

FTA#245: Application for listed project under the Fast-track Approvals Bill – Western Bays Solar Development Project for Schedule 2A

Date submitted to secretariat:	23 May 2024
Security level:	In-Confidence
To:	David TAPSELL, Chair – Fast-track Projects Advisory Group

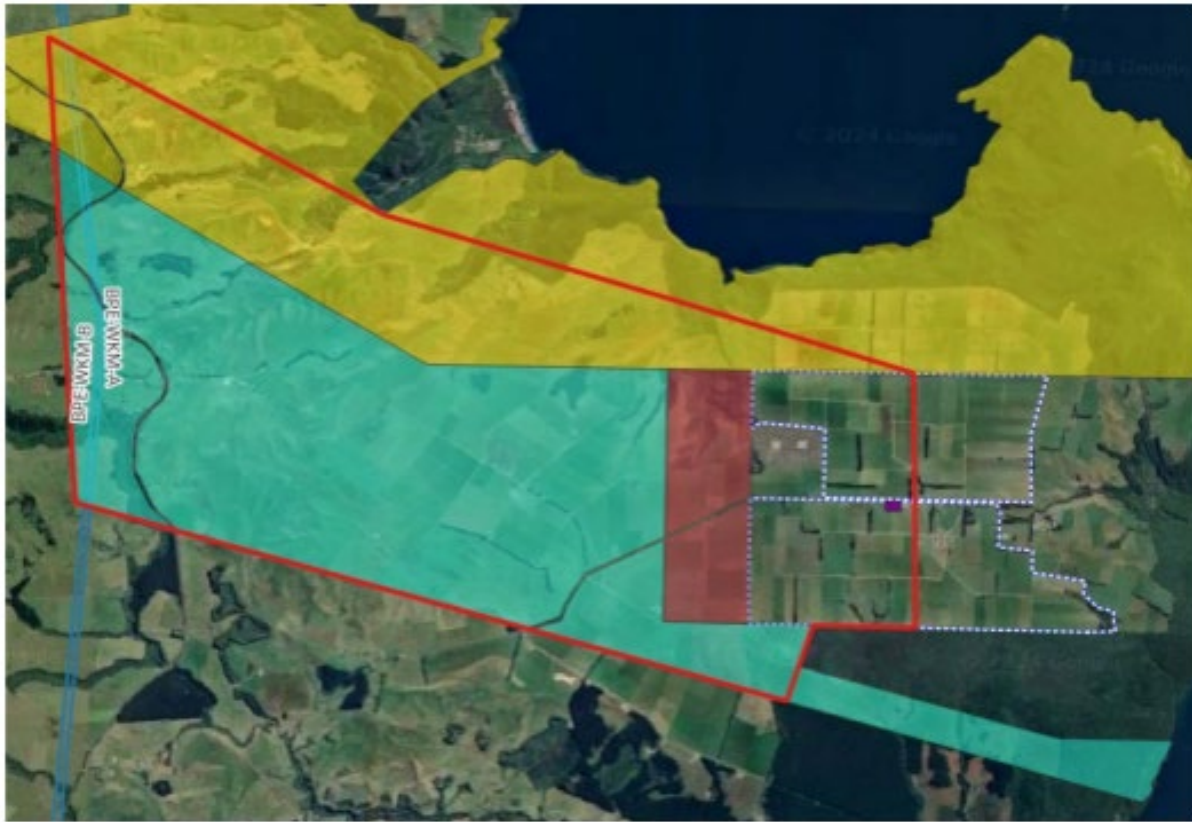
Number of attachments: #	Attachments: 1. Application documents for Western Bay Solar Development Project
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Applicant	Sector	Region	Identified in a priority/strategy?
Meridian Energy Ltd	Solar	Waikato	No

Ministry for the Environment contacts

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

Project location



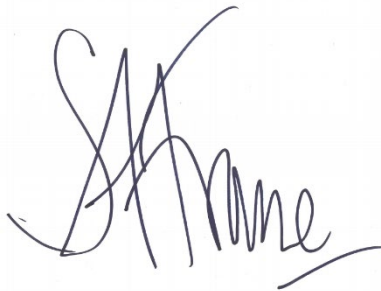
*Figure 1: Project Location and legal property boundaries
(Legend: solar development – blue and white outline; substation area – dark purple area;
transmission possible areas – red outline around green, red and yellow areas)*

