duration of a concession granted by a panel under this Act as if the references in that section to the Minister were references to a panel."

Act. However, the phrase is used in other legislation, and the courts have made general comments.<sup>91</sup>

13.16 The Supreme Court in *Wong v R* has considered 'exceptional circumstances' in other contexts and held that it describes a circumstance which is out of the ordinary course, or unusual, or special or uncommon – an exception rather than the rule:

*"(...) But it has restricted the exercise of that discretion to circumstances which are "exceptional" – a term which is frequently encountered in different statutory contexts but here must be read bearing in mind the importance of the right being affected. It is, as Lord Bingham of Cornhill said in R v Kelly, a phrase which describes a circumstance which is such as to form an exception, which is out of the ordinary course, or unusual, or special or uncommon:*

*"To be exceptional, a circumstance need not be unique, or unprecedented, or very rare; but it cannot be one that is regularly, or routinely, or normally encountered."*

13.17 The High Court has considered the term 'exceptional' in line with its dictionary meaning, that is:

(a) In *Treasury Technologies Holdings Ltd v Commissioner of Inland Revenue* the High Court held:<sup>92</sup>

*"Exceptional" has a dictionary meaning of "forming an exception; unusual". It is not in my view, necessary for "an exceptional circumstance" to be one which is so out of the way as to be "extraordinary".*

(b) In *Milburn v Commissioner of Inland Revenue* the High Court agreed that:<sup>93</sup>

*"(...) "exceptional" means "unusual" or "out of the ordinary". It is not necessary for an exceptional circumstance to be one which is "extraordinary". Extraordinary circumstances connotes a more rare and truly abnormal situation than may exist for a circumstance to be "exceptional" (...)*

<sup>91</sup> *Wong v R* [2008] NZSC 29, [2008] 3 NZLR 1 at [8]; referring to *R v Kelly* [1999] 2 All ER 13 (CA) at 20. See also *Creedy v Commissioner of Police* [2008] NZSC 31, [2008] 3 NZLR 7 at [31]–[32] and *Ye v Minister of Immigration* [2009] NZSC 76, [2010] 1 NZLR 104 at [34] which refer to *R v Kelly*.

<sup>92</sup> *Treasury Technology Holdings Ltd v Commissioner of Inland Revenue* HC Auckland CP525, 25 May 1998 at 11.

<sup>93</sup> *Milburn New Zealand Ltd v Commissioner of Inland Revenue* HC Wellington CP151, 28 October 1998 (HC) at 5-6.

*"Exceptional" may fall within the description of "extraordinary", but an exceptional circumstance does not need to be one which is so out of the way and rare as to be "extraordinary". (...)"*

13.18 The Panel's focus should be on whether Contact's concession application is out of the ordinary course, or unusual, or special or uncommon. The circumstances do not need to be 'extraordinary' or 'unique'. Contact's application is uncommon as the three easements sought have very limited scope and effects, which can be appropriately managed, and the long-term benefits of the Project are significant, and likely to be intergenerational:

- (a) The construction of the transmission line and the installation of the culvert are separate undertakings that, once completed and operational, will result in minimal ongoing negative environmental impacts. Indeed, the provision of a culvert on the Mimihau Stream North Branch, in contrast to the current ford crossing, will provide long term positive environmental effects and provide for a safer crossing of this stream. There will be no changes to the existing public access and use, which is currently very low anyway. Contact is not seeking any leases or licences.
- (b) Providing only for a 30-year concession term is illogical from both an environmental and land management perspective. Such a reduction would hinder the national and regional benefits associated with the Project by imposing unnecessary constraints, which is inconsistent with the terms connected to all other approvals being sought for operational-related activities (i.e., unlimited or 35 years for regional consent approvals).
- (c) The Southland Wind Farm cannot operate without the airspace easement concession for the transmission line in particular, as without this concession, Contact will not have the appropriate authorisations in place to enable the transmission line to cross the Mimihau Stream North Branch (and potentially the Waiarikiki Conservation Area depending on the final route of the transmission line), and therefore would be unable to transmit the electricity generated from the wind farm to the National Grid.
- (d) Further, the right of way to enable crossing over the Mimihau Stream North Branch is integral to transport across this stream, which will be utilised not only during the construction of the Project

but also during the operation of the wind farm for any subsequent maintenance activities requiring the transportation of over-dimension components to and from the site.

