

Application 2023-166 Southland Wind 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: 9 June 2023	

Ministry for the Environment contacts

Position	Name	Cell Phone	1 st Contact
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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 Southland Wind Farm Project (project) to an expert consenting panel (panel).

Proposed project

3. The applicant (Contact Energy Limited) proposes to develop part of an approximately 5,500 hectare site area into a wind farm located at 248 and 794 Venlaw Road, and 232 Campbell Road, Oware, Southland.
4. The project is to construct and operate a wind farm on approximately 5,500 hectares of land at 248 and 794 Venlaw Road, and 232 Campbell Road, Oware, Southland, and to connect to and supply electricity to the national grid. The wind farm will comprise up to 55 wind turbines with blade tip heights up to 200 metres high and will have an approximate installed capacity of 230–300 Megawatt peak.
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
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 is situated within the rural area of Oware, Southland. The site has frontage onto and access will be gained from Venlaw Road to the north and Campbell Road to the southeast.
8. The project includes:
- construction of infrastructure and associated structures including internal roads, turbine foundations and hard stand areas, underground electrical cables, wind turbine transformers, two meteorological masts, a substation, a switching station and ancillary buildings
 - construction of a 220 kV transmission line, approximately 15–17 kilometres long with up to 50 pylons, extending north along one of three possible routes from the proposed wind farm to the existing 220kV Transpower New Zealand Limited (Transpower) North Makarewa-Three Mile Hill A Circuit
 - minor improvement works within the State Highway 1, 93 and 98, and Kaiwera Road and Kaiwera Downs Road road reserves to enable transportation of the wind turbines.
9. The three route options for the 220kV transmission line cross various private and public land parcels within the Southland and Gore Districts (Southland Region) or Clutha District (Otago Region).

10. The project will involve activities such as:
- a. carrying out earthworks (including earthworks that disturb potentially contaminated soil, earthworks within, or within 10m of natural inland wetlands)
 - b. removing vegetation (including within, or within 10m of, natural inland wetlands)
 - c. taking, using, damming or diverting stormwater, and discharging stormwater (which may contain contaminants) onto land or into water (including within 100 metres of a natural inland wetland)
 - d. taking, using and diverting surface water, and discharging surface water onto land or into water
 - e. taking, using and diverting groundwater, and discharging groundwater onto land or into water
 - f. discharging contaminants into air
 - g. constructing a concrete batching plant and other ancillary buildings
 - h. installing turbines, underground electricity transmission cables, underground electrical and communication cables, substation and grid connection equipment, and new transmission line, electricity transmission structures and overhead electricity transmission lines and associated infrastructure
 - i. constructing or installing infrastructure or structures, including:
 - i. using, constructing, reconstructing, placing, extending or removing structures in or over the bed of streams for access purposes
 - ii. constructing new or upgrading existing bridges on the project site
 - iii. constructing roads, accessways, and infrastructure for three waters services, including culverts in the beds of streams
11. The project layout is in Attachment 3.

Statutory matters relating to this report

12. 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.
13. 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

14. 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

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.

for a referred project means an iwi authority whose area of interest includes the area in which a project will occur.

15. '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.
16. 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.
17. 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.
18. 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.
19. To identify iwi authorities associated with the identified areas of interest, we considered information from:
 - a. the TKM online directory and sources noted above
 - b. Otago and Southland Regional Councils, Gore, Clutha, Southland District Councils as relevant local authorities.

Iwi authorities relevant to project

20. We have identified Te Rūnanga o Ngāi Tahu representing Ngāi Tahu, via the information sources as the sole relevant iwi for the project area.
21. The local authorities identified the same iwi authority and noted Aukaha (1997) Limited and Te Ao Marama Incorporated, representing rūnanga for RMA purposes, addressed below.
22. Te Rūnanga o Ngāi Tahu is made up of 18 Papatipu Rūnanga (rūnanga) to which Ngāi Tahu Whānui can belong. Along with Te Rūnanga o Ngāi Tahu, the rūnanga were established by Te Rūnanga o Ngāi Tahu Act 1996. Each rūnanga holds the rights,

interests and responsibilities to defined areas of land and waters within the Ngāi Tahu rohe.