Key messages

1. The Western Bays Solar Development project is to construct and operate a solar farm on two sites comprising 620-hectares at Kuratau, near the Western edge of Lake Taupo in the Waikato Region, and to connect to and supply electricity to the national grid. The solar farm will have an approximate peak output of 500 Megawatts, enough to power the equivalent of 135,000 homes.
2. The solar farm will comprise:
 - a. solar panels on 2 adjoining site, occupying approximately 640 hectares bisected by Karangahape Road
 - b. arrays and mounting structures, inverter cabinets, and associated infrastructure
 - c. a substation and transmission line to connect to the national grid
 - d. an energy storage facility
 - e. underground electricity cables
 - f. ancillary buildings, structures and infrastructure (including on-site wastewater treatment facility, roads, access, culverts, cabling, fencing and other infrastructure)

- g. landscaping including planting and boundary screening.
3. The project will require land use consent, water permits and discharge permits under the Resource Management Act 1991 (RMA).
 4. The applicant identifies that approvals may also be required under the Wildlife Act 1953 and the Heritage New Zealand Pouhere Taonga Act 2014.
 5. The applicant notes that separate consents will be sought for the transmission infrastructure **or** may be added to the fast-track application in the event of written agreement being secured with the neighbouring landowners.
 6. The project application site is freehold land owned by a single landowner who has entered into a development agreement with the applicant.
 7. We have undertaken an initial (Stage 1) analysis of the application and this is provided in Table A.
 8. We do consider the applicant has provided sufficient information to consider the project for inclusion on Schedule 2A (although we note it could still be included on Schedule 2B based on the information provided).
 9. The project does not trigger the ineligibility criteria in clause 18 of the Fast-track Approvals Bill (the Bill).
 10. 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 blue ink, appearing to read 'S. Frame', is written over a faint circular stamp.

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)]	Eligibility [clause 17]	
				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)]		Is the project eligible [clause 17(2)]	Would the project have significant regional or national benefits [clause 17(3)]
High level summary			Y	N	N	N	N			
Schedule requested 2A Name Western Bays Solar Development Applicants Meridian Energy Ltd Company directors Mark John VERBIEST Julia Cecile HOARE Michelle Anne HENDERSON Nagaja Tharanginee SANATKUMAR Tania Joy Te Rangingangana SIMPSON Graham John COCKROFT David Powell CARTER Location 624, 632 and 808 Karangahape Road, Kuratau. Land Status Note the project site is owned by a single landowner who has entered into a development agreement with the applicant.	The Western Bays Solar Development project is to construct and operate a solar farm on two sites comprising 620-hectares at Kuratau, near the Western Shore of Lake Taupo in the Waikato Region, and to connect to and supply electricity to the national grid. The solar farm will comprise: - solar panels on 2 adjoining sites, occupying approximately 640 hectares bisected by Karangahape Road - arrays and mounting structures, inverter cabinets, and associated infrastructure - a substation and transmission line to connect to the national grid - an energy storage facility - underground electricity cables - ancillary buildings, structures and infrastructure (including on-site wastewater treatment facility, roads, access, culverts, cabling, fencing and other infrastructure)	The applicant seeks approval under the: - Resource Management Act 1991 Subject to site assessments approvals may also be required under the: - Wildlife Act 1953 - Heritage New Zealand Pouhere Taonga Act 2014	Yes. Consultation began in February 2024 specific to this project. The applicant has engaged with the landowners, relevant local authorities, and hapu-based trust (neighbours to the proposed development). The applicant states that next steps will be more substantive engagement with iwi and neighbouring landowners.	No	No	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 - 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 No The project may have significant adverse effects on the environment Yes - The applicant has provided an overview of the anticipated and known adverse effects for both construction and operation. The applicant has a poor compliance history under the relevant legislation	Whether access to the fast-track process will enable the project to be processed in a more timely and cost-efficient way than under normal processes Yes - Consideration and approval under the fast-track process will enable the project to be processed with more certainty, and in a more timely and efficient way than under normal processes. The impact referring this project will have on the efficient operation of the fast-track process Low impact - The applicant notes the readiness and comprehensiveness of its application. Whether the application contains sufficient information to inform the referral decision Yes - The applicant notes the readiness and comprehensiveness of its application.	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 applicant refers to the National Policy Statement for Renewable Energy Generation, the New Zealand Infrastructure Strategy and the Infrastructure Action Plan and the Emissions Reduction Plan and Coalition 100-day Plan. While these documents promote renewable energy, they do not specifically identify this application. The project will deliver regionally or nationally significant infrastructure Yes - The scale of the project (500MW of renewable energy) will contribute significantly to meeting New Zealand's forecast energy demand. The project could power the equivalent of 135,000 homes. The project will increase energy diversity, security and resilience and will reduce the reliance on current non-renewable energy sources. The project will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment Yes – Through energy supply, security and resilience. The project will deliver significant economic benefits Yes - Through employment during the construction phases and operation staff once completed. This will have flow on

