

Fast-track Approvals Act 2024

MINUTE #22 OF THE EXPERT PANEL

Conditions regarding the Technical Review Panel
Haldon Solar [FTAA-2508-1097]

31 July 2026

[1] The Panel is in receipt of the Applicant's response to the conditions workshop of 30 July 2026, together with a marked-up version of the conditions.

[2] As you know, the Panel, together with its draft decision, issued draft conditions. Those conditions provided for ongoing review of monitoring by a Technical Review Panel (TRP), and a 10-year review. That 10-year review involves the TRP having the ability to direct the Applicant to respond, and that response could include a determination directing the Applicant to pay compensation not limited by amount.

[3] The focus of the comments on the draft conditions by the s 53 parties and the conditions workshop hearing held on Tuesday 28 July 2026 was the enforceability of such conditions. There was a concern that unless the guidelines were set out more clearly in the conditions, they could be unenforceable.

[4] We record that the Panel has at all times understood that the condition for the TRP to be able to determine compensation was offered by the Applicant on an *Augier* basis. This was stated in the draft conditions attached to the Panel's draft decision (**Annexure 1**). There were frequent references to conditions being offered on an *Augier* basis in the workshop, and Mr Page expressly sought confirmation from the Applicant's condition expert, Mr Henry, that the powers of the TRP would be offered on an *Augier* basis. Mr Henry confirmed that they were.

[5] In the latest proposed conditions filed by the Applicant yesterday, Thursday 30 July 2026, the proposed powers of the TRP in relation to its powers to determine compensation

are significantly changed. The latest response by the Applicant dated 30 July 2026 in condition number 64 contains limits on compensation amounts. We note in particular that the upfront compensation for avifauna is recorded as being in full and final settlement of any compensation obligation. This is not the basis upon which the draft conditions and indeed the decision were written. It is fundamental to the Panel's understanding that the TRP's powers to determine compensation would be governed by the no net loss requirement, and not financial limits.

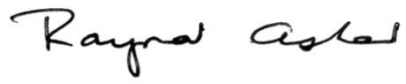
[6] We hope that this is just a misunderstanding. Please confirm that the provisions of the Panel's condition number 66 as attached to the draft decision (**Annexure 1**) (with amendments proposed during the conditions workshop hearing to meet the concerns about uncertainty) are within the powers of the Panel to impose on an *Augier* basis. We wish to make it clear that the application of the concept of no net loss in relation to threatened and at-risk species, and the TRP's ability to direct enforceable measures in the 10-year review to achieve this, are fundamental to the Panel's decision.

[7] Thus, for the avoidance of doubt, please confirm that the powers of the TRP contained in condition number 66 of the draft conditions attached to the draft decision released on 26 June 2026 will continue to be offered on an *Augier* basis (and as proposed in the Applicant's response dated 20 July 2026 at conditions number 63 and 64).

[8] For your convenience, we attach a copy of conditions number 63 and 64 of your response to our draft conditions dated 20 July 2026 as **Annexure 2**, which do not contain the limitations that are included in your response of 30 July 2026. We note that the *Augier* nature of the conditions offered was not contested based on your response dated 20 July 2026.

[9] We must emphasise that this is not a matter for negotiation. The Panel seeks the confirmation referred to in [7], and if the offer is withdrawn or qualified, the Applicant should say so, and the Panel will proceed accordingly.

[10] The response from the Applicant is sought by **9 am on Monday 3 August 2026**.

A handwritten signature in black ink that reads "Raynor Asher". The script is cursive and fluid, with the first name "Raynor" and last name "Asher" clearly distinguishable.

Hon Raynor Asher KC
Haldon Solar Panel Chair