

Memorandum

To: Puke Kapo Hau Mahinerangi Wind Farm Expert Panel
c/ Environmental Protection Authority

From: Sarah Edwards – Associate and Richard Turner – Partner of Mitchell Daysh

Date: 22 June 2026

Re: Applicant comments on FTAA-2510-1125 Puke Kapo Hau Mahinerangi Wind Farm Stage 2
Fast-track Draft Conditions

1. INTRODUCTION

We refer to the Mahinerangi Wind Farm Expert Panel's Minute 8 dated 15 June 2026, issued under section 70 of the Fast-track Approvals Act 2024 (FTAA), inviting comments on the draft conditions for the Puke Kapo Hau Mahinerangi Wind Farm Stage 2.

The Applicant, Tararua Wind Power (TWP) acknowledges the Panel's draft finding that, having considered all relevant matters, Stage 2 of the Mahinerangi Wind Farm, Puke Kapo Hau, meets the purpose of the FTAA because it will deliver infrastructure with significant regional and national benefits. TWP also acknowledges the Panel's draft decision to grant approvals for the application, subject to conditions.

Overall, TWP supports the draft conditions. The matters relating to conditions that are addressed below, and further explained in the Appendices to this memorandum, are limited to points on which TWP considers clarification and/or amendment would assist in ensuring the final conditions are clear, workable and consistent with the Panel's draft decision.

Where TWP is seeking amendments to draft condition wording, these are shown in track changes in the Appendices to this memorandum.

2. OTAGO REGIONAL COUNCIL LAND USE CONSENT, WATER PERMIT AND DISCHARGE PERMIT (RMFT25.008.01) – GENERAL CONDITIONS

2.1 GENERAL CONDITION G4 – EXERCISE OF CONSENT

General Condition G4 proposed by TWP gives effect to section 134(1) of the Resource Management Act 1991 (“RMA”) by confirming that the consents may only be exercised by the Consent Holder, its successor, or a person acting with the Consent Holder’s prior written approval.

While TWP acknowledge the Panel’s intention to streamline the conditions, we respectfully consider that reinstating G4 is important and appropriate to provide clarity as to who is authorised to exercise the consents. In the absence of this condition, there is a risk that third parties may purport to rely on or exercise the consents without the Consent Holder’s authorisation. The same condition has been proffered and imposed on other wind farm consents including Waipipi and Kaiwaikawe wind farms.

Reinstating this condition would therefore ensure that the exercise of the consents remains appropriately controlled, consistent with the intent of section 134(1).

For these reasons, TWP request that General Condition G4 is reinstated.

This proposed amendment is shown in **Appendix 1**.

2.2 GENERAL CONDITIONS G12 AND G13 – ENVIRONMENTAL MONITORING AND REPORTING PLAN

General Condition G12 sets out the certification process for management plans. The Panel has expanded the matters to identify the full suite of management plans associated with specific activities. In doing so, it has included the Environmental Monitoring and Reporting Plan (EMRP), which is not a management plan.

With respect, TWP does not consider it appropriate for the EMRP to be included in condition G12 or G13 as it is not practicable for the EMRP to be provided to the Consent Authority for certification not less than 20 working days prior to the commencement of construction works.

As proposed by TWP, the condition required the report to be prepared on an annual basis and to cover the preceding 12-month monitoring period. In practical terms, this makes the report retrospective in nature, rather than a pre-construction deliverable. It relies on monitoring having

already been undertaken over a continuous period and is intended to report on outcomes and trends observed during that time.

While some pre-construction monitoring (for example, wetland baseline monitoring) is required, the reporting of that monitoring is appropriately addressed through the relevant management plans and their associated conditions, rather than through the EMRP.

Accordingly, prior to the commencement of construction, there will be no 12-month monitoring dataset available from which to prepare the EMRP. Requiring certification of the report before works commence would therefore be inconsistent with both the stated purpose of the EMRP (and its related Condition G30) and the timing of the information it is intended to capture.

For these reasons, TWP considers that the existing annual reporting framework set out in General Condition G30 - triggered from the date of commencement of the resource consents and based on the preceding 12 months of monitoring - is the appropriate approach.

This proposed amendment is shown in **Appendix 1**.

