



FTC#262: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decisions:

Application 2023- 155 Kilvarock Solar Village Project

Date submitted:	13 June 2023	Tracking #: BRF-3215	
Security level	In-Confidence	MfE priority:	Urgent

	Action sought:	Response by:
To Hon David Parker, Minister for the Environment	Decisions on recommendations	to be advised

Actions for Minister's Office staff	<p>Return the signed briefing to MfE.</p> <p>Send the attached notice of decisions letter (if signed).</p>
Number of appendices: 7	<p>Appendices:</p> <ol style="list-style-type: none"> 1. Kilvarock Solar Village Project application and further information received (Databox link) 2. Stage 1 Briefing Note and decisions (Databox link) 3. Statutory framework for making decisions (Databox link) 4. Draft Notice of Decisions letter to North Rakaia Limited 5. Section 17 Report (Databox link) 6. Comments received from Ministers, Selwyn District Council and Environment Canterbury Regional Council, Waka Kotahi New Zealand Transport Agency and Transpower New Zealand (Databox link) 7. Further information received post-consultation (Databox link).

Ministry for the Environment contacts

Position	Name	Cell phone	1 st contact
Principal Author	Melissa McGrath		
Acting Manager	Rebecca Perrett	s 9(2)(a)	✓
Acting Director	Lorena Stephen	s 9(2)(a)	

FTC#262: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decisions

Key messages

1. This briefing seeks your final decisions on the application received under section 20 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) from North Rakaia Limited to refer the Kilvarock Solar Village Project (project) to an expert consenting panel (panel). A copy of the application is in Appendix 1.
2. This is the second briefing on this application. The first (Stage 1) briefing (BRF-3060) with your initial decisions annotated is in Appendix 2.
3. The project is to subdivide approximately 124 hectares of land and construct a mixed-use development, and construct and operate a solar farm, at 2830 North Rakaia Road and 317 South Two Chain Road, Bankside, Selwyn.
4. The mixed-use development will comprise:
 - a. approximately 900 residential units in a range of typologies, including approximately 200 residential units located within 33 apartment buildings up to three storeys in height, and terraced, duplex and detached houses
 - b. approximately 5000 square metres of land development and buildings for unspecified commercial activities
 - c. approximately 30 hectares of land development for an industrial innovation campus including multiple buildings for greenhouses and microalgae, cultured meat/dairy and sheep milk drying production, and general industry
 - d. open space network, community, and educational activities.
5. The applicant intends to use a development plan, design guidelines and built form controls, to be specified in consent notices, to control development on the site.
6. The solar farm will be located on approximately 220 hectares of land and will supply electricity to the mixed-use development and the national grid. The solar farm will have an approximate installed capacity of 280 Megawatt peak and will comprise:
 - a. approximately 300,000 solar panels occupying approximately 220 hectares
 - b. arrays and mounting structures, inverter cabinets, and associated infrastructure
 - c. one power station, one substation and a battery storage facility
 - d. ancillary buildings, structures and infrastructure (including a storage building, roads, access, security fencing, CCTV poles and other infrastructure)
 - e. underground electricity cables, including within the North Rakaia Road and Rakaia Terrace Road road reserves.
7. The project includes upgrade works within Breadings Road, South Two Chain Road and State Highway 1 road reserves, creation of private open spaces, landscaping and planting, and construction of supporting infrastructure including roads, accessways, car-parking areas and three-waters services. The project also includes the ecological restoration of approximately 17.2 hectares of low-lying land adjacent to the Rakaia River.
8. The project will involve activities such as:
 - a. subdividing land

