

FTA#91: Application for listed project under the Fast-track Approvals Bill – Hawke's Bay Airport Solar Farm Project for Schedule 2B

Date submitted to secretariat:	22 May 2024
Security level:	In-Confidence
To:	David TAPSELL, Chair – Fast-track Projects Advisory Group

Number of attachments: #	Attachments: 1. Application documents for Hawke's Bay Airport Solar Farm Project
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Applicant/s	Sector	Region	Identified in a priority/strategy?
Hawke's Bay Airport Ltd Manawa Energy Ltd	Solar	Hawke's Bay	No

Ministry for the Environment contacts

Position	Name	Mobile	1 st contact
Principal Authors	Stephanie McNicholl; s 9(2)(a)		
Manager	Stephanie Frame	s 9(2)(a)	✓
Director	Ilana Miller	s 9(2)(a)	

Project location

s 9(2)(b)(ii)

Key messages

1. The Hawke's Bay Airport Solar Farm project is to construct and operate a solar farm within the s 9(2)(b)(ii) and to connect to and supply electricity to the national grid. The solar farm will have an approximate peak output of 40 Megawatts.
2. The project will comprise:
 - a. construction and placement of solar arrays
 - b. earthworks and vegetation clearance associated with enabling works and construction;
 - c. construction of a switchyard to connect to the transmission network;
 - d. underground cable connecting panels to switchyard;
 - e. internal tracks, parking and laydown areas;
 - f. culverts for waterway crossings for vehicle access; and
 - g. maintenance facilities and security measures such as fencing, surveillance systems and access controls.
3. The project will require resource consents under the Resource Management Act 1991 (RMA), and an archaeological authority under the Heritage New Zealand Pouhere Taonga Act.
4. Hawke's Bay Airport Limited is the registered land owner and joint applicant. Manawa Energy Ltd is the other joint applicant and there is a development agreement to jointly develop the Hawke's Bay Airport Solar Farm.
5. We have undertaken an initial (Stage 1) analysis of the application, and this is provided in

Table A.

6. We consider the applicant has provided sufficient information to consider the project for inclusion on Schedule 2B.
7. The project does not trigger the ineligibility criteria in clause 18 of the Fast-track Approvals Bill (the Bill).
8. Advice on PSGE development priorities and Māori development is provided in Table A. Table A also includes the relevant PSGEs or Māori groups and the settlement mechanisms, that will/may be impacted by the project and whether the project is low, medium or high impact on Treaty settlement/s and other relevant arrangements. Appendix 1 provides further detail on how this advice should be considered and our approach to analysis.

Signature

A handwritten signature in black ink, appearing to read 'S. Frame', is written over a light blue grid background.

Stephanie Frame
Manager – Listed Projects

Table A: Stage 1 initial assessment of project eligibility and Treaty settlement assessment and advice¹