13.19 It is anticipated that the Southland Wind Farm will be operational for at least 60 years, and as such, Contact considers there are exceptional circumstances for the Panel to grant the concessions for the maximum allowable term to provide for this. Such a term is consistent with the uncommon concession application and the purpose of the FTAA and will facilitate the delivery of the Project, which includes the operation and maintenance of the wind farm.

13.20 Contact acknowledges DOC's comments on the start date of the concession. To address this concern, Contact proposes to include a condition on the concession that at least 15 working days prior to commencement of construction it must inform DOC of the date it will commence construction of the Southland Wind Farm (Condition 10 of Schedule 3 of the updated proposed concession conditions). This will ensure that DOC is informed of the start of the concession prior to commencement. A similar notification requirement is imposed by proposed resource consent condition G4.

### *Management Plans*

13.21 DOC considers that it should have a certification role for management plans proposed to manage effects on activities related to the concessions (or any conservation approval).

13.22 Contact has set out the management plan certification process in the resource consent approval conditions (MP1-MP11), which it has developed alongside the relevant Councils. This involves Contact nominating independent, suitably qualified reviewer(s) to review the management plan before submitting the management plan to the relevant council(s) for certification. This will ensure that the management plans are robust and meet the requirements set out in the resource consent conditions.

13.23 The concessions requested by Contact are small and limited in scope. Once completed, they will have a minimal impact on the environment and public land management. Certain aspects of the management plans will pertain to these activities; however, these will only be very minor aspects. Therefore, Contact does not agree with DOC's view that it should have a role in certifying the management plans and considers it is more appropriate for the

management plans to be certified via the proposed certification process as set out under the RMA approval conditions.

13.24 Having multiple certifiers for management plans could create unnecessary delays and frustrate the delivery of the Project, especially where such activities only affect a very small area of DOC land, do not impact ongoing land management or access, and the (minor) environmental effects are primarily limited to the construction period. This approach would be inconsistent with the purpose of the FTAA.

#### *Final Corridor*

13.25 The proposed transmission line route sought in the application is to be within a 200m wide corridor - to enable a degree of deviation from the indicative line route to accommodate changes in tower locations that may be required following detailed design; however, the final transmission line corridor will only be 50m wide. The exact location of the transmission line will be confirmed following the completion of detailed design. Therefore, Contact is seeking a degree of flexibility in this application as to where the final transmission line will be located. DOC has recommended that the easement document states the location of the 200m corridor and Contact should subsequently seek a technical variation under the Conservation Act 1987 to reduce the area once the final location of the transmission line is confirmed.

13.26 Contact notes Condition 5 of Schedule 3 of the proposed concession conditions requires Contact to submit the final site plan to DOC for approval prior to commencing any construction works. This will ensure DOC is informed of the final transmission line route that will be constructed, and will enable DOC to confirm the area that is relevant to the concession. Contact considers DOC's suggestion requiring Contact to seek further approval via a variation to its concession document is inefficient and inconsistent with the purpose of the FTAA.

#### *Reference to resource consent conditions*

13.27 DOC has recommended the inclusion of a number of its standard concession conditions relating to weed control, fuels, hazardous material, chemicals and waste and accidental discovery of archaeological material. Contact has adopted the approach taken in the Waihi North decision, which was approved under the FTAA on 18 December 2025, whereby instead of unnecessarily duplicating conditions in the non-RMA approval conditions that are

appropriately addressed in the RMA approval conditions, the relevant RMA approval conditions are cross-referenced in the non-RMA approval conditions.<sup>94</sup>

13.28 Contact has therefore updated the proposed concession conditions and included cross-references to the relevant RMA conditions (included as an attachment to this response). This avoids inconsistency between conditions which seek the same outcome across the different approvals, and any potential compliance issues. This approach will ultimately facilitate the delivery of the Project in a manner that is consistent with the purpose of the FTAA while providing DOC with the assurance that activities within area under its control will be conducted safely and responsibly.

