

**BEFORE AN EXPERT PANEL
MT WELCOME, PUKERUA BAY, PORIRUA PROJECT**

FTAA-2603-1181

Under the

FAST-TRACK APPROVALS ACT 2024

In the matter of

an application by Pukerua Property Group Limited
Partnership for approvals for the Mt Welcome, Pukerua Bay,
Porirua Project

JOINT WITNESS STATEMENT

PLANNING REVIEW OF APPLICANT PROPOSED CONDITIONS

14 September 2026

SCOPE

1. This Joint Witness Statement (**JWS**) has been prepared in response to Minute 13 (and taking into account Minute 14). In Minute 13, the Panel directed the planners for the applicant and Councils to provide a single set of applicant-proposed conditions noting differences of opinion on drafting between the planners [Minute 13 para 5]. The Panel has stated that this will be the “master” set going forward [Minute 18 para 2].
2. The Panel also requested comments from all three planners on the Panel's "technical review" table included with Minute 13 [Minute 13 para 9]. The planners have considered the Panel's comments in this table during conferencing but have not included a written response to this table as part of this JWS. This is because several of the reports referred to this table relate to substantive infrastructure and ecology issues that are currently unresolved, and the planners consider that it would be more appropriate to provide a response to this table after those matters have been resolved (if the Panel considers it necessary at that time). The planners' efforts have therefore been focussed on providing the Panel with the “master set” it has requested.
3. The following planners are party to this JWS:
 - (a) Mr Torrey McDonnell (**TM**), planner for the Applicant (Pukerua Property Group Limited Partnership);
 - (b) Mr Andrew Banks (**AB**), planner for Greater Wellington Regional Council (Greater Wellington);
 - (c) Mr Rory Smeaton (**RS**), planner for Porirua City Council (PCC).
4. Mr Tom Anderson (planner for the Applicant) provided assistance to Mr McDonnell for one day of expert conferencing but is otherwise not a party to this JWS.
5. As directed by the Panel, this conferencing has focussed on the “mechanics” of the applicant's proposed conditions. The “mechanics” of conditions refers to the drafting of conditions, whether they are clear, certain, and enforceable, and how they function individually and as a set. The mechanical principles for the drafting of conditions are discussed in the next section of this JWS.

6. We note that the starting points for the review of the regional and district consent conditions are different. Greater Wellington included a set of conditions as part of its Section 53 comments which has been used as a basis for reviewing the Applicant's conditions. PCC's review follows on from Minute 6 mechanical review and PCC's comments on that review and seeking to resolve outstanding matters of disagreement identified through that process.
7. Where substantive issues could not be untangled from mechanical matters, we have addressed various substantive matters as far as practicable. The proposed conditions clearly identify where there is disagreement on substantive matters.
8. We note that there remain unresolved substantive issues that are currently before the Panel. For example, our conferencing has not considered conditions tabled as part of JWS from other technical experts. We consider that once these matters have been resolved, there would be merit in further conferencing by the planners to ensure that any amendments to the condition set are mechanically sound.
9. This review of conditions has not sought to resolve issues raised by any other party. In particular, Tiaki Wai as the new water services entity will have an interest in the substance and drafting of engineering and infrastructure conditions and stormwater consent conditions.

CODE OF CONDUCT

10. This joint witness statement is prepared in accordance with the Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2023. Unless stated otherwise, the issues addressed in this joint witness statement are within our area of expertise and we have not omitted to consider material facts known to us that might alter or detract from the opinions we express.

MECHANICAL PRINCIPLES FOR DRAFTING CONDITIONS

11. We agree with the mechanical principles set out below and have had regard to these principles when undertaking the review of the applicant's proposed conditions.

General principles

12. The statutory provisions for drafting resource consent conditions under the Fast-track Approvals Act 2024 (**FTAA**) are set out in:
 - (a) Schedule 5 clause 18 of the FTAA (which refers to sections 108, 108AA, and 220 of the RMA);
 - (b) Section 83 of the FTAA (which provides that conditions are no more onerous than necessary);
 - (c) Section 84A of the FTAA (which provides for conditions relating to the adequacy of infrastructure).
13. Paragraph 10.4(e) of the [Environment Court Practice Note 2023](#) sets out the standards of good practice for drafting resource consent conditions.
14. Conditions must be SMART (specific, measurable, achievable, relevant, and time-based).