Project details	Project description	Approvals sought	Consultation undertaken	Does the project trigger the ineligibility criteria [clause 18]?				Discretionary ground to decline [clause 21(2)]	Would the project have significant regional or national benefits [clause 17(3)]
				Treaty settlement land, Māori customary land, customary marine title, customary rights, aquaculture settlement area, or prevented by RMA clauses [clauses 18(a-e, g)]	Access arrangement under CMA where a permit can't be granted, or is listed in items 1-11, 14 [clauses 18(f,h)]	Activity on a national reserve under Reserves Act which requires approval under that Act [clause 18(i)]	Prohibited activity under EEZA or regulations under that Act, decommissioning-related activities, offshore renewable energy progressing ahead of permitting legislation [clause 18(j-l)]		
High level summary			Y	N	N	N	N		
Schedule requested 2B Project name Hawke's Bay Airport Solar Farm Applicants - Hawke's Bay Airport Limited - Manawa Energy Ltd Company director/s Hawke's Bay Airport Limited - Craig Mathew Barrett - Darin Ronald Cusack - Wendie Nicola Harvey - Jon Edmond Nichols Manawa Energy Limited - Margaret Joanna Breare - Sheridan Adelene Broadbent - Deion Mark Campbell - Phillippa Mary Harford - Michael John Smith - Joseph Michael Windmeyer	The Hawke's Bay Airport Solar Farm project is to construct and operate a solar farm within the 85-hectare Hawke's Bay Airport site at State Highway 2, Westshore, Napier, Hawke's Bay, and to connect to and supply electricity to the national grid. The solar farm will have an approximate peak output of 40 Megawatts. The project will comprise: - construction and placement of solar arrays - earthworks and vegetation clearance associated with enabling works and construction - construction of a switchyard to connect to the transmission network - underground cable connecting panels to switchyard - internal tracks, parking and laydown areas - culverts for waterway	The applicant seeks approval under the: - Resource Management Act 1991 - Heritage New Zealand Pouhere Taonga Act 2014 The applicant notes approvals may be required under the: - Wildlife Act 1953 We note the certificate of title identifies gazette notice reference to a local purpose (wildlife) reserve. Approvals may be required under the: - Conservation Act 1987 - Reserves Act 1977 This may need to be clarified.	s 9(2)(b)(ii) No other supporting information is provided.	This project does not appear to be ineligible according to the information provided in the application.	This project does not appear to be ineligible according to the information provided in the application.	The project does not propose any activity on a national reserve.	The project is land based and will not be ineligible according to the information provided in the application.	The project, or any part of it, is inconsistent with a relevant Treaty settlement, the NHNP Act, the Marine and Coastal Area (Takutai Moana) Act 2011, a Mana Whakahono ā Rohe, or a joint management agreement. The application has not identified any triggers. We do not consider any of these ineligibility matters are triggered by the application. It is more appropriate to deal with the application under another Act. The application identifies that approvals will be required under the RMA. We note the RMA does not allow for prohibited activity status. We consider, the project could still be assessed by an expert panel with the benefit of a full application, in a post-enactment context. The project may have significant adverse effects on the environment.	The project has been identified as a priority project in a central government, local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy) or central government infrastructure priority list No. The project will deliver regionally or nationally significant infrastructure s 9(2)(b)(ii) The project will increase the supply of housing, address housing needs or contribute to a well-functioning urban environment. s 9(2)(b)(ii) The project will deliver significant economic benefits. s 9(2)(b)(ii)

¹ **Disclaimer:** Given time and scope constraints, the initial assessment is solely based on information provided by applicants. There may be additional relevant information which has not been provided to MfE.

