

Report prepared in accordance with Section 17 Covid-19 (Fast-track Consenting) Act 2020

Application 2023-138 Ōpunake Solar Farm Project

To:	Required action:
Hon David Parker, Minister for the Environment	Consider this report prior to making a decision under section 24 of the FTCA
Date submitted: 16 May 2023	

Ministry for the Environment contacts

Position	Name	Cell Phone	1 st Contact
Principal Author	Stephanie McNicholl		
Acting Manager	Rebecca Perrett	s 9(2)(a)	✓
Acting Director	Lorena Stephen	s 9(2)(a)	

Introduction

1. The Ministry for the Environment has prepared this report in consultation with the Office for Māori Crown Relations – Te Arawhiti and in accordance with section 17 of the Covid-19 Recovery (Fast-track Consenting) Act 2020 (the FTCA).
2. To satisfy obligations under section 6 of the FTCA, you must consider this report before you make any decision under section 24 of the FTCA regarding the application request to refer the Ōpunake Solar Farm Project (project) to an expert consenting panel (panel).

Proposed project

3. The applicant (Energy Farms Limited) proposes to develop an approximately 188-hectare site into a solar farm development comprising 2 properties located at 574 and 575 Kina Road, Ōpunake, Taranaki region.
4. The project will involve the construction of approximately 152,000 solar panels, occupying approximately 180 hectares, that will connect to and supply electricity to the National Grid. The solar farm will have an approximate installed capacity of 80-110 peak Megawatts.
5. A location map is in Attachment 1.

Essential information

6. The following information is required under section 17(3) of the FTCA for the project area.

FTCA Section	Information required	Detail	
17(3)(a)	Relevant iwi authorities	1	Refer Iwi authorities section below. Contact details are in Attachment 2
17(3)(b)	Treaty settlements that relate to the project area	1	
17(3)(a)	Relevant Treaty settlement entities	1	
17(3)(c)	Relevant principles and provisions of the Treaty settlements	Details in blue-shaded section below	
17(3)(d)	Groups with a negotiation mandate recognised by the Crown which are yet to commence Treaty settlement negotiations	N/A	
17(3)(d)	Current Treaty settlement negotiations	N/A	
17(3)(e)	Court orders recognising customary marine title or protected customary rights under the Marine and Coastal Area (Takutai Moana) Act 2011 or another Act	N/A – not in CMA	

Supporting information

Project details

7. The project site covers approximately 188-hectares of characteristically rural land. The site comprising 2 properties, both have frontage to and access from Kina Road.
8. The project will comprise
- approximately 152,000 solar panels occupying approximately 180 hectares
 - arrays and mounting structures, inverter cabinets, and associated infrastructure
 - 11 inverter stations, one substation and a battery storage facility
 - ancillary buildings, structures and infrastructure (including a storage building, roads, access and other infrastructure)
 - underground electricity cables, including within the Kina Road road reserve
 - enhancement of wetlands and streams.
9. The project layout is in Attachment 3.

Statutory matters relating to this report

10. No parts of the proposed project will occur in the coastal marine area, meaning:
 - a. pursuant to section 16(1) of the FTCA you are the sole party required to consider this report
 - b. the project is unaffected by the provisions of the Marine and Coastal Area (Takutai Moana) Act 2011 (MACAA) or any other Act pertaining to the grant of protected customary rights or customary marine title.
11. There are no court orders granted under the MACAA or another Act to consider in your referral decision for this project.¹

Iwi authorities

Methodology and information sources

12. This report must identify the relevant iwi authorities for the project, in accordance with section 17(3)(a) of the FTCA. Under section 7(1) of the FTCA, a relevant iwi authority for a referred project means an iwi authority whose area of interest includes the area in which a project will occur.
13. 'Area of interest' can mean different things depending on context and perspective and can be indicative (such as an area identified at the outset of Treaty settlement negotiations), formally agreed (such as in a deed of settlement or memorandum of understanding) or self-nominated. An area of interest can be difficult to define precisely on a map, particularly where a boundary that has been depicted on a small-scale map is scaled up and used precisely in relation to an individual site or property.
14. For the purpose of this report, we have considered information from the following sources as a starting point for identifying iwi areas of interest:
 - a. Te Arawhiti Internal Crown Asset Tracking Tool (i-Cat), an online database that records areas of interest associated with Treaty settlements and Treaty settlement negotiations
 - b. area of interest maps in signed Treaty settlement deeds or other Treaty settlement negotiation documents (including deeds of mandate)
 - c. the Iwi Areas of Interest viewer, an online application managed by the Ministry of Māori Development – Te Puni Kōkiri (TPK)
 - d. Te Kāhui Māngai (TKM), an online directory of iwi and Māori organisations maintained by TPK, which includes information on rohe (tribal areas) provided by those organisations.
15. Generally, the areas of interest shown on these databases for an iwi or group do not always completely align, and sometimes the differences can be significant. We carefully consider the reasons for such discrepancies, including the reliability or accuracy of the information shown and the local context and decision-making environment, before deciding which areas of interest we consider apply to a project under FTCA process.
16. The FTCA does not specifically define iwi authority but pursuant to section 7(2) of the FTCA, 'iwi authority' has the same meaning as in the Resource Management Act 1991 (RMA): the authority which represents an iwi and which is recognised by that iwi as having authority to do so.