### **Wildlife approvals**

13.29 Contact has applied for approvals that would otherwise be sought under the Wildlife Act 1953 (**Wildlife Act**) to enable the salvage and relocation of lizards (specifically tussock skink, Tautuku gecko, and, if found on site during construction, green skink and herbfield skink); and Helms' stag beetle, during construction activities. DOC's comments in the section 51 report on the Wildlife Act approvals sought by Contact confirm that DOC considers the proposed activities to be broadly consistent with the purpose of the Wildlife Act.

13.30 DOC's comments support the proposed approach in respect of the approval sought for the salvage and relocation of Helms' stag beetles and therefore that approval is not addressed further in this response.

13.31 DOC's comments relate to the approval sought for the salvage and relocation of lizards. Overall, the comments indicate that DOC is satisfied with the extent of surveys conducted on-site to date, as well as with the proposed management measures. Specific matters set out in the comments are addressed below.

### *Marking of lizards*

13.32 The Lizard Management Plan (**LMP**) sets out the protocol for monitoring lizards that are relocated. In relation to monitoring of tussock skink, in the event more than 20 individuals are salvaged, the LMP notes that: "*Post-release monitoring will consist of a mark-recapture live capture survey over*

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<sup>94</sup> Paragraphs 15-23, Part N, Waihi North Project Final Decision Report, 18 December 2025.

*one week during fine weather between November and February annually. Captured lizards will be marked to determine recapture rates."*

13.33 DOC's comments note that whilst the application seeks approval to catch, salvage and relocate lizards, and to incidentally harm and kill lizards, it did not explicitly seek approval for the marking of lizards. Given that this monitoring measure has been included in the LMP and is a common practice associated with the relocation of lizards, Contact does not view this as an oversight or omission in the application. Therefore, it is both reasonable and appropriate for the approval sought to encompass not only the salvage and relocation of lizards but also the necessary marking of these individuals to ensure effective monitoring and management.

13.34 Marking of lizards will use a xylene free silver sharpie, which is non-invasive and will include a dot on the head and/or a number on the belly of each lizard salvaged during monitoring. Therefore, Contact seeks to include the marking of lizards as part of its wildlife approval and has updated the proposed conditions to address this, specifically in the list of activities outlined in Condition 1 of Schedule 1.

#### *Green Skink*

13.35 DOC's comments seek clarification on the management of green skink in the event they are detected within the Project Site during the construction of the wind farm, including how it will be determined if green skink habitat can be avoided and the measures that will be implemented if green skink habitat cannot be avoided. In addition, DOC seeks further clarification on the proposed compensation measures that will be implemented in the event green skink habitat cannot be avoided.

13.36 Green skink has not been detected within the Project Site in any of the surveys undertaken to date. However, taking a conservative position, Wildlands consider it is possible there may be a relict green skink population present, in particular near proposed turbines MAT-09 and MAT-10 (despite undertaking surveys in this exact location and not identifying any), due to the habitat present in this area of the site. Therefore, Contact has proposed management measures in the event green skink is found within the Project Site, which are set out in the LMP and Condition EC16.

13.37 In the event green skink is found within the Project Footprint during the construction of the wind farm, Contact must immediately cease all works

within a 50m buffer zone around the location of the identification. The LMP sets out the incidental discovery protocol for green skink, which includes capturing the green skink if possible and placing it in a container with grass. In addition, Contact must notify the project herpetologist to await further instruction. Contact must then make every practicable effort to avoid any impact of the Project on the green skink habitat, the extent of which will be confirmed by the Project herpetologist, in consultation with DOC. This will include determining whether it is possible to revise the roading and/or wind turbine layout to avoid green skink habitat.

