1. RESOURCE CONSENT REQUIREMENTS

The following section identifies the RMA status of the proposed activities and discusses the extent to which those activities need to be the subject of resource consent applications.

The site sits within the jurisdictions of the Taupo District Council and Waikato Regional Council. The proposed activities, as described in Section 3 of this AEE, are therefore subject to rules in the relevant sections of the Taupo District Plan ("**TDP**') and Waikato Regional Plan ("**WRP**").

An analysis of the proposal against the relevant rules in these documents is provided in the sub-sections below.

In this instance, it is also appropriate to consider whether additional consents are required under any National Environmental Standards ("**NES**") relating to this proposal.

Accordingly, an analysis of the proposed activities with respect to relevant NESs is also set out below.

1.1 NATIONAL ENVIRONMENTAL STANDARDS

There are a number of NESs currently in effect as regulations. Of potential relevance in this case are the following:

- NES for Assessing and Managing Contaminants in Soil to Protect Human Health ("**NESCS**"); and
- NES for Freshwater ("**NESFW**").

1.1.1 National Environmental Standard for Managing and Assessing Contaminants in Soil to Protect Human Health 2011

The NESCS came into effect on 1 January 2012 and provides for territorial authority functions under s31 of the RMA with respect to contaminated land management. The NESCS aims to ensure that land affected by contaminants in soil is appropriately identified and assessed before it is developed, and if necessary, the land is remediated, or the contaminants contained to make the land safe for human use. Clause 5(1) of the NES CS states that it applies when:

> *"…a person wants to do an activity described in any of subclauses (2) to (6) on a piece of land described in subclause (7) or (8):"*

Clause 5(7) of the NESCS states:

> *(7) The piece of land is a piece of land that is described by 1 of the following:*

(a) an activity or industry described in the HAIL is being undertaken on it:

(b) an activity or industry described in the HAIL has been undertaken on it:

(c) it is more likely than not that an activity or industry described in the HAIL is being or has been undertaken on it.

The Applicant has commissioned a PSI Report (**Appendix X**) which makes the following key findings:

- The site's history indicates predominantly a pastural grazing and short-term forestry (1990s-2012) use, with isolated well pad locations for geothermal exploration/production and monitoring purposes.
- Infrastructure associated with farming operations in the southern portion of the site have been removed, with no record of their construction or operation available.
- There are no complete pathways for impacts to site workers, future operators, or ecological receptors, as there is no identified source of contamination, therefore. standard earthworks controls are appropriate for the proposed works.

Overall, it was concluded that, despite several potentially contaminating activities were indicated within the site history, the activities do not meet the threshold of "more likely than not" to have occurred on the site, and therefore are not considered HAIL activities in the context of the Solar Farm Site. Accordingly, the site is not considered a piece of land as defined by Clause 5(7) of the NESCS, and the NESCS regulations are not relevant to the proposal.

1.1.2 National Environmental Standard for Freshwater 2020

The NES-FW came into effect from 3 September 2020 to regulate activities that pose risks to the health of freshwater and freshwater ecosystems and to uphold Te Mana o Te Wai.

To achieve its purpose, the NES-FW prescribes national environmental standards for activities that pose risks to freshwater and freshwater ecosystems. If the NES-FW specifies an activity status, this overrides any activity status separately identified in a Regional Plan(s) for the respective activities.

s 9(2)(b)(ii)

s 9(2)(b)(ii)

s 9(2)(b)(ii)

s 9(2)(b)(ii)

2. STATUTORY ASSESSMENT

This section of the AEE sets out the RMA framework for resource consent sought from Taupo District Council.

2.1 REQUIREMENTS OF A CONSENT APPLICATION

Section 88 of the RMA requires that an application for a resource consent be made in the prescribed form and manner, and include, in accordance with Schedule 4, the information relating to the activity, including an assessment of the activity's effects on the environment, as required by Schedule 4.