¹ Section 17(3)(e) of the FTCA requires this report to identify any court orders granted under the MACAA or another Act which recognise, in relation to the project area, customary marine title or protected customary rights.

17. To identify iwi authorities associated with the identified areas of interest, we considered information from:
 - a. the sources noted above including the TKM online directory
 - b. Taranaki Regional Council (TRC) and South Taranaki District Council (STDC) as relevant local authorities.

Iwi authorities relevant to project

18. We have identified Te Kāhui o Taranaki Trust representing Taranaki iwi, via the information sources, as the sole relevant iwi for the project area.
19. We note in their invited comments, STDC identified the same relevant iwi authority.

Treaty settlements and Treaty settlement entities

20. This report must identify the Treaty settlements that relate to the project area and relevant Treaty settlement entities, in accordance with sections 17(3)(b) and 17(3)(a) respectively. We use information relevant to the project area from the iCat online database and [NZ Government Treaty settlements website](#), together with advice from the Office for Māori Crown Relations – Te Arawhiti.
21. Under the FTCA, a Treaty settlement includes both a Treaty settlement Act and a Treaty settlement deed which is signed by both the Crown and the representative Māori group.
22. The [Taranaki Iwi Claims Settlement Act 2016](#) is the only settlement of historical Treaty claims relating to the project area. The Act gives effect to certain provisions of the deed of settlement signed by Taranaki iwi and the Crown on 5 September 2015. [Taranaki iwi deed of settlement documents](#) can be accessed on the NZ Government Treaty settlements website.

Relevant Treaty settlement entities

Post-settlement governance entities

23. Under the FTCA, a Treaty settlement entity includes a post-settlement governance entity, defined as a body corporate or trustees of a trust established by a claimant group for receiving redress, or for participating in arrangements established under a Treaty settlement Act.
24. We have identified Te Kāhui o Taranaki Trust as the sole post-settlement governance entity associated with the Treaty settlement under the [Taranaki Iwi Claims Settlement Act 2016](#).

Other bodies recognised or established under a Treaty settlement Act

25. A Treaty settlement entity is also defined for the purposes of the FTCA as including a board, trust, committee, authority, or other body, recognised in or established under a Treaty settlement Act.
26. No such entity established by the Claims Settlement Act noted above is relevant to the proposed project.

Relevant principles and provisions of the Taranaki iwi Treaty settlement

Crown acknowledgements and apologies

27. As part of all of the identified Treaty settlements, the Crown offers acknowledgements and an apology as part of Treaty settlement redress to atone for historical wrongs, restore honour, and begin the process of healing.

28. The apology offered by the Crown is to the tūpuna, to ngā uri o Taranaki Iwi, to the hapū and the whānau of Taranaki Iwi.
29. The Crown unreservedly apologises for its failure to honour its obligations to Taranaki Iwi under Te Tiriti o Waitangi/the Treaty of Waitangi, and for failing to give appropriate respect to the mana and rangatiratanga of Taranaki Iwi.
30. The Crown deeply regrets its actions that led to the outbreak of war in Taranaki, and the lasting impact those wars have had on its relationship with Taranaki Iwi. The Crown unreservedly apologises for the many injustices carried out against Taranaki Iwi during those wars, including the shelling of settlements and the use of scorched earth tactics, and for the severe distress, hardship and death that those actions caused.
31. The Crown is deeply sorry for the immense prejudice it caused by confiscating the land that had supported Taranaki Iwi for centuries. The raupatu was indiscriminate, unjust, and unconscionable. The Crown deeply regrets the serious damage that the raupatu and its subsequent actions with respect to your remaining lands has caused to the social structure, economy, welfare, and development of Taranaki Iwi. The Crown deeply regrets the actions it took to suspend the ordinary course of law and imprison Taranaki Iwi people without trial for participating in campaigns of non-violent resistance. The Crown sincerely apologises to those tūpuna who it imprisoned far from their homes for political reasons, to the whānau who grieved and struggled to survive in the absence of their loved ones, to their uri, and to Taranaki Iwi.
32. The Crown unreservedly apologises to Taranaki Iwi, and to the Taranaki Iwi people of Parihaka past and present, for its unconscionable actions at Parihaka; for invading their settlement, for systematically dismantling their community, for destroying their ability to sustain themselves, and for assaulting their human rights. The Crown deeply regrets the immense and enduring harm that these actions caused to Parihaka and its people. Over several generations, the Crown's breaches of Te Tiriti o Waitangi/the Treaty of Waitangi have undermined your leadership and your communities, your ability to exercise long-held rights and responsibilities, and your ability to maintain your cultural and spiritual heritage, your language, and your Taranakitanga.
33. Through this settlement and this apology, the Crown hopes to ease the heavy burden of grievance and sorrow that Taranaki Iwi has carried for so many years, and to assist Taranaki Iwi in its pursuit of a better future. To this end, the Crown looks forward to building a relationship with Taranaki Iwi based on mutual trust, co-operation, and respect for Te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

