

FTA#094: Application for listed project under the Fast-track Approvals Bill – Black Point Solar Farm Project for Schedule 2A

Date submitted to secretariat:	24 May 2024
Security level:	In-Confidence
To:	David TAPSELL, Chair – Fast-track Projects Advisory Group

Number of attachments: #	Attachments: 1. Application documents for Black Point Solar Farm project
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Applicant	Sector	Region	Identified in a priority/strategy?
Black Point Solar Ltd	Solar	Canterbury	No

Ministry for the Environment contacts

Position	Name	Mobile	1 st contact
Principal Authors	Max Gander-Cooper, s 9(2)(a)		
Manager	Stephanie Frame	s 9(2)(a)	✓
Director	Ilana Miller	s 9(2)(a)	

- b. arrays and mounting structures, inverter cabinets, and associated infrastructure
 - c. inverters within 20-foot shipping containers
 - d. a substation and transmission line to connect to the national grid
 - e. an energy storage facility
 - f. underground electricity cables
 - g. ancillary buildings, structures and infrastructure (including roads, access, culverts, cabling, fencing, and other infrastructure)
 - h. landscaping including planting, boundary screening.
3. The project will require resource consents under the Resource Management Act 1991 (RMA).
4. The project site is on private freehold land. The applicant has a formal Lease Option Agreement with the landowner in relation to the site. Once the option is exercised, the agreement provides for a three-year period to obtain the necessary resource consents, obtain project financing once all consent approvals are in place, and complete the development process.
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 2A (although we note if you disagree, it could still be included on Schedule 2B based on the information provided).
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', written over a horizontal line.

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			
<p>Schedule requested 2A</p> <p>Name Black Point Solar Farm Project</p> <p>Applicant Black Point Solar Limited</p> <p>Company Directors Nicholas Keeler Campbell McMath Matthew Rowe</p> <p>Location 636 Smillies Road, Oamaru, Canterbury</p> <p>Land Status Private freehold land. The applicant has a formal Lease Option Agreement with the landowner in relation to the site.</p>	<p>The Black Point Solar Farm Project is to construct and operate a solar farm on a 240-hectare site near Oamaru and to connect to and supply electricity to the national grid. The solar farm will have an approximate annual output of 270 gigawatt-hours.</p> <p>The solar farm will comprise:</p> <ol style="list-style-type: none"> approximately 380,000 solar panels arrays and mounting structures, inverter cabinets, and associated infrastructure inverters within 20-foot shipping containers <ol style="list-style-type: none"> substation and transmission line to connect to the national grid an energy storage facility underground electricity cables 	<p>The applicant seeks approval under the:</p> <ul style="list-style-type: none"> Resource Management Act 1991. 	<p>Yes.</p> <p>The applicant states they have consulted with Network Waitaki and Transpower about a project in this location. This informed the final site selection. The applicant will continue to work with Network Waitaki and Transpower in relation to the grid connection and any aspects relating to Transpower's high voltage lines crossing the site.</p> <p>The applicant states they have consulted with Waitaki District Council as to the consenting requirements and will continue to work with the Council on this matter. The local MP Miles Anderson has been consulted on the project.</p> <p>The applicant understands that initial contact with Te Runanga o Moeraki is to be undertaken through Waitaki District Council and has not therefore undertaken any iwi consultation as yet. Once that contact is</p>	<p>No.</p> <p>None of these ineligibility criteria are triggered.</p>	<p>No.</p> <p>No access arrangements are required under the Crown Minerals Act 1991, and the project will not occur on land identified in Schedule 4 of that Act.</p>	<p>No.</p> <p>The project will not take place on a national reserve.</p>	<p>No.</p> <p>The project will not occur in the EEZ.</p>	<p>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</p> <p>No - This project is not ineligible according to the information provided in the application.</p> <p>It is more appropriate to deal with the application under another Act</p> <p>No - The project does not appear to be so complex or contentious that it could not be dealt with by an expert panel with the benefit of a complete resource consent application. Expert panels have considered applications for solar farms in the rural zone under the COVID regime.</p> <p>The project may have significant adverse effects on the environment</p> <p>Yes - The applicant has provided an assessment of the effects but has not commented on whether the effects will be significant.</p>	<p>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</p> <p>Yes - The applicant considers the standard consenting processes are generally lengthy due to the relative novelty of these types of projects in New Zealand, especially those that propose dual solar and agricultural use. They tend to involve requirements for the significant provision of information across various disciplines and multi-day hearings.</p> <p>In particular, the applicant, along with other solar developers, has struggled with the interpretation issues associated with the NPS-HPL and has found these to be a barrier, or at least to add significant time and expense to consent processes. This is a key reason why a fast-track application is being pursued and why it is considered that the fast-track process will enable the project to be processed in a more timely and cost-efficient</p>	<p>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</p> <p>No - The project has not been specifically identified in a central or local government plan or strategy, but increasing renewable energy generation is widely known to be a central government priority.</p> <p>The project will deliver regionally or nationally significant infrastructure</p> <p>Yes - The project will deliver both regionally and nationally significant infrastructure. Renewable energy generation is identified as regionally significant infrastructure in the Canterbury Regional Policy Statement. Renewable energy generation is also identified as nationally significant infrastructure in the NPS-REG.</p> <p>The project will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment</p> <p>No - The applicant considers the project will contribute to a well-functioning urban environment because it will assist with emissions reductions and the resilience of the electricity network. This does not align with the definition in the National Policy Statement on Urban Development 2020.</p> <p>The project will deliver significant economic benefits</p> <p>Yes - The applicant states the project cost will be in the vicinity of \$200M, which is a significant contribution to the regional and national economics. During construction, there will be employment of around 200 full time equivalent staff working on the project.</p>