13.38 The criteria for determining whether it is possible to avoid any identified green skink habitat will be if it is possible to change the roading and/or wind turbine layout to avoid green skink habitat. If avoidance of green skink habitat will not be possible, the salvage protocol and compensation programme will be triggered.

13.39 Where green skink habitat can be avoided, Contact is not proposing to implement additional pest control and monitoring at this site beyond what is already being proposed. Contact has received advice from both Wildlands and DOC indicating that implementing predator control measures without building a predator-proof fence would have limited positive impact on the green skink population. Additionally, as part of the proposed offsetting and compensation measures, Contact is planning to carry out significant pest control within the Project Site. This includes the to-be fenced, enriched and pest-controlled Copper Tussock Enhancement and Skink Protection Area, between turbines MAT-09 and MAT-10, which is identified by Wildlands as the most likely location for the green skink's presence within the site.

13.40 Wildlands also considers if green skink is found within the site, the size of the green skink population will likely be very small. Given the difficulties with finding green skink, additional monitoring of such a small population to obtain meaningful results would be difficult.

13.41 Given these existing management measures, it is considered that the wider proposed pest control efforts will provide substantial ecological benefits. Therefore, no additional actions are necessary specifically for green skink, especially in a scenario where the green skink habitat is able to be completely avoided. Adding further management requirements in such a situation would be overly burdensome and therefore inconsistent with the purpose of the FTAA.

13.42 In the event green skink are found and their habitat cannot be avoided, as previously agreed with DOC, any green skink discovered will be relocated to the fenced area within the Copper Tussock Enhancement and Skink Protection Area. As set out in the LMP, the fence around this area will be constructed at a height that will exclude hedgehogs and most rodents (including mice) and deter other mammalian predators. This area will be subject to pest control, in accordance with the methods and targets set out in the LMP and Habitat Restoration and Enhancement Management Plan (**HREP**). This will include targeted predator control for rats and mice, using bait stations, as well as for hedgehogs using DOC150 traps.

13.43 DOC considers ongoing monitoring of the released population should be triggered to assess the impact of the salvage and protection measures on any green skink moved. Given no green skinks have been detected within the Project Site to date, despite comprehensive searching, Wildlands consider that if any green skinks are found during construction, they will be found in extremely low numbers. Therefore, as noted in Section 6.1.6 of the LMP, if any green skink is relocated, it will be unlikely that green skink will be redetected during monitoring due to the extremely low numbers expected. As such, it is considered targeted monitoring of green skink in the release area is not appropriate. However, they can be identified to an individual level due to their unique markings. Therefore, any incidental observations and counts will be recorded for these species and their identities captured to check for survivorship if detected during tussock skink monitoring.

13.44 In addition to the salvage and relocation efforts on site, if a green skink is found within the Project Footprint and effects on its habitat cannot be avoided, Contact proposes an additional compensation measure. This measure involves constructing an at least 2ha predator-proof fence around an existing green skink population. Contact developed this proposed compensation measure in collaboration with DOC, who have previously indicated support for this. In accordance with proposed Condition EC16(b)(i), Contact must implement the green skink compensation programme, which includes establishing the predator exclusion fence and the maintenance of this fence for the lifetime of the Project.

13.45 DOC has also raised a comment regarding the uncertainty of the implementation of the predator exclusion fence off site. Contact notes that this compensation approach was developed in consultation with DOC and during these discussions DOC noted that the predator exclusion fence could

be constructed on DOC land at a site of a known green skink population. As such, based on these discussions, Contact's understanding is that DOC would be supportive of this approach. Contact is confident it will be able to make sufficient arrangements to implement the proposed compensation, which could be in the form of a monetary payment for the construction and maintenance of the fence to DOC, noting this will result in significant benefits to the conservation of green skink. Contact will ensure the fence is designed appropriately to prevent adverse ecological effects during its construction.

