

Fast-track project name	Mt Welcome, Pukerua Bay, Porirua
Fast-track application number	FTAA-2603-1181
GW file number	FTA260348

To	The Expert Panel
Date	6 August 2026

Response to Minute 6: Expert Panel mechanical review of Applicant proposed consent conditions

Introduction

1. This memorandum is filed on behalf of the Wellington Regional Council (Greater Wellington) in response to the direction of the Expert Panel set out at paragraph 2 of Minute 6 dated 31 July 2026.

2. The Expert Panel have directed Greater Wellington as follows¹:

Can PCC and GWRC please add comments in the margin of the marked up set of conditions indicating whether they agree or disagree with the applicant's position, and if the latter, their reasons. If either council wishes to propose further text changes to the conditions consequent on their comments, such amendments should be made to both sets of conditions in track-change format. The Panel notes that, consistent with its approach as outlined in Minute 5, council comments or condition text changes should be restricted to mechanical issues². Merits points will be addressed separately.

Response

3. Greater Wellington considered the Applicant's proposed regional resource consent conditions when it made its comments on the Application. Due to the range of substantive issues identified by Greater Wellington, Greater Wellington considered that it would be of assistance to the Panel to provide a new set of regional resource consent conditions as part

¹ Minute 6, at para 2. See: https://www.fasttrack.govt.nz/_data/assets/pdf_file/0018/31923/Minute-6.pdf

² Greater Wellington understands that the Panel's reference to "mechanical issues" refers to whether conditions are:

- typographically correct;
- internally consistent;
- consistent with the principles established in case law for the drafting of consent conditions under the RMA; and
- consistent with the relevant statutory provisions for conditions set out in sections 83, 84, and 84A of the FTAA, and clauses 18 and 19 of Schedule 5 to the FTAA.

of its comments on the Application for the Panel to consider, rather than suggest changes to the Applicant's proposed conditions.³

4. The conditions suggested by Greater Wellington are set out in Appendix 1 to its comments on the Application.⁴ These are intended as a comprehensive and integrated set of regional resource consent conditions that provide for the management of the effects of the activities for which regional resource consents are required. The conditions suggested by Greater Wellington enable the substantive issues raised by Greater Wellington to be addressed (noting that there are several issues that Greater Wellington considers must be resolved before the Panel decides on the approvals and imposes conditions). They are supported by a matrix that sets out the activities being authorised, the regional resource consents associated with each activity (if the Panel grants the approvals), and the conditions that apply to each consent. Greater Wellington considers that the conditions it has suggested in Appendix 1 are mechanically sound and are consistent with the SMART principles suggested by the Panel in Minute 5⁵.
5. Greater Wellington's position is that, following the resolution of the substantive issues, the conditions suggested by Greater Wellington could be adopted by the Panel in lieu of the conditions proposed by the Applicant, subject to any amendments that the Panel considers are necessary to provide for the resolution of the substantive issues and to fill identified placeholders.
6. Because its position on resource consent conditions is set out in Appendix 1 of its comments on the Application, Greater Wellington has not suggested any text changes to the Applicant's proposed conditions in response to Minute 6.
7. Notwithstanding this, Greater Wellington has reviewed mechanical amendments proposed by the Expert Panel to the Applicant's proposed conditions, and the Applicant's response. Greater Wellington considers that the Panel's amendments generally improve the mechanical quality of the conditions proposed by the Applicant. In response to the direction in Minute 6, Greater Wellington's comments are limited to the following specific mechanical matters:
 - (a) **Identifying relevant consent documents in an appendix (General Condition 1).**
Greater Wellington supports the Panel's proposed approach of specifying the

³ Greater Wellington Section 53 Comments, para. 245. See: https://www.fasttrack.govt.nz/_data/assets/pdf_file/0020/31961/08.-Greater-Wellington-Regional-Council-GWRC-comments-received.pdf

⁴ Greater Wellington Section 53 Comments, Appendix 1. See: https://www.fasttrack.govt.nz/_data/assets/pdf_file/0021/31962/08b.-GWRC-Appendix-1-Greater-Wellington-Draft-Regional-Resource-Consent-Conditions.pdf

⁵ SMART – conditions that are Specific, Measurable, Achievable, Relevant, and Time-based. Minute 5, para. 1. See: https://www.fasttrack.govt.nz/_data/assets/pdf_file/0012/31152/Minute-5-of-the-Panel.pdf

consent documents covered by Condition 1 in a schedule located in an Appendix to the conditions.