23. There are 4 rūnanga who have a shared interest in the project area, being:
 - a. Awarua Rūnanga
 - b. Waihōpai Rūnaka
 - c. Ōraka-Aparima Rūnaka
 - d. Hokonui Rūnanga.
24. Section 15 of the Te Rūnanga o Ngāi Tahu Act specifies that where any enactment requires consultation with any iwi or iwi authority in respect of matters affecting Ngāi Tahu Whānui, it will be held with Te Rūnanga o Ngāi Tahu.
25. When such consultation is undertaken, the Act requires that the views of the rūnanga and hapū be sought and considered should they wish to comment on the matter being consulted on.
26. There are 2 organisations that liaise between Te Rūnanga o Ngāi Tahu and the rūnanga of the Otago/Southland regions, and engage on their behalf with the local authorities in relation to RMA matters, being:
 - a. Aukaha (1997) Limited – based in Dunedin, is owned by and represents Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou, **Hokonui Rūnanga**, and Te Rūnanga o Waihao.
 - b. Te Ao Marama Incorporated – based at Murihiku Marae in Invercargill, represents **Hokonui Rūnanga**, Ōraka-Aparima Rūnaka, Awarua Rūnanga, and Waihōpai Rūnaka.

Treaty settlements and Treaty settlement entities

27. 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.
28. 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.
29. The [Ngāi Tahu Claims Settlement Act 1998](#) 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 Ngāi Tahu and Her Majesty the Queen on 21 November 1997, and amendment deeds signed in September 1998 and November 1999. [Ngāi Tahu deed of settlement documents](#) can be accessed on the NZ Government Treaty settlements website.
30. 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.
31. Te Rūnanga o Ngāi Tahu is the post-settlement governance entity under the Ngāi Tahu Claims Settlement Act 1998.

32. 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.
33. No such entity established by the Ngāi Tahu Claims Settlement Act is relevant to the proposed project.

Relevant principles and provisions of the Ngāi Tahu Treaty settlement

Crown acknowledgements and apology

34. As part of the Ngāi Tahu Treaty settlement, the Crown offers acknowledgements and an apology as part of Treaty settlement redress to atone for its past failures to acknowledge Ngāi Tahu rangatiratanga and mana over the South Island lands within its boundaries, and, in fulfilment of its Treaty obligations, the Crown stated that it recognised Ngāi Tahu as the tāngata whenua of, and as holding rangatiratanga within, the takiwā of Ngāi Tahu Whānui.
35. Rangatiratanga as a concept and a practice encompasses rights, responsibilities and obligations, including kaitiakitanga in relation to the land and resources within the takiwā.
36. Affording respect to the views of Ngāi Tahu 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

37. 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.
38. 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.
39. 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

40. 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

41. 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.
42. 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:
 - a. the relevant iwi authorities and Treaty settlement entities identified in this report
 - b. any other iwi authorities or Treaty settlement entities you consider have an interest in the matter
 - c. 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.
43. We have identified Te Rūnanga o Ngāi Tahu as the sole relevant iwi authority and Treaty settlement entity for receipt of the notice of decisions. Contact details are in Attachment 2.
44. If you decide to refer this project to a panel, we recommend copying the notice of decisions to the relevant rūnanga through their agents (Aukaha and Te Ao Marama Incorporated) to facilitate these parties' preparedness for engagement in the panel process. Contact details are in Attachment 2.
45. There are no relevant joint management agreements or Mana Whakahono ā Rohe to consider.

Expert consenting panel membership and invitation to comment

46. 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.
47. 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.
48. 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:
 - a. the relevant iwi authorities, including those identified in this report
 - b. 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
 - c. any applicant group under the MACAA identified in the report obtained under section 17(1).
49. We have identified Te Rūnanga o Ngāi Tahu as the relevant iwi authority and Treaty settlement entity for the proposed project.