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.

	landscaping including planting and boundary screening.							No - Applicant states nil prosecutions and an excellent track record noting it operates 7 hydro stations and 6 windfarms. 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 includes an activity that is a prohibited activity under the RMA No		effects locally and regionally over the lifetime of the project. 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 Yes - The project will increase energy diversity, security and resilience and will reduce the reliance on current non-renewable energy sources and reduce GHG emissions compared to non-renewable energy sources. The project site is not known to be subject to climatic change hazards such as flooding and inundation. The project will support adaptation, resilience, and recovery from natural hazards Yes - The project will increase energy diversity, security and resilience and will reduce the reliance on current non-renewable energy sources. The project will address significant environmental issues Yes - Through use of renewable energy sources. The project is consistent with local or regional planning documents, including spatial strategies Yes - Applicant notes consistency with objectives of the Waikato Regional Policy Statement and the Taupo District Plan.
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PSGE Settlement Priorities and Māori Development assessment –

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.

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	The applicant has identified the below groups as the groups with interests in the area and information from Te Kāhui Māngai and Te Kooti Whenua Māori confirms the proposed project location as being within the area of interest for these groups:

	Ngāti Tūwharetoa² Te Kōtahitanga o Tūwharetoa as provided in Ngāti Tūwharetoa Claims Settlement Act 2018 and associated Deed of Settlement. Tūwharetoa Māori Trust Board (2007 Deed between Tūwharetoa Māori Trust Board and the Crown and Deed in relation to Co-Governance and Co-Management Arrangements for the Waikato River – 2010). Ngāti Raukawa³ as provided in Raukawa Claims Settlement Act 2014 and associated Deed of Settlement. Owners of Hauhungaroa 1D3B Block⁴ and Whakarawa Block⁵ Both of adjacent land parcels known as 554 Karangahape Road Tongariro Ward (Part Hauhungaroa 1D3B Block) and 5473 State Highway 32 (Whakarawa Block [SA26D/1378]) Waihaha are Māori freehold land.
Has the applicant consulted with those Māori groups?	Yes – Te Kōtahitanga o Ngāti Tūwharetoa The applicant notes an introductory hui was held with Te Kōtahitanga o Ngāti Tūwharetoa in April to present the project concept and discuss next appropriate steps. The outcome was for an introduction to the project be sent to a hapū delegate (not named in application or supporting information) and continue open communication with Te Kōtahitanga while the project develops. No – Tūwharetoa Māori Trust Board Officials note on 28 August 1992, Ngāti Tūwharetoa entered into an agreement with the Crown whereby the title to Taupō waters (the beds of Lake Taupo (Taupomoana), Waikato River as far as the Huka Falls and its tributaries was vested in the Tūwharetoa Māori Trust Board on trust for ngā hapu o Ngāti Tūwharetoa. That agreement was updated by a successive deed dated 10 September 2007. The settlement with Tūwharetoa PSGE (Te Kōtahitanga) is not intended to have any effect on that arrangement. Due to the project's proximity to Lake Taupo, officials note the Trust Board may be an interested party. Partially – Raukawa Charitable Trust The applicant has sent an introduction to the project email to Raukawa Charitable Trust (who represent Raukawa Settlement Trust on matters of cultural, social, and environmental matters). It is not clear if a response has been received. Yes – Hauhungaroa 1D3B Block and Whakarawa Block The applicant appears to be negotiating an agreement with these for that land to potentially become part of the project for the purposes of transmission and possibly other unspecified activities. The applicant notes the adjoining land is not included in the application as discussion with the relevant landowners has commenced and will be ongoing for a period.