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.

	<p>g. ancillary buildings, structures and infrastructure (including roads, access, culverts, cabling, fencing, and other infrastructure)</p> <p>h. landscaping including planting, boundary screening.</p>		<p>made, the applicant is very much open and willing to communicate directly with Te Runanga o Moeraki and to consider and respond to any cultural matters raised. In any case, the applicant intends to make contact with Te Runanga o Moeraki to advise them of the project and to offer to work with them directly as it progresses.</p> <p>The applicant has consulted with the owners of properties adjoining and opposite the site. It is proposed that any concerns raised by these landowners will be considered and, where appropriate, addressed in the design of the project.</p>					<p>The applicant has a poor compliance history under the relevant legislation</p> <p>No - We are not aware of any compliance or enforcement taken against the applicant.</p> <p>The project involves an activity that would occur on land that the Minister for Treaty of Waitangi Negotiations considers necessary for Treaty settlement purposes</p> <p>No - The project site is not available for Treaty settlement redress.</p> <p>The project includes an activity that is a prohibited activity under the RMA</p> <p>No - The project does not include any prohibited activities that we are aware of.</p>	<p>way than under the normal processes.</p> <p>In this case, it could take over 12-18 months from the lodgment of applications to reach a council-stage decision. Regardless of whether the applications are approved or declined, there is a risk of appeal to the Environment Court.</p> <p>The impact referring this project will have on the efficient operation of the fast-track process</p> <p>Yes - The applicant considers referring this project strongly aligns with the purpose and efficient operation of the fast-track process because it is an ideal candidate for referral. The project clearly meets the requirements of the Bill for eligibility and referring the project will speed up the delivery of critical renewable energy infrastructure for the benefit of the region and New Zealand more broadly.</p> <p>The project's objectives and scope are clearly defined, as outlined earlier in this application. This means the future decision-makers will be able to assess the merits of the project without unnecessary delays.</p> <p>Whether the application contains sufficient information to inform the referral decision</p> <p>Yes - We consider the application includes enough information to assess it for inclusion on Schedule 2A.</p>	<p>which is significant in this regional location. During operation, there will be employment of around 15 FTEs.</p> <p>The project will support primary industries, including aquaculture</p> <p>No – The applicant notes the project will alleviate the pressure on a nearby pumping station and reduce energy prices for the agricultural sector.</p> <p>The project will support development of natural resources, including minerals and petroleum</p> <p>No</p> <p>The project will support climate change mitigation, including the reduction or removal of greenhouse gas emissions</p> <p>Yes - The project will produce a substantial amount of renewable energy generation, which will assist in New Zealand's transition to a low emissions economy through a reduction of greenhouse gas emissions due to the availability of a renewable energy source.</p> <p>The project will support adaptation, resilience, and recovery from natural hazards</p> <p>Yes – The applicant considers establishment of renewable energy generation in the end user location creates significant resilience in instances of natural hazards, where other energy supply sources may be cut off. During disasters (such as Alpine Fault 8) the project will have the ability to assist in recovery and energise cities such as Oamaru keeping the economy going and lights on. With the provision for battery storage as part of the project, energy can be stored and released during peak times, and disasters.</p> <p>The project will address significant environmental issues</p> <p>Maybe – The applicant considers the project will address the significant environmental issue of climate change. It is difficult to assess the significance of any individual project in addressing the effects of climate change.</p> <p>The project is consistent with local or regional planning documents, including spatial strategies</p> <p>Yes – The applicant considers the project is consistent with the Waitaki District Plan and the Canterbury Regional Policy Statement.</p>
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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.