#### *Approved herpetologist and entomologist*

13.46 Contact notes DOC's comments with respect to naming a Project herpetologist and entomologist in the conditions and has updated the conditions to include the names of the specialists who have prepared the relevant management plans.

#### *Additional Wildlife Approvals*

13.47 DOC has indicated that they are of the view that certain narrow but additional wildlife approvals are necessary.<sup>95</sup> Any additional approvals required will be sought outside this FTAA process, utilising the standard process as prescribed under the Wildlife Act.

#### *Approval duration*

13.48 Contact considers that a longer duration for the wildlife approvals remains appropriate as opposed to DOC's preference for a 10-year term. The rationale is grounded in the specific nature of the activities sought as part of the approval, which includes longer-term monitoring activities.

13.49 The construction of the Project, including the associated vegetation clearance activities, will likely involve the salvage and relocation of particular species. It is anticipated that construction of the Project will be completed within ten years from the commencement of the consent (noting the duration of the construction-related regional council consents have been sought for ten years). However, any monitoring of wildlife associated with these activities may extend beyond ten years following the date this approval is granted. For example, in the event more than 20 Tautuku gecko are salvaged, the LMP requires monitoring in release areas for a period of ten

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<sup>95</sup> Contact understands those additional approvals would relate to incidental harm to birds during construction, and to any handling of birds or bats associated with post-construction monitoring.

years. Therefore, any activities relating to the wildlife approvals beyond the ten-year duration sought will solely relate to monitoring and Contact considers it is inappropriate and inefficient to require it to reapply for a wildlife approval to cover any required lizard monitoring.

13.50 Contact therefore considers the wildlife approval granted in this process should be granted for a period that covers both the salvage and relocation activity and any subsequent monitoring. Contact would however accept a term of 20 years for the wildlife approval.

#### *Variation of management plans*

13.51 DOC has questioned the process for certifying variations to the management plans. Condition 2 of Schedule 3 of the proposed conditions for the wildlife approvals set out the process for any amendments to the LMP and TIMP. This required the amendments to be prepared by a Suitably Qualified and Experienced Person and submitted to DOC for certification. The comprehensive management plans relating to the wildlife approvals included in the FTAA application for Panel approval (the LMP and TIMP) show that all necessary objectives and outcomes have been carefully considered. It is unnecessary to repeat these details in the wildlife approval conditions, as they are already well-explained in the RMA-related approval conditions. As such, DOC's suggested amendment to remove Condition 2 has been accepted in the updated proposed wildlife approval conditions.

13.52 If any changes are needed to the management plans that affect the wildlife approval activities, they will undergo a thorough independent review and certification process to ensure they align with the purpose and intent of the management plans – as set out in the RMA approval conditions. The conditions as drafted simply reduce unnecessary duplication and inefficiencies.

13.53 To provide further assurance, Contact has amended Condition MP11 of the RMA approval conditions to require consultation with DOC on any material amendments to the LMP and TIMP. This will ensure DOC is able to provide feedback to Contact on any material changes to these management plans as they relate to the wildlife approvals.

13.54 The process set out above also addresses DOC's comments regarding the conditions not including relevant certification criteria, given this will be managed through the RMA-approval conditions.

## Complex freshwater fisheries approvals

13.55 Contact's complex freshwater fisheries activities application is to construct culverts at three stream crossings (NSC1, NSC3 and NSC6) that will permanently block the passage of exotic fish, in order to protect indigenous fish species (galaxiids) upstream of those proposed culverts from predation by trout.

13.56 DOC's section 51 report on the application supports the use of 'exclusion culverts' to protect non-migratory galaxiids, but notes that the presence of galaxiids and absence of trout upstream of the three culverts in question should be definitively confirmed. As anticipated in the section 51 report, Contact has now carried out eDNA sampling for that specific purpose.