Impact/s of the project on Māori development and PSGE settlement priorities and related matters	Impacts on PSGE settlement priorities and Māori development - Tūwharetoa Māori Trust Board – Some relevant areas from their strategic document "Mahere Rautaki" (2021-2026)⁶ which may align with this project include the challenge for Tūwharetoa being matters of climate and local environmental issues impacting their "core tangata." Consistency with the plan can only be assessed properly following consultation with Tūwharetoa Māori Trust Board and a full plan assessment. - Raukawa Settlement Trust – Annual Report 22/23⁷ "Raukawa continues to engage and provide feedback on resource consents that are of strategic importance and impact significantly on the values and interests of Raukawa uri, marae and hapū. As with previous years, our team continues to see an increase in the number of consents requiring our attention." Their focus for these projects appears to be environmental quality issues, the presence of wāhi tūturu and their ongoing protection and management. - The project does not contribute towards addressing historical or systemic inequities faced by Māori; the project is not being led by and is not in partnership with a Māori entity or business. Ngāti Tūwharetoa Claims Settlement Act 2018 <i>Statutory Acknowledgements</i> The applicant listed all the statutory acknowledgements for Ngāti Tūwharetoa from their settlement legislation however officials have not identified any statutory acknowledgement areas under the Ngāti Tūwharetoa settlement in or adjacent to the project area.⁸ <i>Joint Treaty Settlement Entity</i> <i>Te Kōpu ā Kānapanapa</i> is a joint committee established by this legislation. Its membership is made up of four trustees from Te Kōtahitanga o Ngāti Tūwharetoa (the PSE) and two elected members from Waikato Regional Council and two elected members from Taupō District Council. The purpose includes restoring, protecting and enhancing the environmental, cultural and spiritual health and well-being of the Taupō catchment for the benefit of Ngāti Tūwharetoa and all people in the Taupō catchment, to provide strategic leadership on the sustainable and integrated management of the Taupō catchment, to enable Ngāti Tūwharetoa to exercise mana and kaitiakitanga over the Taupō catchment in partnership with local authorities and give effect to Te Kaupapa Kaitiaki. Te Kaupapa Kaitiaki was approved by the Joint Committee in 2022 and is a legally enforceable statutory document. It directs local authorities to recognise and provide for the vision, objectives, desired outcomes, and values of Te Kaupapa Kaitiaki each time they prepare, or review (change or vary) an RMA planning document. Local authorities must have particular regard to it when also preparing or approving long term or annual plans and the Environment Protection Authority must have particular regard to Te Kaupapa Kaitiaki when considering resource consents. One key purpose of the redress was to provide opportunities for the joint Treaty settlement entity to influence whether and how resources consents may be granted. That was primarily through the impact of the statutory plan (prepared and approved by the joint Treaty settlement entity) on the RMA planning documents (e.g. the regional policy statement, regional plan or district plan) which set the framework for whether resource consents can be granted (and what conditions may need to be imposed). If the fast-track legislation means that those RMA planning documents have lesser weight, that could impact on the integrity of the redress (although there are requirements in the fast-track Bill for the same or equivalent effect to be given to that type of redress). In the fast-track process, the joint Treaty settlement entity will not have exactly the same rights as would be the case in the standard RMA resource consent process. For example, under the RMA process, if the joint Treaty settlement entity makes a submission on a notified application, that entity could attend a hearing (including presenting evidence and being heard), appeal to the Environment Court (including presenting evidence and being heard), and appeal to the High Court and higher courts. The fast-track process does not provide those rights (noting there are more limited appeal rights on 'points of law' and judicial review options). Raukawa Claims Settlement Act 2014

