

Mt Welcome Expert Consenting Panel

C/- Environmental Protection Authority

By email: [REDACTED]

Private Bag 63002
Wellington
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2 September 2026

Whare Kaupapa Atawhai | Conservation House

PO Box 10420
Wellington
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doc.govt.nz
FTAA-2603-1181

Tēnā koe Mr Robinson,

Re: Response to Minute 15 of the Expert Panel

On 24 August 2026, the Department of Conservation (DOC) received Minute 15 of the Expert Panel for the Mt Welcome Fast-track application that contained an advance notice of a Request for Further Information. Minute 16 received on 28 August 2026 confirmed this request and confirmed a deadline of 12pm on 2 September 2026 for a number of requests.

This letter provides a response to the further information requested.

Request

[3] Our second line of inquiry is directed at Greater Wellington Regional Council and the Department of Conservation and relates to the definition of natural inland wetland. Both parties have referred us to Ministry for the Environment Guidelines purporting to explain the purpose of the 'pasture exception'. The thing we are interested in is whether either can point us to materials produced as part of the development of the National Policy Statement for Freshwater Management that could be considered in the implementation of orthodox rules of statutory interpretation and which would support the position set out in the MfE Guideline.

Response

DOC notes that in 2022, the Minister for the Environment made amendments to the National Policy Statement for Freshwater Management (NPS-FM) and the National Environmental Standards for Freshwater (NES-F). In doing so the Ministry for the Environment (MfE, or now MCERT), provided a s32 evaluation report¹ (the section 32 report).

The Section 32 report records that the pasture exclusion was intended to "...exclude highly modified wetland landscapes now utilised for pasture from the regulations, so they can continue to be used for pastoral purposes"². The report further states that the amendments were intended to ensure the exclusion "is applied as was intended", to "enable the continued use of highly modified wetland landscapes for pastoral purposes" and to "enable existing pastoral land use to continue"³.

DOC considers these statements provide clear and relevant context regarding the intended scope of the pasture exclusion. In particular, they indicate that the exclusion was developed in response to

¹ [Amendments-to-the-NES-F-and-NPS-FM-Section-32-report.pdf](#)

² Section 32 Report, page 30

³ Section 32 Report, page 31

issues arising from the application of the wetland regulations to land used for grazing and was directed toward the continuation of pastoral land use within highly modified landscapes, rather than for the conversion from pasture to urban development as proposed within this Project.

It is noted that the Project requires consent under regulation 45(c) of the NES-F for vegetation clearance and earthworks for the purpose's urban development. Following the completion of these activities, the pasture wetlands within the site will no longer be used for grazing and will instead be removed for the purposes of urban development. DOC therefore considers that this outcome is inconsistent with the intended purpose of the pasture exclusion provided in the NPS-FM, which was evidently introduced to enable the continuation of existing pastoral land use.

Request

[4] The third line of inquiry arises from the stance of a number of parties in their comments, suggesting that aspects of the project plan be redesigned. Suggestions that additional wetland offsetting or roadside raingardens are required for instance, if accepted, would require that additional areas be identified, land allocated potentially excluding other identified uses, and the relevant works designed. Another example is the urban design input of Mr Wenden on behalf of Porirua City Council suggesting, among other things, relocation of two proposed parks on the Lucas Block, but there are many others. The applicant has accepted some suggestions and rejected others.

[5] The question for the relevant parties (we identify the two councils, Department of Conservation, and Tiaki Wai, but there may be others) is whether we have jurisdiction to impose conditions either directly or indirectly requiring a redesign of the project over the applicant's objection, or whether our only option, assuming one or more of the preconditions in section 85 of the FTAA are met, is to decline the approvals sought.

Response

It is not clear whether the Panel may impose conditions requiring a redesign of the project over the applicant's objection. There are Panel decisions that have considered modifications and decline in part, being Ashbourne, Sunfield and Homestead Bay, however none of those decisions dealt with this specific situation.

Section 84 of the FTAA provides that the Panel may set conditions to ensure that the infrastructure in the project area or other infrastructure the project will rely on is or can be made adequate to support the project. If imposing such a condition would require the "downscaling" of the project to practically enable the infrastructure to be accommodated within the project footprint (e.g. the loss of a number of proposed new allotments to allow for satisfactory stormwater provision), then it would appear reasonable to read the conditions empowering provisions in Schedule 5 to also allow this through conditions.

The Panel is also empowered to impose conditions for the purpose of managing the adverse effects in accordance with section 108 of the RMA. That would be the reason for requiring more extensive wetland offsetting, so it seems reasonable that in order to "give" land for increased areas of wetlands, it could "take" this from another part of the project site which would otherwise be developed.

In modifying the proposal through conditions, the project would need to still provide regionally significant benefits at the as modified scale (i.e. less allotments being created).

On the other hand, it could be considered that the Panel must decide the applications on the basis of the proposal that is before it – i.e. it must take it or leave it, it must either grant or decline the application, and it may only decline the application if the requirements of s85 are met.

If the Panel considered it is unable to impose conditions modifying the proposal, its only choice would be to issue a draft decision declining part of the project in order to offer the applicant the opportunity to modify its proposal under s69. In order to do that, the Panel would need to be satisfied that the decline criteria in s85 were satisfied in respect of the part of the project to be declined – i.e. that the adverse impacts of that part outweigh the benefits.

We trust that the response adequately addresses the information requested. If there are further questions in relation to this response, please contact Terry Calmeyer at [REDACTED]

Nāku noa, nā



Linda Kirk
Fast Track Applications Manager



Department of
Conservation
Te Papa Atawhai