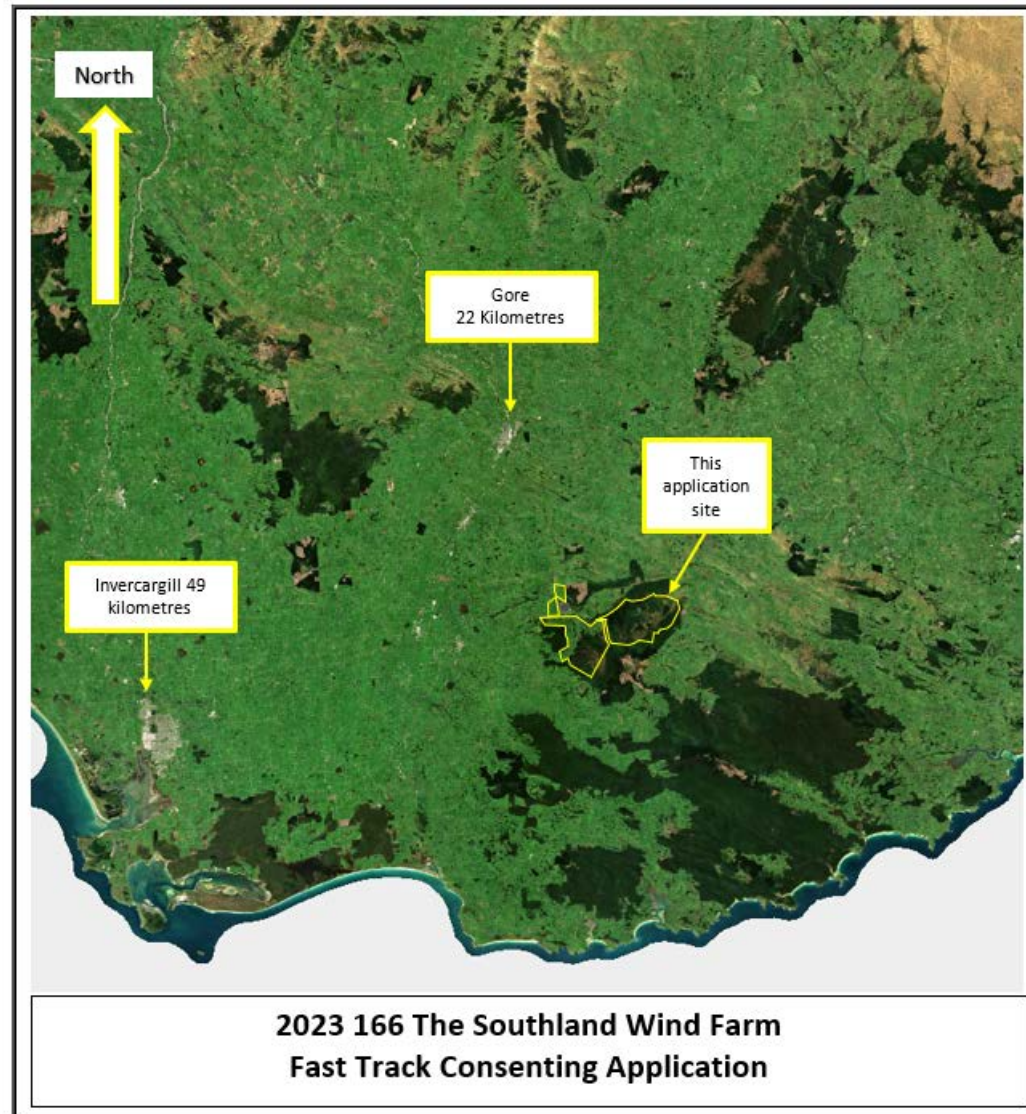
50. If you decide to refer this project to a panel, we recommend you instruct the panel to invite comments from the relevant rūnanga within the Ngāi Tahu rohe through their agents (Aukaha and Te Ao Marama Incorporated). Contact details are in Attachment 2.
51. A panel may also invite comments from any other person it considers appropriate.

Provision of cultural impact assessment

52. 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



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
Ngāi Tahu	Ngāi Tahu Claims Settlement Act 1998	Te Rūnanga o Ngāi Tahu	Iwi authority for RMA purposes	Post-settlement governance entity		CEO/Kaihautū – Arihia Bennett cc: Ngāi Tahu fast-track team: TTW@ngaitahu.iwi.nz
Ngāi Tahu Papatipu Rūnanga from Otago/South Canterbury: Hokonui Rūnanga, Te Rūnanga o Ōtākou, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga of Moeraki, Te Rūnanga o Waihao		Aukaha is an advisory company which represents 5 Papatipu Rūnanga				GM, Mana Taiao – Kate Timms-Dean s 9(2)(a) cc: Principal Planner, Mana Taiao– Sandra McIntyre s 9(2)(a)
Ngāi Tahu Papatipu Rūnanga in Murihiku/Southland: Awarua Rūnanga, Ōrāka-Aparima Rūnaka, Waihōpai Rūnanga, Hokonui Rūnanga		Te Ao Marama Inc represents the 4 Rūnanga in Murihiku (south of the Clutha River – Mata-au)				Kaupapa Taiao Manager – Dean Whaanga s 9(2)(a)

Attachment 3 – Planned Layout – Site Plan