2.3 GENERAL CONDITION G21 – CHEMICAL TREATMENT MANAGEMENT PLAN

A minor editorial change is suggested to the Chemical Treatment Management Plan which currently has the acronym (CTMP) and shares the same acronym as the Construction Traffic Management Plan. To differentiate between the two management plans, it is suggested that the acronym for the Chemical Treatment Management Plan be amended to ChTMP. This update affects a number of conditions.

This proposed amendment is shown in **Appendix 1**.

2.4 GENERAL CONDITION G26 – WETLAND MONITORING AND MANAGEMENT PLAN

General Condition G26 sets out the objective of the Wetland Monitoring and Management Plan (WMMP). The Panel has made several editorial amendments to reflect its findings regarding offsetting and compensation, including replacing “manage” with “minimise” in clause (a).

With respect, offsetting/compensation does not constitute minimisation within the National Policy Statement for Freshwater Management 2020 effects management hierarchy, and as such the use of “including” in this context appears incorrect. In TWP’s view, “manage” is more appropriate. The role of the WMMP is to monitor for potential effects and to respond through appropriate management actions.

Further, the Panel's amendments to matter (c) result in wording that is not grammatically consistent with the preceding clauses.

In light of the above, TWP respectfully seeks that Condition G26 be amended (shown in red text) as follows:

G26 *The objective of the Wetland Monitoring and Management Plan (WMMP) is to:*

- a) ~~Minimise Manage~~ actual or potential adverse effects ~~to maintain on~~ the long-term ecological health and function of wetlands ~~including through offsetting and compensation where identified in the Wetland and Aquatic Offsetting and Compensation Plan as a result of the construction works;~~
- b) ~~Monitor~~ wetlands within 100 metres of ~~proposed~~ construction works ~~and implement to inform~~ appropriate management measures to ensure (a) is achieved; and
- c) ~~Ensure that~~, following completion of construction, ~~adverse effects on~~ wetland ecological health and function ~~is-are monitored to ensure that are appropriately managed through post-construction monitoring in accordance with the monitoring periods specified in this Plan of any adverse effects.~~

The proposed amendments are shown in **Appendix 1**.

2.5 GENERAL CONDITION G30A – ENVIRONMENTAL MONITORING AND REPORTING PLAN

TWP acknowledges the Panel's view that the EMRP should be provided to the Department of Conservation (DOC) and Te Rūnaka o Ōtākou and proposes amending the condition accordingly to provide for this.

However, TWP considers it necessary to clarify the purpose and effect of that provision. Specifically, TWP's requested amendment to General Condition 30A below makes it clear that the annual report will be provided to DOC and Te Rūnaka o Ōtākou for information purposes (i.e. that receipt of the report does not create any obligation for consultation, review, approval, certification, or feedback). The requested amendment is as follows:

G30A *The Consent Holder must prepare and submit an annual Environmental Monitoring Report to the Consent Authority prior to each anniversary of the commencement of the resource consents. The report must set out the monitoring results in accordance with the conditions of these resource consents and must cover the preceding 12-month monitoring period. As a minimum, the Environmental Monitoring Report must:*

- a) [...]

- f) *Be provided to the Department of Conservation and Te Rūnaka o Ōtākou for information purposes only.*

This clarification is important to ensure that the condition accurately reflects the statutory framework. As the consent authority, the ORC is responsible for monitoring compliance with, and enforcing, the resource consent conditions. While DOC and Te Rūnaka o Ōtākou are important stakeholders with an interest in the environmental outcomes of the proposal, they do not hold a regulatory or decision-making role in relation to these consents.

Without this clarification, there is potential for ambiguity as to whether an ongoing feedback or approval role is intended, which could inadvertently expand the scope of the condition beyond its intended purpose and create uncertainty for the Consent Holder and other parties.

The proposed wording therefore gives effect to the Panel’s intention (as understood by TWP) that the report be shared, while ensuring the condition remains clear, certain, and consistent with the respective roles and functions of the parties involved.

This amendment is shown in **Appendix 1**.