Location s 9(2)(b)(ii) Land status The application identifies: • Hawke's Bay Airport Limited is the registered land owner • Hawke's Bay Airport Limited and Manawa Energy Ltd have a development agreement to jointly develop the Hawke's Bay Airport Solar Farm.	crossings for vehicle access g. maintenance facilities and security measures such as fencing, surveillance systems and access controls.							s 9(2)(b)(ii) We consider that the appropriate management of adverse effects, including remediation and mitigation could be assessed by an expert panel with the benefit of a full application, in a post-enactment context. The applicant has a poor compliance history under the relevant legislation. s 9(2)(b)(ii) The project involves an activity that would occur on land that the Minister for Treaty of Waitangi Negotiations considers necessary for Treaty settlement purposes. None stated. The project includes an activity that is a prohibited activity under the RMA. s 9(2)(b)(ii)	s 9(2)(b)(ii) The project will support primary industries, including aquaculture. No. The project will support development of natural resources, including minerals and petroleum. No. The project will support climate change mitigation, including the reduction or removal of greenhouse gas emissions. s 9(2)(b)(ii) The project will support adaptation, resilience, and recovery from natural hazards. s 9(2)(b)(ii) The project will address significant environmental issues. s 9(2)(b)(ii)
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PSGE Settlement Priorities and Māori Development assessment – <i>Note - given the time and scope constraints of this advice, some assumptions have been made and engagement has only been undertaken in limited circumstances. Given this, the advice may not be comprehensive and is not intended to reflect the views of relevant Post Settlement Governance Entities or other groups (unless specifically noted). In limited circumstances where engagement has been able to occur, it has most likely not been comprehensive due to the timeframes available.</i> <i>Advice on Māori development and PSGE settlement priorities includes information relating to:</i> • where projects align explicitly with PSGE or iwi strategic objectives/vision/other strategic documents. • where projects contribute towards addressing historical or systemic inequities faced by Māori. This would be undertaken through an equity assessment; and/or are being led by or in partnership with a Māori entity or business; <i>to relevant provisions in Treaty settlements, Joint Management Agreements outside of settlement; Mana Whakahono ā Rohe; Iwi Environment Management plans; implications for groups yet to settle their historical Treaty of Waitangi claims; and implications arising under the Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.</i>	
Ineligible projects - based on the considerations at cl18(a-e) of the Fast Track Approvals Bill (version as at introduction)	This project does not appear to be ineligible according to the information provided in the application.
Affected Māori group/s	The project area is in the area of interest included in the s 9(2)(b)(ii) . ²
Has the applicant consulted with those Māori groups?	The applicant states engagement with s 9(2)(b)(ii) is ongoing to understand the cultural significance of the subject site. Based on information provided by the applicant it is not clear what Mana Ahuriri's views are on the project or whether they are aware of the implications of the fast track process. The applicant does not refer to engagement with any other groups.
Impact/s of the project on Māori development and PSGE settlement priorities and related matters	<u>Impacts on PSGE settlement priorities and Māori development:</u> • s 9(2)(b)(ii) has not set out a vision or objectives regarding renewable energy generation in their rohe so officials have not been able to draw on specific information in providing this advice • climate mitigation is a goal of the s 9(2)(b)(ii) Regional Park Joint Committee (of which s 9(2)(b)(ii) has 50% membership) however it is unclear whether this specific project aligns with their interests. • The application does not detail any business partnership proposal with iwi and hapū or their representative groups. • There is no information provided to indicate Manawa Energy Ltd is wholly or partly owned by iwi and hapū with interests in the area. <u>Impact on Treaty settlements and other relevant arrangements</u> s 9(2)(b)(ii) <i>Te Komiti Muriwai o Te Whanga Statutory Committee</i> The Settlement legislation established a permanent statutory committee called Te Komiti Muriwai o Te Whanga and is made up of members appointed by s 9(2)(b)(ii), the regional and local authorities in the area and the Minister of Conservation. The purpose of the Komiti is to promote the protection and enhancement of the environmental, economic, social, spiritual, historical and cultural values of Te Muriwai o Te Whanga s 9(2)(b)(ii) Estuary) for present and future generations. Part of Te Komiti Muriwai o Te Whanga's role is to prepare the Te Muriwai o Te Whanga Plan which has an effect on Resource Management Act 1991 planning documents and resource consents. When a local authority is considering an application for a resource consent to authorise an activity to be undertaken within Te Muriwai o Te Whanga, the local authority must have regard to the Te Muriwai o Te Whanga Plan. Large scale land disturbance has the potential to cause harmful discharge to the estuary and disturb areas of cultural significance within the airport estate. The applicant has not stated that s 9(2)(b)(ii) nor the Councils' (with whom s 9(2)(b)(ii) is partnering in the management of the estuary) have been provided with an assessment of effects to inform their position on the proposal. <u>Hawkes Bay Regional Planning Committee Act 2015</u> The Hawkes Bay Regional Planning Committee (HBRPC) with 50% iwi membership was established by statute in response to concerns about upholding participation commitments in Treaty Settlements and requires regional planning documents under the RMA are put to the committee. The Regional Policy Statement in particular sets out objectives and policies that District Plans must give effect to. District plans might do that in several ways including through rules, plan change provisions or designation provisions. Because FTA applications sit outside of the RMA process, there is no guarantee the RPS and subsequent district plan provisions will influence FTA applications. FTA decision makers exercise discretion over whether they consider the documents in coming to their decisions. It is reasonable to think that iwi members of the HBRPC rely on the direct influence they have on RPS and subsequent cascade to district plans. The HBRPC including iwi members cannot influence FTA applications as they could resource consent applications and designations, however the 2B referral process would provide for input by the PSGEs that sit on the committee at the Ministerial referral and expert panel stages. s 9(2)(b)(ii) had right to elect to purchase interests in the Hawkes Bay Airport which has now expired. s 9(2)(b)(ii) <u>Regional Park joint committee (under the Local Government Act 2002)</u> An s 9(2)(b)(ii) Regional Park joint committee was established with s 9(2)(b)(ii), Napier City Council and Hawkes Bay Regional Council to manage significant sites in Hawkes Bay. The proposed site in this project is not a significant site managed by the committee, but the adjoining estuary is. <u>Other matters</u> In the time available, officials have not identified any other impacts for Treaty settlements, the Marine and Coastal Area (Takutai Moana) Act 2011 (the project area is outside the marine and coastal area), groups yet-to-settle their historical claims, Joint Management Agreements outside of settlement or Mana Whakahono ā Rohe, or a relevant iwi management plan.
Is the project considered low, medium or high impact (based on assessment criteria above)	Officials consider the project to be low impact due to the applicant's commitment to ongoing engagement with the s 9(2)(b)(ii) and the mitigation provided through the 2B listed projects Ministerial referral process where Treaty protections drafted for the Bill including the section 13 report and requirement of consultation with the relevant Māori groups will apply on enactment.