Redress within the Treaty settlements

Resource management matters

34. Affording respect to the views of iwi on resource management matters and enabling iwi to meaningfully participate as a Treaty partner in resource management decision-making within their takiwā/area of interest are important ways in which the Crown can give effect to these acknowledgements and apologies.

Other redress of the Treaty settlement

35. The Treaty settlement does not create any new co-governance or co-management processes which would affect decision-making under the RMA for the project. The proposed project does not directly affect any specific commercial or cultural redress provided by the Treaty settlement.
36. As a general principle, an absence of specific settlement redress does not indicate the absence of an iwi cultural association with ancestral lands, sites, wāhi tapu or other taonga within an area. Local tangata whenua and their representatives would be best placed to advise on such matters in the first instance.

37. Importantly, cultural associations with ancestral lands, water, sites, wāhi tapu, and other taonga – regardless of whether or not they are specifically identified in a Treaty settlement – are deemed to be matters of national importance that must be recognised and provided for in decision-making under Part 2 section 6(e) of the RMA.

Current negotiation mandates and settlement negotiations

38. There are no recognised mandates for negotiation of any further historical Treaty claims, or any current or anticipated negotiations for settlement of historical Treaty claims, affecting the proposed project site.

Details in this report affect certain provisions of the FTCA

Notices of referral decisions

39. Under section 25 of the FTCA, you must give notice of the decisions made on an application for referral of a project to a panel, and the reasons for your decisions, to the applicant and anyone invited to comment under section 21 of the FTCA.
40. You did not invite comment on the referral application from iwi authorities or other Māori groups. However, if you decide to refer this project to a panel, the notice of decisions and associated reasons must be given to:
- the relevant iwi authorities and Treaty settlement entities identified in this report
 - any other iwi authorities or Treaty settlement entities you consider have an interest in the matter
 - any group that is or party to either a joint management agreement or Mana Whakahono ā Rohe under the RMA that relates to the project area.
41. We have identified Te Kāhui o Taranaki Trust as the sole relevant iwi authority and Treaty settlement entity for receipt of the notice of decisions. Contact details are in Attachment 2.
42. There are no relevant joint management agreements or Mana Whakahono ā Rohe to consider.

Expert consenting panel membership and invitation to comment

43. If a project is referred to a panel, the appointed panel must include one person nominated by the relevant iwi authorities under clause 3(2)(b) of Schedule 5 of the FTCA.
44. In the event iwi authorities nominate more than one person, the panel convener must decide which nominee to appoint. The panel convener has discretion to increase the panel membership to accommodate the matters specified in clauses 3(6)(a) – 3(6)(e) of Schedule 5 of the FTCA, which include matters unique to any relevant Treaty settlement Act.
45. A panel must invite comments on a resource consent application or notice of requirement for a referred project from the parties listed in clause 17(6) of Schedule 6 of the FTCA. This includes:
- the relevant iwi authorities, including those identified in this report
 - a Treaty settlement entity relevant to the referred project, including an entity that has an interest under a Treaty settlement in an area where a referred project is to occur, and an entity identified in this report
 - any applicant group under the MACAA identified in the report obtained under section 17(1).