3. OTAGO REGIONAL COUNCIL LAND USE CONSENT (RMFT25.008.02) – CONDITION 2A FISH PASSAGE GUIDELINES

TWP recognises the Panel’s finding that the Lee Stream Tributary culvert has been designed in accordance with the New Zealand Fish Passage Guidelines. In the draft conditions, the Panel has amended ORC Land Use Consent RMFT25.008.02 to include a requirement to apply those guidelines, noting that achieving fish passage outcomes equivalent to those currently present will depend on the final culvert design.

TWP accepts the Panel’s approach of requiring application of the guidelines, and agrees that, with the additional conditions, Regulation 70 of the NES-F is properly addressed. However, TWP seeks to frame the requirement so that the final design is “consistent with”, rather than strictly in accordance with, the Guidelines. Accordingly, TWP requests a minor refinement to the wording as follows:

[The Design of the Culvert shall be] ~~in accordance~~ consistent with the New Zealand Fish Passage Guidelines 2024.

The wording “be consistent with” aligns with the equivalent FTAA Southland Wind Farm Condition¹ and reflects the outcome-focused nature of the New Zealand Fish Passage

¹ CM14

Guidelines, which require the application of site-specific engineering judgement rather than strict compliance with all aspects of the guidance. This approach aligns with the Panel's acknowledgement that achieving equivalent fish passage outcomes will depend on the final culvert design.

We address the issue of the activity status of the culvert under Regulations 70 and 71 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020, as amended 2026 (NES-F) in section 8 of this Memorandum.

TWP and ORC representatives have engaged further since the issuance of the draft decision on the issue of fish passage in the Lee Stream culvert. ORC is seeking additional conditions to RMFT25.008.02 on the certification of the final culvert design. TWP has considered the additional conditions advanced by ORC and confirms its agreement to those additional conditions irrespective of the Panel's findings on application of Regulations 70 and 71 of the NES-F.

This suggested amendment is shown in **Appendix 1**.

4. CLUTHA DISTRICT COUNCIL LAND USE CONSENT RM1409 VARIATION

4.1 LEGAL PROTECTION OF WETLAND AND AQUATIC OFFSETTING AND COMPENSATION SITES – CONDITION 14A / FIGURES 3 AND 4

TWP has updated Condition 14A to include the legal description of the Wetland Offsetting and Compensation Site and attached Figure 3 (Wetland Offsetting and Compensation Site) and Figure 4 (Aquatic Offsetting and Compensation Site).

These changes are shown in **Appendix 3**.

4.2 STAGE 2 SITE DEVELOPMENT PLAN – CONDITION 25I / FIGURE 5

TWP has attached Figure 5: Map 1 – Puke Kapo Hau Stage 2 Layout Plan.

This change is shown in **Appendix 3**.

4.3 FALCON MONITORING – CONDITION 27

The Panel has included wording in Condition 27 to provide that the falcon mitigation programme includes, but is not limited to, relevant matters identified in the Avifauna Management Plan and other material submitted as part of the Application.

TWP supports this approach but proposes a refinement to ensure that the programme clearly encompasses both monitoring and mitigation, and that it is undertaken in accordance with the relevant documents. These changes are as follows:

[...]

For Stage 2, the falcon monitoring and mitigation programme shall be undertaken in accordance with include, but not necessarily be limited to, relevant matters identified in the Avifauna Management Plan, that forms Part C of the Puke Kapo Hau - Mahinerangi Wind Farm Stage 2 – Fast-Track Approvals Act Application dated 31 10 2025 and subsequent amendments as at 5 June 2026.

This change is shown in **Appendix 3**.

4.4 FIGURE 2

As a consequence of the inclusion of “compensation” within the Wetland and Aquatic Offsetting Area, updated labelling has been provided for Figure 2 in Land Use Consent RM1409. This update is provided in **Appendix 3**.

5. CLUTHA DISTRICT COUNCIL TRANSMISSION LINE, SUBSTATION AND BESS LAND USE CONSENT – AVIFAUNA MANAGEMENT PLAN (CONDITIONS 15, 16, 28 AND 30A)

TWP notes that Conditions 15, 16 and 28 have been expanded in the Panel’s draft conditions to list all management plans under the ECMP, including the Avifauna Management Plan (AviMP). TWP respectfully considers that this requires amendment because the AviMP is not directly applicable to the transmission line works authorised by this consent.