² TKM | Iwi | Ngāti Tūwharetoa | Te Kahui Mangai

³ <https://www.tkm.govt.nz/rohe/AOI-Raukawa.jpg>

⁴ Māori Land Court Block ID 42888

⁵ Māori Land Court Block ID 15785

⁶ TMTB_Strategy_Mahere-Rautaki-2021-2026.pdf (tuwharetoa.co.nz)

⁷ Raukawa-Annual-Report-2022-2023-1.pdf

⁸ Page 162 Tūwharetoa Deed of Settlement Ngāti Tūwharetoa Deed of Settlement Summary (tearawhiti.govt.nz)

	- The applicant listed all the statutory acknowledgements for Raukawa from their settlement legislation however officials have identified there are no statutory acknowledgement areas under the Raukawa settlement in or adjacent to the project area.⁹ Joint Management Agreements <i>Tūwharetoa Māori Trust Board and Waikato Regional Council - 2018</i> - The Joint Management Agreement between Tūwharetoa and Waikato Regional Council acknowledges the Trust Board is an iwi authority for the purposes of the RMA and acknowledges the Trust Board as the legal owner and sole trustee of Taupō Waters. The arrangement includes active encouragement from Council to applicants to consult early with the Trust Board prior to the lodgement of an application and encourage the Trust Board's participation in formal pre-lodgement meetings. <i>Raukawa Settlement Trust and Waikato Regional Council - 10 May 2012</i> The Joint Management Agreement between Tūwharetoa and Waikato Regional Council encourages pre-consultation with the Trust from applicants and prioritises environmental outcomes. There are also many agreements made with respect to the Council taking in to account the Trust's views when it comes to notification and direct referrals under the RMA. <i>Tūwharetoa Māori Trust Board and Taupo District Council</i>¹³ - This JMA gives the ability to Māori landowners to have their applications heard and decided by a mixed representation of Taupō District Council and Tūwharetoa Māori Trust Board commissioners. - In relation to resource consents, the JMA states the parties will uphold this agreement based on principles of good-faith and co-operation, and open and transparent sharing of information in the process of making good joint decisions, it also states Council shall ensure that Tūwharetoa Māori Trust Board is kept informed of relevant aspects of preparation, review and changes to the District Plan and notified resource consent applications, and notified plan changes within or affecting the area. Iwi management plans of relevance to this project location: Ngāti Tūwharetoa (Māori Trust Board) Iwi Management Plan - this document has many references to explore alternative energy sources such as wind or solar energy. Consistency with the plan can only be assessed properly following consultation with Ngāti Tūwharetoa and a full plan assessment. Other matters In the time available, officials have not identified any other impacts for associated Ngāti Tūwharetoa and Raukawa Treaty settlements and relevant legislation and deeds, the Marine and Coastal Area (Takutai Moana) Act 2011 (noting the project site is outside the marine and coastal area), groups yet-to-settle their historical claims, or Mana Whakahono ā Rohe.
Is the project considered low, medium or high impact (based on assessment criteria above)	From the information available we consider this project is likely to be of medium impact. This is due to the lack of consultation with Tūwharetoa Māori Trust Board, limited engagement with Ngāti Raukawa, as well as potential impacts on the Treaty Settlement Joint Entity redress arrangements provided by Ngāti Tūwharetoa's Treaty settlement. Given this is a 2A project an impact of listing this project under Schedule 2 Part A is that the Ministers will not have to exercise their 'referral discretion' including considering the Treaty settlement impacts through that process, nor will they have the benefit of the clause 13 report. For Part A projects, there is a requirement on the expert panel to invite comment from the PSGE on the application
Has the Ministry for the Environment undertaken engagement?	Officials consider engagement would be beneficial to confirm all the identified Māori groups with an interest in the project area has occurred as well as to further understand the impact on Te Kōpu ā Kānapanapa but were unable to undertake this in the time available.
Additional comments/context	N/A

⁹ Page 30-31 Raukawa Deed of Settlement [Raukawa Deed of Settlement 2 June 2012 \(tearawhiti.govt.nz\)](https://www.tearawhiti.govt.nz/)

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.