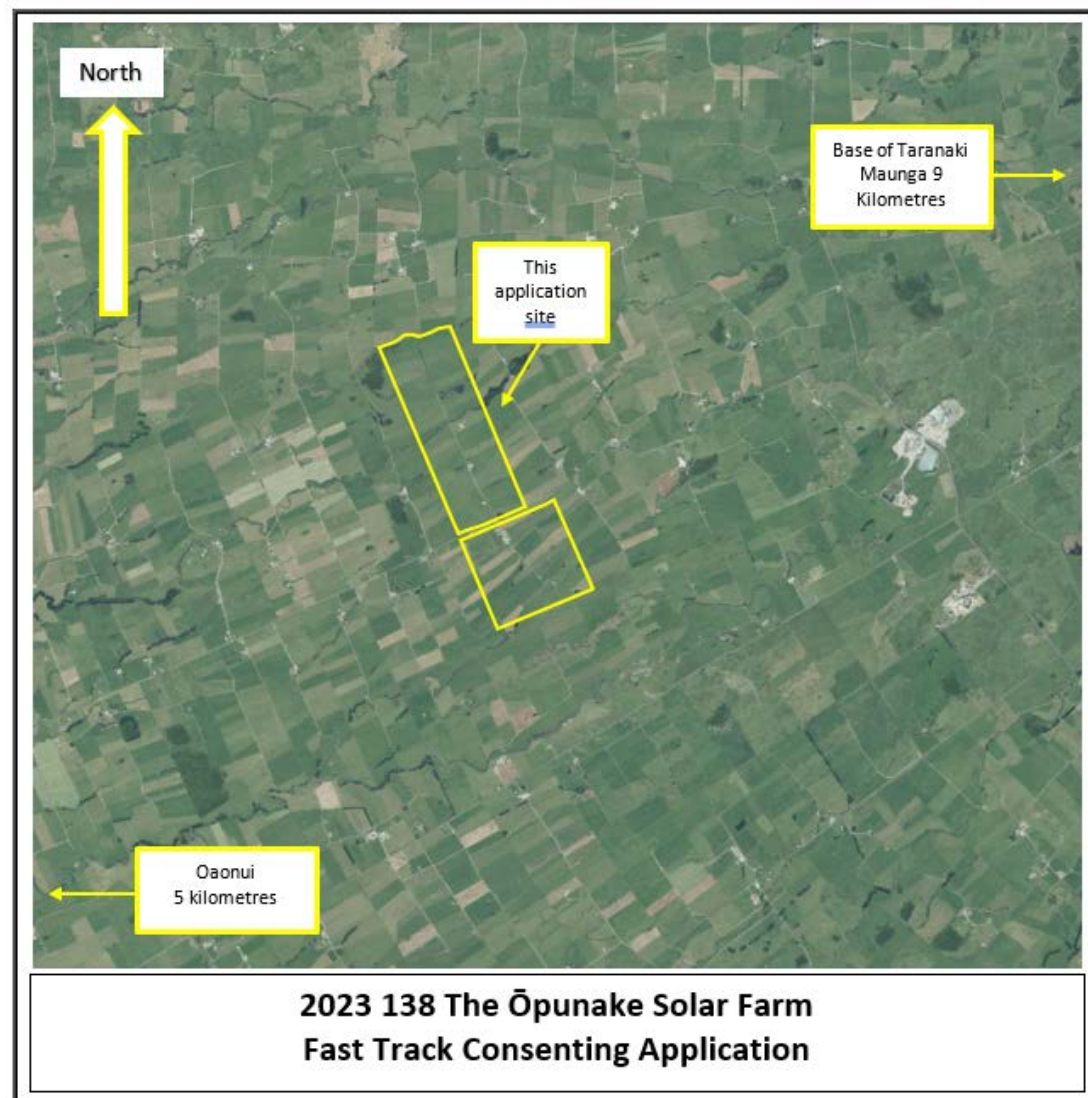
46. If you decide to refer, we have identified Te Kāhui o Taranaki Trust as the sole relevant iwi authority and Treaty settlement entity for the proposed project, from whom a panel must invite comment.
47. A panel may also invite comments from any other person it considers appropriate.

Provision of cultural impact assessment

48. Any resource consent application submitted to a panel for determination must include a cultural impact assessment prepared by or on behalf of the relevant iwi authorities, or a statement of any reasons given by the relevant iwi authorities for not providing that assessment.² The Environmental Protection Authority which provides support services to a panel, will not confirm an application as complete and ready for consideration by a panel until this requirement is satisfied.

² Clause 9(5), 13(1)(k) and 13(1)(l) of Schedule 6 of the FTCA.

Attachment 1 – Project Location – Surrounding Area



Attachment 2 – Contact information

Iwi/hapū	Settlement documents / Status	Representative body	RMA relevant iwi authority	Treaty settlement entity (PSGE)	Other Iwi authority interest	Contact person
Taranaki	Taranaki Iwi Claims Settlement Act 2016	Te Kāhui o Taranaki Trust	Iwi authority for RMA purposes	Post-settlement governance entity		Chair: Jacqui King admin@taranaki.iwi.nz

Attachment 3 – Planned Layout