Condition 1 (in general accordant)

15. Condition 1 (the "in general accordant" condition) sets the scale, nature and character of the activities that have been authorised by the consents, and the ways in which the adverse effects of those activities are generally to be managed. By its nature, the Condition 1 is general and not specific.
16. Condition 1 cannot be relied on where the management of an adverse effect requires specific action to be undertaken, specific outcomes to be achieved, or specific standards to be met. Where this is the case, those matters must be provided for through specific conditions.

Management plan, monitoring, maintenance, and adaptive management conditions

17. Management plan conditions must:
 - (a) Specify the objective for the management plan;
 - (b) Specify the matters that must be included in the management plan;
 - (c) Identify a suitably qualified and experienced person (SQEP) to prepare the management plan;
 - (d) Identify the consent authority that is responsible for certifying the management plan;

- (e) Not provide for matters that are beyond the regulatory scope of the consent authority.
18. If there is a performance standard or minimum requirement that must be achieved, this must be set in a condition and cannot be deferred to a management plan. Trigger levels for monitoring or adaptive management may be set in a management plan, so long as the management plan condition prescribes how these trigger levels are to be set.
19. Where a performance standard must be achieved over a specified period of time, conditions must also require monitoring and/or maintenance to be undertaken to demonstrate that the performance standard is met over that period.
20. Where there are conditions that require monitoring against a trigger level or performance standard, there should also be conditions that set out what the consent holder must do if the results of monitoring demonstrate that trigger levels or performance standard is not being met.

Detailed design conditions

21. Detailed design conditions must:
- (a) Specify the purpose of the detailed design;
 - (b) Specify the Condition 1 documents on which the detailed design is to be based;
 - (c) Specify the particular requirements that must be met by the detailed design, including information requirements and design standards (if any) that must be met;
 - (d) Provide that the detailed design is prepared and certified by a SQEP.

Other matters

22. Cross-referencing the provisions of any national direction or regional or district plan should be avoided. If those provisions set out requirements that need to be provided for in conditions, the conditions must state those requirements, rather than cross referencing the provisions. Where this is not practicable (for example, due to the length of the provision being cross

referenced), then the revision and date of the document within which the provision is contained must be stated in the condition.

REVIEW OF APPLICANT PROPOSED CONDITIONS

23. **Attachment 1** contains the results of our review of the applicant's proposed conditions, being an updated set of conditions that is intended to function as the "master set" requested by the Panel. The starting point for this set was the Panel's SMART review of the applicant's proposed conditions attached to Minute 5¹. **Attachment 1** comprises three separate documents, being General Conditions, District Conditions, and Regional Conditions.
24. Consistent with the Panel's desire for a master set, the set contained in **Attachment 1** is provided as a clean version, except where tracked changes are shown for matters that remain unresolved. For clarity, tracked changes from the Minute 5 set are not shown, and except in very limited circumstances, all comment boxes have been removed.
25. The following conventions have been used:
- (a) Text that is not shown highlighted is agreed between the planners;
 - (b) Conditions that have been deleted are identified as [deleted] (with their original condition number retained);
 - (c) Additional conditions are identified with a letter suffix after the condition number;
 - (d) General conditions that apply to all consents have a G prefix, district consent conditions have a D prefix, and regional consent conditions have an R prefix;
 - (e) Text shown in yellow represents text proposed by the applicant that is disputed by the relevant Council planner, or is a substantive issue that is yet to be resolved;
 - (f) Text shown highlighted in blue represents text that the relevant Council planner seeks to be amended or added to the condition set, but which the applicant's planner does not agree to, or is a substantive issue that is yet to be resolved. Note that:

¹ https://www.fasttrack.govt.nz/data/assets/pdf_file/0013/31153/Appendix-1-to-Minute-5.pdf

- (i) For the District Conditions in **Attachment 1**, tracked changes are not shown, as the text shown highlighted in blue are straight additions to the condition that RS considers are necessary, but which are not agreed by TM;
- (ii) For the Regional Conditions in **Attachment 1**, tracked changes are shown, as the text shown highlighted in blue comprises both amendments and additions to conditions that AB considers are necessary, but which are not agreed by TM.

Date: 14 September 2026



Mr Torrey McDonnell



Mr Andrew Banks



Mr Rory Smeaton