- b. carrying out earthworks
 - c. discharging stormwater (which may contain contaminants) onto land or into water
 - d. water take
 - e. constructing solar panels and electricity infrastructure
 - f. constructing residential, industrial and commercial units
 - g. landscaping including amenity planting and restoration planting
 - h. installing infrastructure or structures including roads and accessways, and infrastructure for three waters services
 - i. carrying out other activities that are:
 - i. associated with the activities described in paragraphs (a) to (h)
 - ii. within the scope of the project as described in paragraphs 3 to 5.
9. The project will require subdivision and land use consents under the operative Selwyn District Plan (SDP), land use consent under the Proposed Selwyn District Plan (PDP), and land use consent and water and discharge permits under the Canterbury Land and Water Regional Plan (CLWRP).
 10. The project site is located in the Outer Plains zone and within the Outline Development Plan Water overlay under the SDP. The SDP promotes rural activities as the predominant land use within the Outer Plains zone and seeks to maintain rural character and a low overall residential density, and avoid adverse effects, including reverse sensitivity effects. The proposed activities would have overall non-complying activity status due to activities such as density of residential subdivision and development within the Outer Plains zone, and stormwater and wastewater discharges.
 11. Selwyn District Council (SDC) notified its PDP in October 2020. Under the PDP the project site is located in the General Rural Zone and is covered by multiple overlays including West Plains and Foothills, Major Rivers and Canterbury Plains Area, Outstanding Natural Landscape Rakaia River, Plains Flood Management and Liquefaction. The anticipated outcomes for the site under the PDP are similar to those under the SDP. SDC anticipate decisions on the PDP will be released prior to 20 August 2023.
 12. The SDP and PDP do not appear to support the urban development proposed and we are not aware of any strategic growth documents that support urban development on the project site. Councils within the greater Christchurch area, including SDC, have undertaken strategic planning for housing growth through the Greater Christchurch Partnership. The project site is located outside of the greater Christchurch area mapped in the Canterbury Regional Policy Statement and we do not consider it necessary to invite comments from the Greater Christchurch Partnership for this project.
 13. The applicant acknowledges the project will have some tension with the objectives and policies of the SDP and the CLWRP but considers adverse effects will be no more than minor and the project can pass at least one of the 'gateway tests' in section 104D of the Resource Management Act 1991 (RMA).
 14. We consider the project may generate employment, contribute to increased electricity supply and security and provide opportunities for recreation and public amenity. However, it is not clear that the project will meet the section 18 referral criteria or help achieve the purpose of the FTCA including promoting sustainable management of natural and physical resources. We consider it would be more appropriate for the project to be considered through standard processes under the RMA. This is due to the misalignment with existing and proposed district plan policy and zoning, and lack of support from strategic planning direction. Broader public

consultation and engagement would be useful on these issues. These matters are discussed in the section 18 and other reasons to decline sections below.

15. We note that the application confirms that funding of the project is primarily sourced overseas and subject to further consent approval. The Minister of Local Government considered that the evidence of funding is doubtful, there is no confirmation of funding from the Chinese Construction Bank New Zealand and that the messaging for investors also appeared not to be in keeping with the spirit of the Overseas Investment Framework, noting that the applicant stated that as it is not the landowner and it would be easier for overseas investors to get involved in the project. We consider that this is a significant risk to the delivery of the project given the scale and proposed timeline.
16. Accordingly, as discussed in more detail below, our view is that we are not confident the project will help achieve the purpose of the FTCA (and you are required to be satisfied that it will help) and it is more appropriate for it to be processed under standard RMA consenting processes. For these reasons, we recommend you decline the referral application under sections 23(1), 23(2) and 23(5)(b) of the FTCA.
17. We seek your decision on this recommendation.

Assessment against statutory framework

18. The statutory framework for your decision-making is set out in Appendix 3. You must apply this framework when you are deciding whether or not to accept the application.
19. You must decline the referral application if the project does not meet the section 18 referral criteria. The section 18 referral criteria includes that you must be satisfied that the Project will help to achieve the purpose of the FCTA. The purpose of the FTCA is to urgently promote employment to support New Zealand's recovery from the economic and social impacts of COVID-19 and to support the certainty of ongoing investment across New Zealand, while continuing to promote the sustainable management of natural and physical resources.
20. Even if a Project meets the section 18 referral criteria you are able to decline an application for any other reason, including those listed in section 23(5).
21. Before you make a decision you must consider the application and any further information provided by the applicant (in Appendix 1), the Section 17 Report (in Appendix 5), and comments from Ministers, SDC, Environment Canterbury Regional Council (ECan), Waka Kotahi New Zealand Transport Agency (Waka Kotahi) and Transpower New Zealand Limited (Transpower) (in Appendix 6). We discuss these matters and provide our advice below.

Further information provided by applicant

22. In response to your request under section 22 of the FTCA the applicant provided further information with respect to funding of the project including an investment plan and letters of support from investors. We have taken this information into account in our analysis and advice.