13.57 The results have been considered by Dr Goldsmith and Dr Ryder (authors of the Freshwater Ecology technical assessment). Their report has now been shared with DOC, and is provided alongside this memorandum as **Appendix 14**. In summary, the eDNA sampling and the report by Drs Goldsmith and Ryder confirm that:

- (a) both galaxiids and trout are present at NSC1 (and likely also at NSC7 approximately 1.5km upstream of NSC1), therefore an exclusion barrier is not required and no longer recommended at that location;<sup>96</sup>
- (b) there are galaxiids but no trout present at NSC3 and NSC6, therefore exclusion barriers should be installed at these locations to ensure the ongoing protection of galaxiids upstream (which means exclusion barriers are not required at NSC4 (upstream of NSC3) or at NSC8 (upstream of NSC6)).
- (c) For completeness, the eDNA sample at NSC5 also identified both galaxiids and trout. As such, an exclusion barrier is also not required at this location.

13.58 Contact is amending its complex freshwater fisheries application accordingly, so that exclusion culverts will be installed at NSC3 and NSC6 only. DOC's initial response to the eDNA sampling and report by Drs Goldsmith and Ryder indicates it will be comfortable with this approach.

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<sup>96</sup> While galaxiids are present at NSC1, because there are already trout present there is no rationale for a trout exclusion barrier.

13.59 DOC has confirmed that it *"is largely satisfied with the conditions proposed by the applicant, which have taken into account most of the pre-lodgement feedback DOC provided."* Minor changes to Contact's proposed conditions are suggested in the section 51 report. Those suggestions, and Contact's response, are as follows:

- (a) Specifically requiring the design of the culverts to take into account the design considerations for exclusion barriers in section 6 of the New Zealand Fish Passage Guidelines. Contact is comfortable with that addition, noting that resource consent condition CM14 requires all the other culverts to be designed in accordance with the Guidelines.
- (b) A new condition requiring that works be undertaken, where possible, outside the peak migration times for the relevant species. Contact notes that the two galaxiid species present (Gollum galaxias and pomohaka galaxias) are both non-migratory species and therefore considers this suggested condition is not appropriate or relevant to the Project.
- (c) New conditions requiring additional controls on construction: avoiding the use of wet concrete in flowing water; requiring sediment control measures in place to prevent the entry of sediment into the water which can affect fish passage; and avoiding or minimising works being undertaken in flowing water. Contact supports the implementation of appropriate construction controls. The Panel will be aware that a detailed suite of construction management conditions (including re erosion and sediment control) is included in the resource consent conditions (CM1-CM28, with associated management plans). Contact's view is that it is more appropriate for the complex freshwater fisheries approval conditions to refer to those consent conditions.

13.60 Contact's updated complex freshwater fisheries activity approvals conditions, filed alongside this memorandum, reflect the changes outlined above where appropriate. Again, the conditions show the changes made since the lodgement version as 'tracked', with comment boxes explaining how DOC's comments have been addressed.

13.61 A consequential change has also been made to resource consent condition CM15(b) and the map at Appendix C to the consent conditions, to remove

NSC1 from the list of culverts where fish passage is not required to be provided.

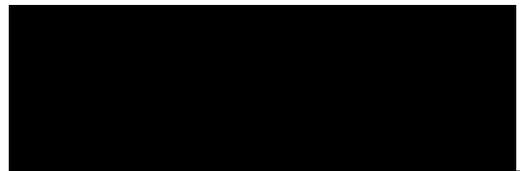
**14. CONCLUSION**

14.1 Contact again expresses its gratitude for the comments received, and to the Panel for considering this response.

14.2 The further changes now proposed to be included in the conditions, including in response to the comments, further reinforce that the Project merits approval under the FTAA; its significant benefits vastly outweigh the residual adverse effects.

14.3 Again, New Zealand needs this Project, in this location, and the residual adverse effects which Contact has been unable to avoid are anticipated in the planning instruments and will be comprehensively addressed through those conditions.

**DATED** the 14<sup>th</sup> day of January 2026

A large black rectangular redaction box covering the signature area.

**D Randal / T Ryan  
Counsel for Contact Energy Limited**