The resource consent application in Part A of this AEE are in the prescribed form, as set out in Form 9 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003.

s 9(2)(b)(ii)

2.2 SECTION 104 ASSESSMENT

2.2.1 Introduction

Section 104(1) of the RMA lists the matters that the consent authority must have regard to when considering an application for resource consent. Section 104(1) states:

104 Consideration of applications

(1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to–

(a) any actual and potential effects on the environment of allowing the activity; and

(ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and

(b) any relevant provisions of

(i) a national environmental standard:

(ii) other regulations:

(iii) a national policy statement:

(iv) a New Zealand coastal policy statement:

(v) a regional policy statement or proposed regional policy statement:

(vi) a plan or proposed plan; and

(c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

Section 104 of the RMA does not give any of the matters to which a consent authority is required to have regard primacy over any other matters. All the relevant matters are to be given such weight as the consent authority sees fit in the circumstances and as directed by the relevant statutory planning documents. Furthermore, all the provisions are subject to Part 2 of the RMA, although it is understood that explicit reference back to Part 2 of the RMA may not be necessary where it is unlikely to add anything to the conclusions reached when the matters detailed in section 104(1) are considered.

The matters for consideration under section 104 of the RMA are assessed in the sub-sections below.

2.2.2 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)

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)	s 9(2)(b)(ii)
s 9(2)(b)(ii)	s 9(2)(b)(ii)

s 9(2)(b)(ii)

2.2.6 Other Regulations

No other regulations are relevant to the resource consent being sought.

2.2.7 National Policy Statements

2.2.7.1 Te Ture Whaimana o Te Awa o Waikato

Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010 inserted Te Ture Whaimana, the Vision and Strategy for the Waikato River (Vision and Strategy), into the (then) operative RPS[1] . Te Ture Whaimana prevails over any inconsistent provisions in a national policy statement or the New Zealand Coastal Policy Statement.

Te Ture Whaimana applies to the area of the Waikato River from Huka Falls to Te Puuaha o Waikato (Port Waikato) and the Waipa River from its junction with the Punui River to its confluence with the Waikato River at Ngaruawahia. This area includes Hamilton City and the application site. While being mostly relevant to activities that may directly impact waterways within the rohe (i.e. discharge permits and water takes), Te Ture Whaimana is also applicable to land use activities to ensure that activities on the land do not have consequential impacts on the ability achieve the overarching objective of the Vision and Strategy.

The Vision for the Waikato River is:

> *"... for a future where a healthy Waikato River sustains abundant life and prosperous communities who, in turn, are all responsible for restoring and protecting the health and wellbeing of the Waikato River, and all it embraces, for generations to come."*

There are 13 objectives included to realise the above Vision, 12 strategies to achieve those objectives and 18 methods to implement those strategies.

Of these provisions, it is the 13 objectives which contain the desired outcomes for the management of the Waikato River:

A. *The restoration and protection of the health and wellbeing of the Waikato River.*

B. *The restoration and protection of the relationship of Waikato-Tainui with the Waikato River, including their economic, social, cultural, and spiritual relationships.*

C. *The restoration and protection of the relationship of Waikato River Iwi according to their tikanga and kawa, with the Waikato River, including their economic, social, cultural and spiritual relationships.*

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[1] The Vision and Strategy was also included in the notified version of the Proposed (now operative) RPS. This meant that the RPS progressed through the submission and hearing process with the Vision and Strategy being reflected in many of the provisions of the RPS.

D. *The restoration and protection of the relationship of the Waikato Region's communities with the Waikato River including their economic, social, cultural and spiritual relationships.*

E. *The integrated, holistic and coordinated approach to management of the natural, physical, cultural and historic resources of the Waikato River.*

F. *The adoption of a precautionary approach towards decisions that may result in significant adverse effects on the Waikato River, and in particular those effects that threaten serious or irreversible damage to the Waikato River.*

G. *The recognition and avoidance of adverse cumulative effects, and potential cumulative effects, of activities undertaken both on the Waikato River and within its catchments on the health and wellbeing of the Waikato River.*

H. *The recognition that the Waikato River is degraded and should not be required to absorb further degradation as a result of human activities.*

I. *The protection and enhancement of significant sites, fisheries, flora and fauna.*

J. *The recognition that the strategic importance of the Waikato River to New Zealand's social, cultural, environmental and economic wellbeing is subject to the restoration and protection of the health and wellbeing of the Waikato River.*

K. *The restoration of water quality within the Waikato River so that it is safe for people to swim in and take food from over its entire length.*

L. *The promotion of improved access to the Waikato River to better enable sporting, recreational, and cultural opportunities.*

M. *The application to the above of both maatauranga Maaori and latest available scientific methods.*

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)

s 9(2)(b)(ii)

s 9(2)(b)(ii)