Section 17 report

23. The Section 17 Report indicates that there is one iwi authority, one Treaty settlement and one Treaty settlement entity relevant to the project area.
24. No specific cultural or commercial redress provided under the settlements would be affected by the project.

Comments received

25. Comments were received from s 9(2)(f)(ii), s 9(2)(g)(i) SDC, ECan, Waka Kotahi and Transpower. The key points of relevance to your decision are summarised in Table A.

26. s 9(2)(f)(ii), s 9(2)(g)(i)

27. s 9(2)(f)(ii), s 9(2)(g)(i)

28. s 9(2)(f)(ii), s 9(2)(g)(i)

29. s 9(2)(f)(ii), s 9(2)(g)(i)

30. SDC opposed the referral of the project. SDC considered that there are a range of actual and potential strategic and planning issues that would arise from the development of this proposal including, it is contrary to strategic planning documents that direct new urban development to occur in a form that concentrates or attaches to existing urban areas, contrary to the objectives and policies of the Operative and Proposed Selwyn District Plans, contrary to the National Policy Statement for Highly Productive Land (NPS-HPL). SDC considered that there is potential for significant adverse effects in terms of, landscape and visual impact, rural character and amenity and glint and glare. SDC noted that the development does not support the reduction of greenhouse gases as residents will still need to commute for other needs, and that it would potentially be challenging to gain water take approval.

31. ECan stated that they are hesitant to support the application identifying issues including, waste water treatment and discharge of this scale and nature potential significant risk as a result of lack of detailed information, lack of consideration of alternatives in accordance with the National Policy Statement for Freshwater Management (NPS-FW), lack of assessment

of discharge contaminants into air from the operation of a reticulated sewerage network, lack of detail of stormwater management and water supply, lack of assessment of multiple surface water bodies and relevance of the National Environmental Standards for Freshwater (NES-FW), potential temporary construction effects, the need to consult with mana whenua on all aspects of the proposal, including the proposed discharge of wastewater into land, consideration of vesting of services, reverse sensitivity effects, limited public and active transport options between Kilvarock and other townships and the flood risk of the site. ECan is concerned that this proposal will not give effect to the relevant provisions of the CRPS by providing for growth outside of existing urban areas and that the NPS-HPL applies to the site and needs to be given effect to. ECan consider that public notification would be appropriate.

32. Transpower supported project referral and noted that the applicant proposes to connect the generation to Transpower's Roxburgh-Islington A line and this connection would require construction of a greenfield grid injection point/substation. Transpower identified a number of agreements and approvals that must be entered into prior to connection works. Transpower have also confirmed that the connection is at the back of their Queue Management Framework stating that it could be at least 3 years before any generation could be connected to the grid.
33. Waka Kotahi neither supported nor opposed the project referral, noting that they had significant questions regarding the merits of the proposal, including the distance of the proposed development from any existing urban development (meaning a likely heavy reliance on private vehicles), inconsistency with the SDP, the PDP and the CRPS. Waka Kotahi noted that there are implications from the project both for the safety and operation of State Highway 1 and a current Waka Kotahi safety project (Templeton to Ashburton) – insufficient information has been provided to enable any effects to be understood.

Section 18 referral criteria

34. Although the project does not include activities listed in section 18(3) that would make it ineligible for referral, it is not clear whether the project will help to achieve the purpose of the FTCA. You must be satisfied that the project will help to achieve the purpose of the FTCA under section 18(2) in order to refer the project.
35. As noted above, the purpose of the FTCA is to urgently promote employment to support New Zealand's recovery from the economic and social impacts of COVID-19 and to support certainty of ongoing investment, while continuing to promote sustainable management of physical and natural resources. We consider the project can help to achieve the employment objective of the FTCA's purpose. This is because the project has the potential to generate approximately 1,471 direct full-time equivalent (FTE) jobs over a 7 year construction period. These potential benefits will only be realised if the project proceeds.
36. Investment certainty is also an objective of the FTCA. As noted above, some questions were raised in the comments received about funding.
37. The FTCA purpose requires that the employment and investment certainty objectives are achieved while continuing to promote the sustainable management of natural and physical resources. Section 19 provides a range of matters that you may have regard to when considering, for the purpose of section 18(2), whether a project will help to achieve the purpose of the FTCA, including by considering any other matter that you consider relevant (section 19(f)).
38. The project may not promote sustainable management of natural and physical resources as it involves the use and development of land in a way and rate that may not enable people and communities to provide for their social, economic, and cultural well-being, while sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations, as explained in Table A. The project does not align with existing

operative and proposed district plan policy, regional policy and spatial direction of the CRPS. Specifically, the project will result in residential, industrial and commercial use of the site that is zoned Rural under the SDP and PDP.