<p>Ineligible projects - based on the considerations at cl18(a–e) of the Fast Track Approvals Bill (version as at introduction)</p>	<p>This project does not appear to be ineligible according to the information provided in the application.</p>
<p>Affected Māori group/s</p>	<p>Te Rūnanga o Ngāi Tahu Relevant papatipu rūnanga: Te Rūnanga o Moeraki</p>
<p>Has the applicant consulted with those Māori groups?</p>	<p>The applicant has not yet directly consulted with Te Rūnanga o Moeraki but notes their intention to make contact with Te Runanga o Moeraki to advise them of this application being made and to offer to work with them directly as the project progresses.</p>
<p>Impact/s of the project on Māori development and PSGE settlement priorities and related matters</p>	<p><u>Impacts on PSGE settlement priorities and Māori development</u></p> <p>Te Kounga Paparangi – Te Rūnanga o Ngāi Tahu Climate Action Plan²</p> <p>Te Rūnanga o Ngāi Tahu’s Climate Action Plan includes a goal of 100% renewable energy use and reduction of greenhouse gas emissions from energy use in Ngāi Tahu, and Ngāi Tahu partners operations. This seems to align with the project which proposes to produce a substantial amount of renewable energy generation, which will assist in New Zealand’s transition to a low emissions economy, i.e. a reduction of greenhouse gas emissions due to the availability of a renewable energy source. Looking specifically at the locality, the application notes that in the Network Waitaki area, the current total capacity is 121MVA. In Network Waitaki’s AMP24, the total capacity requirement by 2033 is shown to increase to 230 MVA. The project will therefore in certain conditions be able to power the entire Network Waitaki area with 100% renewable energy. <u>Without consultation it is unclear whether Ngāi Tahu would support this project specifically to achieve the above aspiration.</u></p> <p><u>Impact on Treaty settlements and other relevant arrangements</u></p> <p>Ngāi Tahu Claims Settlement Act 1998</p> <p>In the wider area, the Waitaki River has a Statutory Acknowledgement under the Ngāi Tahu Claims Settlement Act.³ Ngāi Tahu’s statement of association regarding the Waitaki River acknowledges it is an essential element of the identity of Ngāi Tahu.</p> <p>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. For Part B and other referred projects, there is a requirement for applicants to engage with PSGEs and for Ministers to invite comment from PSGEs.</p> <ul style="list-style-type: none"> • Listing this project may impact the application of these mechanisms providing for substantive input from Ngāi Tahu into processes related to this project that would occur through the normal consenting regime. For example, under the RMA process, if a PSGE is notified as a result of the statutory acknowledgement, the PSGE has the right to make a submission, attend a hearing, appeal to the Environment Court, and appeal to the High Court and higher courts. The fast-track process does not provide those same rights to the PSGE (particularly the potential right to make a submission and then participate in a hearing and appeal). <p>The application states the project site is not within, adjacent to, or impacted directly by the Statutory Acknowledgement area and the Waitaki River is not within the geographical area of the site. The application notes the site does not border with and is located approximately 900m north of the Waitaki River. The applicant notes the project is unlikely to affect Ngāi Tahu’s cultural values and association with this Statutory Acknowledgement area. Consultation with Ngāi Tahu and Te Rūnanga o Moeraki would help confirm this.</p> <p><u>Iwi Environment Management plans</u></p> <p>Waitaki Iwi Environmental Management Plan⁴</p> <p>The Waitaki Iwi Management Plan was developed by Te Rūnanga o Arowhenua, Te Rūnanga o Waihao and Te Rūnanga o Moeraki as an expression of rangatiratanga and in fulfilment of their kaitiaki responsibilities. The Plan emphasises the Waitaki River has a historical and important role in the creation of Ngāi Tahu history. There are numerous nohonga (occupation sites), urupā, wāhi tapu and wāhi taonga associated with the Waitaki River. This includes a major collection of rock art, which is referenced in the project application (discussed further below).</p> <p>Key policies relating to the Waitaki River in the Plan include:</p> <ul style="list-style-type: none"> • work with central and local government to achieve recognition of mana whenua rights and interests in wai in the Waitaki Catchment. • oppose all activities that denigrate the mauri of Kā Roimata o Aoraki (the tears of Aoraki) and all waters of the Waitaki. • require the identification and protection of the components of cultural landscapes.

