

FTA#073: Application for listed project under the Fast-track Approvals Bill – Irishman Creek Station Limited Project for Schedule 2B

Date submitted to secretariat:	27 May 2024
Security level:	In-Confidence
To:	David TAPSELL, Chair – Fast-track Projects Advisory Group

Number of attachments: #	Attachments: 1. Application documents for Irishman Creek Station Project
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Applicant	Sector	Region	Identified in a priority/strategy?
Manawa Energy Limited	Solar	Canterbury	No

Ministry for the Environment contacts

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

Project location

s 9(2)(b)(ii)

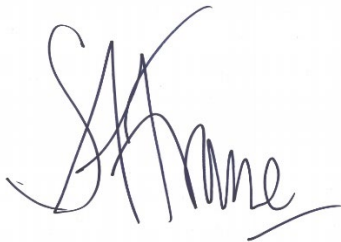


Key messages

1. The Irishman Creek Station Limited project is to construct and operate a solar farm on a 500-hectare project area within a s 9(2)(b)(ii) 
, and to connect and supply electricity to the national grid. The solar farm will have an approximate peak output of 220 Megawatts.
2. The project will comprise:
 - a. solar panel/arrays and mounting structures, inverter cabinets, and associated infrastructure
 - b. a switchyard and transmission line to connect to the national grid
 - c. underground electricity cables
 - d. ancillary buildings, structures and infrastructure (including roads, access, culverts, cabling, fencing, CCTV poles and other infrastructure)

3. The project will require resource consents under the Resource Management Act 1991 (RMA), an authority under the Wildlife Act 1953 and an archaeological order under the Heritage New Zealand Pouhere Taonga Act 2014.
4. The applicant identifies that the project has secured land tenure via an option to lease agreement of the site with the landowner.
5. We have undertaken an initial (Stage 1) analysis of the application(s) 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 Irishman Creek Station Limited Applicants Manawa Energy Ltd Company Directors Margaret Joanna Breare Sheridan Adelene Broadbent Deion Mark Campbell Phillippa Mary Harford Michael John Smith Joseph Michael Windmeyer Location s 9(2)(b)(ii) s 9(2)(b)(ii) The title contains lists interests relating to: easements,	s 9(2)(b)(ii)	The applicant seeks approval under the: Resource Management Act 1991 Wildlife Act 1953 Heritage New Zealand Pouhere Taonga Act 2014 Regarding the Wildlife Act 1953 approval request, the Department of Conservation has provided comment on the effects of the proposal on wetland bird species, advising that authorisations under the Wildlife Act 1953 or other measure to address adverse effects may be required. Regarding the Heritage New Zealand Pouhere Taonga Act 2014 approval request, the applicant notes initial investigations do not indicate any archaeological sites, and if necessary, an	s 9(2)(b)(ii) No other supporting information is provided.	s 9(2)(b) No – The record of title contains an interest that the site is subject to Section 11 of the Crown Minerals Act 1991. The applicant has not provided the attachments to determine what impact (if any) this will have on the project, and has not identified it as being a matter that would trigger the ineligibility criteria. This may need to be clarified.	No.	No.	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. No – The application and Treaty advice below has not identified any inconsistency grounds. It is more appropriate to deal with the application under another Act. No – Although the application identifies that approvals will be required under the RMA, we consider the project could be assessed by an expert panel with the benefit of a full application, in a post-enactment context. s 9(2)(b)(ii)	s 9(2)(b)(ii) s 9(2)(b)(ii) s 9(2)(b)(ii) 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.