- (b) **Conditions prevail over Management Plans (General Condition 1).** Greater Wellington agrees with the Panel that the conditions of consent prevail over any management plans that may be certified under the conditions. Greater Wellington also notes that a management plan submitted for certification that did not meet the conditions of consent could not be certified in any case.
- (c) **Applicant and Consent Holder should not be defined terms (General Condition 2).** Greater Wellington considers that the terms “applicant” and “consent holder” should not be defined in the conditions, as this will add complexity to any future transfer of consents under sections 134, 136, or 137 of the RMA. Except for limited circumstances under section 136, consent conditions cannot be altered as part of the transfer of consents to any new consent holder. If either of these terms are defined in the conditions, they could not be changed as part of any transfer. This would result in misalignment between the any future consent holder (to which the consents may be transferred) and the applicant or consent holder as defined in the conditions.
- (d) **Lapse periods should not be set through consent conditions (General Condition 3 and District Conditions 4, and 5).** General Condition 3 proposed by the Applicant (which cross references District Conditions 4 and 5) attempt to establish various lapse periods for the consents by way of consent conditions. As a mechanical matter, Greater Wellington considers that neither the FTAA nor the RMA provides authority to impose conditions that determine the lapse period of the consents⁶. The determination of a lapse period is a separate decision made by the Panel under clause 26 of Schedule 5 to the FTAA and is not a condition of consent. Greater Wellington considers that the Panel’s decision on lapse periods can be recorded in the consent matrix at the head of the regional resource consent conditions.
- (e) **Independent arbitration of non-certification of management plans is inappropriate (Regional Condition 6).** Greater Wellington agrees with the Panel that Regional Condition 6 appears to inappropriately delegate the consent authority’s role in certifying a management plan to a third party. Greater Wellington notes the Applicant’s position that the condition only provides for the independent person to make a recommendation on certification, however Greater Wellington considers that the condition may create a legitimate expectation that the recommendation must be accepted by the consent authority, which effectively

⁶ Setting a lapse date by way of conditions implies that the lapse date could be amended through a change of conditions under section 127 of the RMA, whereas the process for amending a lapse date is separately provided for under section 125 of the RMA.

results in an inappropriate delegation of the consent authority's certification function. In addition to this, there is no clear trigger or event that would engage the condition, as the consent authority does not make a decision not to certify (it only makes a decision to certify). If the Applicant is concerned about uncertainty associated with the certification of management plans, this can be remedied by ensuring that management plan conditions clearly specify the purpose and specific requirements for each management plan⁷. Greater Wellington considers that the various management plan conditions it has suggested in Appendix 1 to its comments on the Application provide for this⁸.

8. Greater Wellington notes that these comments are provided without prejudice and reiterates that Greater Wellington's position on regional resource consent conditions is set out in its comments on the Application (including Appendix 1).

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⁷ The *Fast-track Approvals Act 2024: Panel Conveners' Practice and Procedure Guidance* provides further guidance on the development of management plan conditions (at section 21). Greater Wellington considers that the management plan conditions that it has suggested in Appendix 1 to Greater Wellington's comments on the application are consistent with this guidance. See: https://www.fasttrack.govt.nz/_data/assets/pdf_file/0022/8680/Panel-conveners-practice-and-procedure-guidance.pdf

⁸ Condition 4 in Appendix 1 to Greater Wellington's comments on the Application sets out the management plans that Greater Wellington considers are necessary, with cross-references to specific conditions that set out the objective and minimum requirements for each management plan. Greater Wellington notes that there is a typographical error in Condition 4(d), which should cross reference Condition 43. See: https://www.fasttrack.govt.nz/_data/assets/pdf_file/0021/31962/08b.-GWRC-Appendix-1-Greater-Wellington-Draft-Regional-Resource-Consent-Conditions.pdf