39. SDC have noted that the project is not provided for within the Ellesmere Area Plan, which implements the Selwyn 2031 Strategy and the CRPS policy by identifying future housing and business growth areas to support existing towns to grow, and also enables infrastructure efficiency, provides a framework for infrastructure planning and helps achieve critical mass of people to support business growth.
40. We do not consider that you can be satisfied that the project will promote sustainable management of natural and physical resources and thereby help to achieve the FTCA purpose under section 18(2).
41. We note that the application confirms that funding of the project is primarily sourced overseas and subject to further consent approval. The Minister of Local Government considered that the evidence of funding is doubtful, there is no confirmation of funding from the Chinese Construction Bank New Zealand and that the messaging for investors also appeared not to be in keeping with the spirit of the Overseas Investment Framework, noting that the applicant stated that as it is not the landowner and it would be easier for overseas investors to get involved in the project. We consider that this is a significant risk to the delivery of the project given the scale and proposed timeline and on balance we do not consider you can be satisfied that the project will help to achieve the purpose of the FTCA under section 18(2).
42. If you agree, you must decline the referral application under section 23(1) of the FTCA.

Other reasons to decline

43. Whether the project meets the referral criteria in section 18 of the FTCA, section 23(2) of the FTCA permits you to decline to refer the project for any other reason.

Section 23 FTCA matters

44. Section 23(5) of the FTCA provides further guidance on what these “other reasons” to decline an application may be, and a summary of our analysis of these matters is in Table A. One of those reasons is that it would be more appropriate for the project, or part of the project, to go through the standard consenting process under the RMA. Note that you may refer an application to the panel even if one or more of those reasons apply.
45. We have identified the following matters that suggest it may be more appropriate for the Project to go through the standard consenting process under the RMA (our more detailed analysis is set out in Table A).
46. The wider community may expect the project to be preceded by a plan change and/or submissions to the proposed District Plan and Variations, which allows for full public consultation. The site is located within the Rural zone under the SDP therefore, urban development on the site is unlikely to be readily anticipated by the public and there is a risk that referring the project could be viewed negatively by the wider community and this risk cannot be completely avoided. We consider it would be more appropriate for the project to be considered under an RMA process to enable broader public consultation.
47. Section 23(5)(c) enables you to decline a project if the project is considered to be inconsistent with a relevant national policy statement. The NPS-UD defines SDC as a tier 1 territorial authority and if you decide to refer the project a panel must have regard to any relevant provisions of the NPS-UD when considering a consent application. The applicant considers the project meets the objectives and policies of the NPS-UD. At this stage we cannot provide definitive advice on whether the project is consistent with the NPS-UD as that would require further detailed analysis. However, we consider this matter can be appropriately determined

by a panel and therefore we do not consider that you should decline the referral application on the basis of section 23(5)(c) of the FTCA (inconsistency with a relevant national policy statement).

48. The National Policy Statement for Highly Productive Land 2022 (NPS-HPL) came into effect on 17 October 2022 and includes a definition of 'highly productive land'¹. The project site includes areas of land that are Land Use Capability Class 3 and therefore are likely to meet the definition of 'highly productive land' under the NPS-HPL. The NPS-HPL places restrictions on development, subdivision and inappropriate use of highly productive land. The applicant considers the project meets the definition of specified infrastructure under the NPS-HPL and has noted the project site will continue to be used for productive farming activities (sheep grazing) beneath and around the solar panels. The applicant has provided a high-level assessment of the project against the NPS-HPL and considers the project is not inconsistent with it.
49. SDC considered that the project would be contrary to the NPS-HPL stating that solar farm infrastructure, intensive farming and urban development are all considered inappropriate uses of highly productive land under the NPS. ECan also noted that resource consent application RC225180 for a solar farm within the Selwyn district was recently declined by the Hearing Commissioner on the basis that the application was not publicly notified and the Commissioner found that "the effects of the loss of productive capacity of the highly productive land over an indefinite period are more than minor". ECan considered that given the similar nature of activities on highly productive land for the Kilvarock Solar Village proposal, Environment Canterbury considers that public notification would be appropriate.
50. If you decide to refer the project the applicant will need to undertake a detailed assessment, and a panel must have regard to any relevant provisions of the NPS-HPL when considering resource consent applications for the project. We consider a panel will be best placed to assess the project against the NPS-HPL, with the benefit of a complete resource consent application, and we do not consider that you should decline the referral application on the basis that it would be inconsistent with a relevant national policy statement (section 23(5)(c)).