conservation covenants (not affected by the project area) and an encumbrance. Company director/s Irishmen Creek Station Ltd s 9(2)(b)(i) Land Status The applicant identifies that the project has secured land tenure via an option to lease agreement of the site with the landowner.		archaeological order will be sought. We consider the project, including these matters could be assessed by an expert panel with the benefit of a full application, and are not aware of any reasons this application would be ineligible for consideration under the Bill.					s 9(2)(b)(ii) 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. No – The project site does not include land that is available for Treaty settlement redress according to the information provided in the application. The project includes an activity that is a prohibited activity under the RMA. No – The project does not appear to include an activity that is prohibited under the RMA.	s 9(2)(b)(ii) 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> Advice on Māori development and PSGE settlement priorities includes information relating to: • 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; 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.	
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	Te Rūnanga o Ngai Tahu Relevant Papatipu Rūnanga: Te Rūnanga o Arowhenua and based on the Papatipu Rūnanga boundaries map on the Ngāi Tahu website, the project may potentially be in the interest area of Te Rūnanga o Waihao but this rūnanga is not noted in the application.
Has the applicant consulted with those Māori groups?	s 9(2)(b)(ii)
Impact/s of the project on Māori development and PSGE settlement priorities and related matters	<u>Ngāi Tahu Claims Settlement Act 1998</u> We have not identified any statutory acknowledgement areas to apply to the project area however the applicant has identified that the below statutory acknowledgements exist for locations very close to the site. Schedule references are from the settlement legislation. - Aoraki / Mount Cook (Schedule 14); - Hakataramea River (Schedule 14); - Lake Ōhau (Schedule 32); - Lake Pūkaki (Schedule 34); - Lake Takapō/Tekapo (Schedule 57); - Lake Benmore (Schedule 59); and - Whakarukumoana / Lake McGregor (Schedule 77) Officials have verified the above statutory acknowledgements exist for locations close to the site and have also identified Mahi Tikumu / Lake Aviemore (Schedule 37). Generally, these are statutory acknowledgements by the Crown of a 'statement of association' between the Iwi and an identified area. A Council must have regard to the statutory acknowledgement when deciding whether the Iwi/Post Settlement Governance Entity (PSGE) is an 'affected person' for the purposes of notification decisions under the Resource Management Act 1991 (the RMA). The same applies to the Environment Court when considering participation in hearings under s274 of the RMA. A council must send summaries of applications for resource consents to the Iwi. The PSGE (or any member of the Iwi) may, as evidence of the association with a statutory area, cite the statutory acknowledgement in submissions that are made to a consent authority, the Environment Court or the EPA. There is an overarching obligation under the FTA Bill for persons to act in a manner consistent with Treaty settlements. As this is a proposed 2B project which means it would go through the Ministerial referral process including a cl.13 report and requirement of consultation with the noted groups. There is a requirement on the expert panel to invite comment from the PSGE on the application (so there is an automatic right to participate, which is currently discretionary under the statutory acknowledgement). In addition, for 2B and other referred projects, there is also a requirement for applicants to engage with PSGEs and for Ministers to invite comment from PSGEs. Officials have not identified any other matters relating to Ngāi Tahu's Treaty settlement. Department of Conservation officials have confirmed they are not aware of particular Treaty issues in their remit which may apply. <u>Iwi management plans and other documents</u> There are a number of relevant iwi management plans/other documents that are relevant to the application. From the information available, we have considered the relevant aspirations expressed in the below documents and any relevant material from the application proposal. Consistency with these plans can only be assessed properly following consultation with the relevant groups and a full plan assessment. <i>Waitaki Iwi Management Plan 2019</i> The Waitaki Iwi Management Plan 2019 sets forward the aspirations for Te Runanga o Arowhenua, Te Runanga o Waihao and Te Runanga o Moeraki (Ka Papatipu Rūnanga). It constitutes their expression of rakatirataka in fulfilment of their kaitiaki responsibilities in the Waitaki Catchment. Of relevance to this proposal, the plan outlines the following strategic objectives: • Mana whenua have a co-governance and co-management role over the Aoraki; and • Wahi tupuna are protected and the relationship mana whenua have with these landscapes is enhanced.

	<i>Iwi Management Plan of Kati Huripa</i> The Iwi Management Plan of Kati Huirapa sets forward several key aspirations / objectives for their rohe. Of relevance to this application are the following aspirations: • The Crown and other agents with authority delegated by the Crown, consult with Takata Whenua on all matters Māori as set out in the Resource Management Act; • Breeding areas for fish, birds, all species in waterways remain undisturbed; • Corridors of undisturbed vegetation be maintained along all rivers, and between rivers and forests, any areas of indigenous flora and habitats of indigenous fauna to maintain the seasonal migration and movement of birds, all creatures; • The protection and restoration of natural habitats be encouraged; and • The planting of flax and other native species which are a source of traditional materials be encouraged. <i>Ngāi Tahu Resource Management Strategy for the Canterbury Region</i> This document outlines the key issues and aspirations for Ngāi Tahu in the Canterbury region with regards to natural resource management. Of relevance to this proposal are the following policies: • That Ngāi Tahu retain the right to be involved in and contribute to, the resource allocation and management decisions which impact on Tribal resources; and • That the Canterbury Regional Council should encourage landowners or occupiers to plant vegetation on riparian strips to prevent contaminated run-off into any wetland, waterway or lake. <i>Ngāi Tahu 2025</i> Ngāi Tahu's document, Ngāi Tahu 2025 states the aspiration is that "Te Rūnanga o Ngāi Tahu fully participates in the decision-making processes of resource management agencies." <i>Relevant information from application</i> Relevant information from the application that relates to the above plans and documents includes: • the application notes it will consider Te Mana o Te Wai and National Policy Statement – Freshwater Management and National Environment Standards - Freshwater to manage the construction of the project to ensure that any adverse effects on nearby waterways and wetlands are no more than minor. • the application notes the project's technical assessments will need to identify any methods/conditions to address actual and potential effects on ecology, the applicant notes it will be important that the design of the solar farm takes account of any critical habitats and identified natural inland wetlands. • the application notes that solar arrays would be visible from Tekapō Canal • the application notes in the consultation section that Ngāi Tahu, Te Rūnanga o Arowhenua and Aoraki Environmental Consultancy Ltd are affected by the project and that they have reached out to "manawhenua". Ngāi Tahu will likely consider the above plans and documents in any consultation, although the scope and details of consultation have not been provided by the applicant. <u>Other matters</u> In the time available, officials have not identified any other impacts for Māori development or Post Settlement Governance Entities settlement priorities, Mana Whakahono ā Rohe agreements, the Marine and Coastal Area (Takutai Moana) Act 2011 (noting the project area is outside the common marine and coastal area), groups yet-to-settle their historical claims (noting that Treaty settlements have been completed over the Ngāi Tahu takiwā including this area) or other relevant matters.
Is the project considered low, medium or high impact (based on assessment criteria above)	Officials consider the application to be medium impact based on the criteria outlined above. From the information provided, it is unclear whether Ngāi Tahu and the Papatipu Rūnanga of Arowhenua & Waihao are aware the project is being progressed through the fast-track process and whether this would have bearing on Ngāi Tahu and the Papatipu Rūnanga support.
Has the Ministry for the Environment undertaken engagement?	Officials consider engagement would be beneficial to confirm Ngāi Tahu and the Papatipu Rūnanga of Arowhenua and Waihao position on the project being listed as a schedule 2B project but were unable to undertake it due to the time available.
Additional comments/context	N/A

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.