TWP also notes that draft Condition 30A has been added on the basis that it is relevant to construction effects on South Island pied oystercatcher (SIPO). (Condition 30A appears to have been drawn from RM1409.) TWP accepts that avifauna management measures are relevant to the wind farm development area but considers that Condition 30A should be deleted so that it does not inadvertently apply the AviMP to transmission line works outside that area.

The AviMP is directed to managing the potential construction and operational effects on SIPO and falcon within the Wind Farm Development Area. These effects do not extend to the transmission corridor that sits outside of Wind Farm Development Area. The construction related effects of concern for SIPO and falcon primarily relate to the potential disturbance of nesting. As outlined in Section 9.2.1 of the Mahinerangi Wind Farm: Avifauna Assessment (Boffa Miskell, 2025), SIPO are more likely to nest on excavated ground, and areas of bare earth and

gravels, than on pasture. This explains why the observations of pied oystercatcher were concentrated on the stony margins of roads and tracks, and on the compacted dirt and gravel pads around turbines within the Stage 1 area of the Wind Farm. Given this known nesting habitat preference for SIPO and the observations of SIPO nesting from Stage 1 construction, measures to manage potential effects on nesting SIPO during Stage 2 construction are focused on the Wind Farm Development Area within which the most suitable nesting habitat for SIPO is likely to occur.

As outlined in Section 9.1.1 of the Mahinerangi Wind Farm: Avifauna Assessment (Boffa Miskell, 2025), falcon are not currently nesting within the Wind Farm Development Area. All known nest sites are located >1.0 km to the west of the Wind Farm Development Area except for one potential site at Broad Stream located within 500 m from the eastern boundary of the Wind Farm Development Area, all of which are >1.0 km from the transmission corridor. The AviMP requires a 500 m buffer around falcon nests from construction activities which will avoid construction related effects. The transmission corridor does not contain suitable nesting habitat for falcon, therefore measures to manage the potential effects on nesting falcon from Stage 2 construction of the Mahinerangi Wind Farm are focused on the area within the Wind Farm Development Area and within 500 m of its boundary.

Potential operational effects on SIPO and falcon are outlined in Sections 9.1.2 and 9.2.2 of the Mahinerangi Wind Farm: Avifauna Assessment (Boffa Miskell, 2025). These include displacement from habitat, collision risk with turbines, and potential electrocution or collision risk with transmission lines. Displacement and turbine collision risks are confined to the Wind Farm Development Area, and measures to manage these effects are detailed in the AviMP. The potential risks from electrocution and collision were assessed for avifauna including South Island pied oystercatcher and falcon. This assessment found no construction or operational effects from the transmission line that would require specific management measures under the AviMP. Accordingly, the AviMP does not need to extend to transmission line activities outside the Wind Farm Development Area, including the transmission poles located beyond that area.

For that reason, TWP respectfully requests that Conditions 15, 16 and 28 are amended to remove reference to the AviMP and that Condition 30A is deleted. These changes are shown in **Appendix 2**.

6. WILDLIFE APPROVAL CONDITIONS

Condition 3 requires that the collection of bird carcasses within the Wind Farm Development Area be undertaken under the supervision of the person identified in (a), namely a Level 3 NZNBBS certified operator with documented eastern falcon experience. TWP considers that this

requirement is unnecessarily restrictive. The collection of bird carcasses does not require specialist falcon handling expertise, and it is more appropriate that this task be undertaken by any suitably qualified and experienced person.

As currently drafted, the condition would require any staff member who discovers a dead bird to engage the falcon specialist before the carcass can be collected. This introduces potential delays in retrieval, increasing the risk that the carcass is removed by predators or undergoes further decomposition, thereby compromising the ability to determine cause of death through necropsy. Expertise in handling live eastern falcon does not translate to expertise in the collection and handling of deceased birds.

TWP request Wildlife Condition 3 is amended as follows:

3 *Personnel Authorised to undertake the Authorised Activity*

(Schedule 2, clause 3)

Activities A.(a) and ~~BA.(b)~~

- a) Any Level 3 NZNBBS certified operator with documented eastern falcon experience;*
- b) Any suitably qualified and experienced person ~~under the supervision of the person in (a) undertaking~~ Activity ~~EA.(eb)~~*
- c) Tony Payne, herpetologist of Blueprint Ecology; or any suitably qualified and experienced person with equivalent qualifications and experience.*

This change is shown in **Appendix 5**.

