

4 May 2026

FTAA-2502-1024 Manawa Energy - Kaimai Hydro Electric Power Scheme Reconsenting

Bay of Plenty Regional Council (BOPRC) Comments on Draft Conditions

1. Introduction

The Bay of Plenty Regional Council (BOPRC) appreciates the opportunity to comment on the draft conditions for the Kaimai Hydro Electric Power Scheme consent.

BOPRC have undertaken a review of the draft consent conditions and Minute 9 provided by the Expert Panel. This memo, and attached tracked change version of the conditions, provides BOPRC's comments on the draft conditions under s70 of the Fast Track Approvals Act 2024.

2. Comments on draft conditions

BOPRC broadly support the majority of the changes to the draft conditions as supplied by the Expert Panel.

BOPRC have no comments on the proposed changes in relation to:

- Minor wording or phrasing amendments (e.g. as proposed for condition 1.2 etc)
- Public access
- Recreational releases

Furthermore, BOPRC has no comment on the removal of the 'emergency conditions' advice note definition but suggests minor cross-reference updates in condition 1.14 to ensure all relevant conditions are captured.

2.1. Key conditions

BOPRC considers several of the draft conditions suite(s) to be critical to the management of environmental effects.

BOPRC has no comments on draft condition suites 2–11 (Scheme operations) or the Native Fish Management Plan conditions (13.1–13.4), noting the importance of these conditions in managing potential effects.

BOPRC's key suggested refinements (detailed in the sections below) relate to:

- i. closing the loop on sediment monitoring responses;
- ii. adding an action/certification pathway for water temperature monitoring;
- iii. consolidating review intent in condition 1.13; and
- iv. clarifying the engagement obligation in condition 15.7.

2.1.1. Sediment monitoring – draft conditions 12.1-12.4

In relation to sediment monitoring (condition suite 12), BOPRC supports the Expert Panel's inclusion of a clear "response" step where the Sediment Monitoring Report identifies recommendations to manage sediment/erosion effects (condition 12.4).

However, as drafted, the requirement appears relatively open-ended and does not clearly provide a mechanism for Council to confirm whether the proposed response (including any "no

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action” response) is appropriate. BOPRC therefore proposes adding a ‘written confirmation’ step to condition 12.4 to close the loop and improve clarity and enforceability. This approach may also help avoid reliance on a full s128 review process where matters can be appropriately resolved through a proportionate written confirmation pathway.

The proposed additions are demonstrated as 12.4(b)-(c) in the attached track changed version and outlined below (for ease of reference).

12.4 (a) In the event that the Sediment Monitoring Report includes recommendations to manage sediment or erosion effects caused by the continued operation of the Scheme (see Condition 12.2(c)iii) the Consent Holder must provide (with the Report) detail as to how it is proposing to respond to the recommendations and the reasons for its response.

(b) The proposed response must be submitted to the Bay of Plenty Regional Council for review and written confirmation and must not be implemented until that written confirmation has been provided. For the purposes of this condition, written confirmation means written notice from the Bay of Plenty Regional Council that it is satisfied the proposed response is consistent with the purpose of the monitoring set out in condition 12.1 and addresses the recommendations in the monitoring report.

2.1.2. Water temperature monitoring – draft conditions 14.1-14.3

In relation to water temperature monitoring (condition suite 14), BOPRC supports the monitoring and reporting framework, however, notes the suite is missing a clear action/implementation step in response to the monitoring outcomes.

BOPRC proposes adding a requirement (similar to the sediment monitoring suite) for the consent holder to provide, with the monitoring report, a proposed response to any recommendations and the reasons for that response. BOPRC also proposes including a review and written confirmation clause, prior to implementation of the response, to strengthen clarity and enforceability.

The proposed additions are demonstrated as 14.4(a)-(b) in the attached track changed version and outlined below.

14.4 (a) Where the water temperature monitoring report includes recommendations (including where results are inconclusive and further monitoring is recommended), the consent holder must provide, with the report, details of how it proposes to respond to the recommendations and the reasons for that response.

(b) The proposed response must be submitted to the Bay of Plenty Regional Council for review and written confirmation and must not be implemented until that written confirmation has been provided. For the purposes of this condition, written confirmation means written notice from the Bay of Plenty Regional Council that it is satisfied the proposed response is consistent with the purpose of the monitoring set out in condition 14.1 and addresses the recommendations in the monitoring report.

Additionally, the Applicant has advised BOPRC that condition 14.1 requires a correction to the downstream water temperature monitoring location. Specifically, the condition currently refers to “approximately 300 m downstream of the intake gates ... on a sharp bend in the channel of the Mangakarengorengo River”; the Applicant has re-measured this location and considers the distance is more accurately stated as approximately 360 m downstream. BOPRC supports this

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minor amendment for accuracy, and this change is demonstrated on the track changed version attached.

2.1.3. Review conditions

Furthermore, BOPRC suggests deleting part of condition 14.3, noting the intended review mechanism appears capable of being addressed through the overarching review condition (condition 1.13).

2.1.4. Mana Whenua Kaitiaki Rōpū – draft condition 15.7

BOPRC notes that condition 15.7 currently requires the Consent Holder to “consult with” any entitled entity that decides not to join, or to leave, the Mana Whenua Kaitiaki Rōpū (and to consult with the Rōpū). While the intent is supported, the term “consult” may be open to interpretation. To improve certainty and enforceability, BOPRC suggests either:

- i. retaining the word “consult” and adding an advice note to define what “consult” means for the purposes of this condition; or
- ii. amending condition 15.7 to specify minimum steps for engagement (e.g. provide relevant information, allow a reasonable opportunity to respond, and consider / respond to any feedback received).

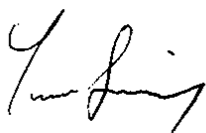
It is also noted that Council typically uses terminology such as “invite” when framing engagement obligations, to avoid placing requirements on third parties. The Panel may wish to consider whether further clarification of condition 15.7 would assist in clearly defining the consent holder’s obligations, while avoiding any unintended ultra vires effect.

3. Conclusion

With the proposed refinements set out above and shown in the attached tracked-changes, BOPRC considers the draft conditions provide an appropriate framework to manage effects, offering opportunities to strengthen certainty and enforceability in the key areas identified.

The principal matters raised relate to establishing a clear reviewed response pathway for monitoring outcomes (sediment and water temperature), relying on the overarching review condition (1.13) where formal full review may be required, and clarifying the engagement obligation in condition 15.7.

Should the Expert Panel require any further clarification, BOPRC is available to assist.



Yvette Shirley
Senior Consents Planner