² See NT_Te-Kounga-Paparangi_V4.pdf (ngaitahu.iwi.nz)

³ See Ngāi Tahu Claims Settlement Act 1998 No 97 (as at 01 July 2022), Public Act Schedule 72 Statutory acknowledgement for Waitaki River – New Zealand Legislation

⁴ See WaitakiIwiManagementPlan2019TeRunangaoMoerakiInc.pdf (aukaha.co.nz)

	<p><i>Tuhituhi Neherā – Rock Art</i></p> <p>The Plan states tuhituhi neherā are of great cultural significance to Ngāi Tahu as they tell of Ngāi Tahu's history and presence in the Waitaki catchment. Their importance is recognised in the statutory acknowledgement for the Waitaki River, where the surviving rock art sites are described as "a particular taonga of the area, providing a unique record of the lives and beliefs of the people who travelled the river."⁵</p> <p>The application notes there is a rock outcrop of archaeological significance with iwi connection near the proposed project site but the project deliberately avoids this area so it is not affected by development activities. The adverse effects assessment provided with the application says the project location does not contain any site of significance to tangata whenua based on District Plan information. It does identify an archaeological feature being a "rock shelter" held within Section 51 Block III Awamoko Survey District (note officials were unable to locate a rock feature or site in the District Plan in the location specified in the application). The assessment notes this is a small feature on the land and will be avoided by the applicant during development. The adverse effects assessment also notes it is anticipated that an accidental discovery protocol condition or advice note may be imposed should this application be approved.</p> <p>Consultation with Ngāi Tahu and Te Rūnanga o Moeraki will be necessary to ensure the project will not affect any nearby tuhituhi neherā.</p> <p>The plan addresses a range of issues, and a full analysis of the plan would need to be undertaken in conjunction with Te Rūnanga o Arowhenua, Te Rūnanga o Waihao and Te Rūnanga o Moeraki before any firm conclusions can be reached. That is a matter to be considered in more detail in subsequent stages if this progresses through the fast-track processes.</p> <p>Other matters</p> <p>In the time available, officials have not identified any other impacts for the Marine and Coastal Area (Takutai Moana) Act 2011 (noting the project area is outside the marine and coastal area) , groups yet-to-settle their historical claims (noting Treaty settlements have been completed in the Ngāi Tahu Takiwa), Joint Management Agreements outside of settlement or Mana Whakahono ā Rohe.</p>
<p>Is the project considered low, medium or high impact (based on assessment criteria above)</p>	<p>From the information available we consider this project is likely to be of medium impact, including</p> <ul style="list-style-type: none"> • the close proximity of the Waitaki River (a statutory acknowledgement area for Ngāi Tahu) and tuhituhi neherā (rock art) • the lack of engagement the applicant has undertaken with Ngāi Tahu and TRoM to date. Note the applicant has expressed an intention to engage with these groups and work with them directly on the project, this may lower the impact. • 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.
<p>Has the Ministry for the Environment undertaken engagement?</p>	<p>Officials consider engagement would be necessary to understand Ngāi Tahu and Te Rūnanga o Moeraki views on the project and confirm their willingness to work directly with the applicant, and to confirm the project site is not within the Waitaki River statutory acknowledgement area, but were unable to undertake this in the time available.</p>
<p>Additional comments/context</p>	<p>N/A</p>

⁵ See Ngāi Tahu Claims Settlement Act 1998 No 97 (as at 01 July 2022), Public Act Schedule 72 Statutory acknowledgement for Waitaki River – New Zealand Legislation.

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.