7. *ARCHAEOLOGICAL AUTHORITY CONDITIONS*

TWP has no comments on the archaeological authority conditions.

8. *APPLICATION OF REGULATIONS 70 AND 71 TO CULVERTS UNDER THE NES-F*

This section is intended to assist the Panel by clarifying TWP's position on the application of Regulations 70 and 71 of the NES-F to the proposed Lee Stream tributary culvert and identifying implications for the final conditions.

8.1 CONTEXT: NES-F CULVERTS FRAMEWORK – REGULATION 70 (PERMITTED ACTIVITIES) AND 71 (DISCRETIONARY ACTIVITIES)

Regulation 70 (permitted activities) of the NES-F provides that a culvert is a permitted activity, if the conditions in 70(2) are met.

Where one or more of the conditions in Regulation 70(2) will not be complied with, Regulation 71 (discretionary activities) applies. Regulation 71(2) requires that a resource consent granted under Regulation 71 must impose conditions relating to the information requirements in Regulations 62 and 63, as well as the monitoring and maintenance requirements in Regulation 69.

Regulations 62, 63, 69, 70 and 71 are set out in **Appendix 6** of this memorandum.

8.2 CONTEXT - THE DRAFT DECISION

The draft decision correctly records at [381] that TWP's position has consistently been that Regulation 70 applies to the Lee Stream tributary culvert and that the culvert can therefore be installed as a permitted activity.

The draft decision also records at [381] that ORC had indicated Regulation 71 applies, and that ORC had signalled technical concerns relevant to whether the culvert will comply with Regulation 70(2)(a) (fish passage) and (c) (water velocity).

The draft decision then concludes at [382]:

*The Panel considers that installation of the culvert and associated works to establish the Lee Stream tributary crossing **can be considered a discretionary activity under Regulation 71** because it is not certain that Regulation 70(2)(a) and (c) will be met, although all efforts have been focussed on attempting to achieve the outcome of providing for the same passage of fish upstream and downstream as would exist without the culvert and vehicle crossing. The Panel note that detailed design is yet to be finalised. [Emphasis added.]*

As outlined in the draft decision, TWP advanced the substantive application on the basis that the Lee Stream tributary culvert can be constructed as a permitted activity under Regulation 70, and the conditions proposed by TWP reflected this. This was addressed in a number of places in the substantive application material.² TWP maintains that Regulation 70 applies.

² See section A.06 (Substantive Application Report Approvals Needed and Sought under the FTAA), pg 73; and section B.11a (Riley Civil Engineering assessment), pg 44 of the substantive application. Also see response to s53 comments

ORC addressed the application of Regulations 70 and 71 of the NES-F in its comments on the proposal under s53 of the FTAA.³ Following the release of the draft decision, ORC has confirmed to TWP that it seeks new resource consent conditions (2A, 2B and 2C) relating to certification of the final culvert design in order to demonstrate compliance with Regulation 70 (i.e. with the additional conditions, ORC considers that Regulation 70 of the NES-F applies). TWP accepts the imposition of new conditions 2A, 2B and 2C.

8.3 TWP'S COMMENT ON DRAFT CONDITIONS

If, in its final decision, the Panel maintains the position in the draft decision that installation of the culvert is a discretionary activity under Regulation 71, then TWP considers that the NES-F resource consent conditions for the project need to be amended to ensure they strictly incorporate the requirements of Regulations 62 and 63 (information requirements), and 69 (monitoring and maintenance requirements). As outlined, Regulation 71(2) requires that a resource consent granted under Regulation 71 must impose the conditions required by Regulations 62, 63, and 69.

If the final decision is that installation of the culvert is a discretionary activity under Regulation 71, TWP therefore seeks that the updated conditions accompanying this memorandum (see in particular the new conditions proposed in **Appendix 4**) should be imposed by the final decision. While some of the conditions originally proposed by TWP and attached to the draft decision already cover some matters relevant to the conditions in Regulations 62, 63, and 69,⁴ the updated conditions attached to this memorandum are needed in TWP's view to ensure strict compliance with NES-F regulation 71(2).