² s 9(2)(b)(ii)

Has the Ministry for the Environment undertaken engagement?	Officials consider engagement would be beneficial to seek the views of s 9(2)(b)(ii) and the hapū and iwi represented but were unable to undertake this in the time available.
Additional comments/context	None of the instruments listed on the certificate of title have been provided with this application and may be relevant to the interests of iwi and hapū (and s 9(2)(b)(ii)).

Appendix One: Approach and considerations for Treaty settlement advice on listed project applications advice in Table A

1. Ministers have advised the Advisory Group should receive advice from officials on “Māori development and PSGE settlement priorities” relevant to each application. Note this differs from section 13 requirements of the current Fast Track Consenting Bill that ‘Ministers must consider Treaty settlements and other obligations report’ as these reports will not be in existence at the time, although matters identified in section 13 (2)(a)-(j) will be considered as part of official's analysis.
2. We have interpreted “Māori development” and “PSGE priorities” to mean primarily projects that:
 - a. align explicitly with PSGE or iwi strategic objectives/vision/other strategic documents; and/or
 - b. contribute towards addressing historical or systemic inequities faced by Māori. This would be undertaken through an equity assessment; and/or
 - c. the project is being led by or in partnership with a Māori entity or business.
3. Given the time constraints and limited engagement this advice cannot be considered as comprehensive and does not intend to reflect their views, and should not be read as such.
4. Engagement with PSGEs and other relevant groups has been considered based on potential high-risk factors including, but not limited to, if:
 - a. a project will take place on or effect any taonga or areas of significance that are protected by Treaty settlement arrangements.
 - b. a project will have a substantive and/or ongoing environment impact on any taonga or areas of significance.
 - c. a project will include a consenting arrangement that will require a significant take, or be ongoing for an extended period, in relation to a taonga or area of significance, or in regions where PSGEs have specific planning mechanisms in place.
 - d. PSGEs or other Māori entities have previously strongly contested the project or a similar type of project, particularly where court action has been taken.
 - e. The project is clearly in conflict with or undermines PSGE priorities.
 - f. Engagement would be required to maintain and uphold the Te Tiriti Crown relationship.
5. In limited circumstances where engagement occurs, it has been brief. Where engagement has been undertaken it is reflected in our analysis but should not be taken to mean that our Treaty Partners endorse our advice.