For completeness, if the final decision is that the culvert can be installed as a permitted activity under Regulation 70 of the NES-F (i.e. the position of TWP and ORC), then TWP considers the relevant conditions applying to the Lee Stream tributary culvert can revert to those contained in the draft decision (i.e. the new conditions proposed in **Appendix 4** are not required) together with the new conditions 2A, 2B and 2C sought by ORC.

– in particular, Part 2-1 (Luke Gordan's Statement of Evidence) Addendum Report; and Part 3.1 (Comments Received from Local Authorities) at comment number 3.1.22 and 3.1.24.

³ See, for example, Table 2, pg 11 and pgs 25-26 of ORC's section 53 response; and Mr Morgan's memo provided with ORC's comments (Appendix B1), pg 5.

⁴ For example, proposed Land Use Consent (RMFT25.008.02) Conditions 4 and 8 partially address the requirements of Regulations 62(2) and 63(3), requiring specified information to be collected and provided to the regional council within 20 working days of completion of the activity

9. OTHER MATTERS

9.1 CLUTHA DISTRICT COUNCIL TRANSMISSION LINE, SUBSTATION AND BESS LAND USE CONSENT – CONDITION 68.

Following further detailed design and logistical assessment, it has become apparent that a modest increase in track width on bends is necessary to safely accommodate transmission line pole delivery vehicles. This refinement is limited in scope and does not alter the overall extent or intent of the access track network or extend the access track network into identified natural wetlands or within 10m of natural wetlands. Riley Consultants (Mr Luke Gordon), Isthmus (Mr Lister), SLR (Dr Rate) and Mitchell Daysh (Ms Sarah Edwards and Mr Turner) have confirmed to TWP the acceptability of the minimal effects arising from the amendment.

Accordingly, TWP propose that Condition 68 be amended as follows:

68 All access tracks must have a:

Maximum overall length of 8.8km; and

Maximum width of 4.5m *widening up to 7m on bends.*

This amendment aligns with the same approach taken in RM1409 which allows localised widening on bends to enable the safe transportation of large wind farm components.

TWP consider this amendment to be a practical and proportionate response to operational requirements, while maintaining alignment with the original design parameters and minimising environmental (including terrestrial vegetation and wetlands) and visual effects.

This requested amendment is shown in **Appendix 2**.

10. MINOR CORRECTIONS TO DRAFT DECISION

At [25] the draft decision identifies key matters said to comprise the scope of the variation to RM1409. While some are broadly accurate in a practical sense of what may be constructed, TWP considers that some of the listed items are not, in fact, matters for which a variation is sought. Rather, they are characteristics of the proposal that are not constrained by, or limited in, the existing consent, and therefore are not technically the subject of the proposed variation under s127 of the RMA.

In particular:

- > An increase in rotor diameter from 90 metres to 136 metres; and
- > An increase in turbine capacity from 2-3 MW to 4.3 MW.

These aspects are not currently subject to any limiting conditions within the existing consent and, as such, do not necessitate identification as matters being varied. TWP does not seek the imposition of any new restriction on rotor diameter or individual turbine capacity through this process, noting that such matters may change during the detailed design and procurement stage.

Accordingly, TWP requests that paragraph 25 be corrected to remove reference to these matters as components of the variation. TWP considers there are minor corrections/clarifications only.

11. CONCLUSION

In summary, TWP largely supports the draft conditions. The comments provided above focus on aspects where TWP considers that further clarification and/or amendment would be beneficial to ensure the final conditions are clear, practical, and consistent with the Panel's draft decision. TWP would be happy to provide any additional information or assistance should the Panel require it.





APPENDIX 1

Otago Regional Consent Conditions
TWP Comments



2

APPENDIX 2

Clutha District Council Consent
Conditions TWP Comments



3

APPENDIX 3

Clutha District Plan RM1409 Variation
Conditions TWP Comments



4

APPENDIX 4

NES-F Regulation 71 Consent



5

APPENDIX 5

Wildlife Approval Conditions TWP
Comments



6

APPENDIX 6

NES-F Regulations