Other matters

51. A key issue is whether the project would be more appropriately considered as part of a broader strategic planning process that assesses appropriate locations for future urban development, followed by a site-specific RMA consenting process.
52. We consider that proceeding via a resource consent process in advance of re-zoning is generally not regarded as good planning practice because it raises risks of fragmented or poorly integrated development. We have provided advice on several referral applications confirming that the FTCA does not preclude referral of the project for this reason. However, for this project we consider the misalignment with existing operative and proposed district plan policy, regional policy and spatial direction of the CRPS, require cumulative consideration alongside the potential for public interest in the project. Therefore, we are of the view that referral of the project should be declined as it may not help to meet the purpose of the FTCA and it would be more appropriately considered under an RMA process.

¹ Until a regional policy statement contains maps of highly productive land, each territorial and consent authority must apply the NPS-HPL as if references to 'highly productive land' were references to land that, at the commencement date: (a) is (i) zoned general rural or rural production; and (ii) LUC 1, 2, or 3 land; but (b) is not: (i) identified for future urban development; or (ii) subject to a Council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.

Under the NPS-HPL, 'Identified for future urban development' means: (a) identified in a published Future Development Strategy as land suitable for commencing urban development over the next 10 years; or (b) identified: (i) in a strategic planning document as an area suitable for commencing urban development over the next 10 years; and (ii) at a level of detail that makes the boundaries of the area identifiable in practice. While the land has been identified for future development in the KCDC growth strategy and WRGF, it is unclear whether this will be commenced over the next 10 years.

Conclusions

53. The overarching purpose of the FTCA (under section 4) is to urgently promote employment to support New Zealand's recovery from the economic and social impacts of COVID-19 and to support the certainty of ongoing investment across New Zealand, while continuing to promote the sustainable management of natural and physical resources. Although the project meets part of the referral criteria in section 18, including some aspects of the FTCA's purpose because it will help to urgently generate employment and enable the future construction of housing, it is not clear whether you can be satisfied the project will promote sustainable management of natural and physical resources. On balance, we do not consider the project will help to achieve the purpose of the FTCA. If you agree, you must decline the referral application under section 23(1) of the FTCA.
54. Further, we consider that it is more appropriate for the project to go through standard processes under the RMA due to the potentially high level of public interest, and misalignment with existing and proposed district plan policy, regional policy and spatial direction of the CRPS. We consider that on balance, due to the issues and risks associated with the project summarised above, it is appropriate to decline to refer the application under sections 23(1), 23(2) and 23(5)(b) of the FTCA.

Next steps

55. If you decide to decline project referral, you must give the notice of your decisions, and the reasons for them, to the applicant and anyone invited to comment under section 21.
56. We have attached a notice of decisions letter to the applicant based on our recommendations (refer Appendix 4). Once you have signed the letter we will assist your office to copy it to all relevant parties.
57. As required by section 25(3) of the FTCA, you must ensure that your decisions on the referral application, the reasons and the Section 17 report are published on the Ministry for the Environment's website. We will undertake this task on your behalf in accordance with your direction.
58. Our recommendations for your decisions follow.

Recommendations

59. We recommend that you:

- a. **Note** section 23(1) of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) requires you to decline the referral application from North Rakaia Limited unless you are satisfied that the Kilvarock Solar Village Project (project) meets all the referral criteria in section 18 of the FTCA, including that it would help to achieve the FTCA's purpose.
- b. **Note** the purpose of the FTCA is to urgently promote employment to support New Zealand's recovery from the economic and social impacts of COVID-19 and to support the certainty of ongoing investment across New Zealand, while continuing to promote the sustainable management of natural and physical resources.
- c. **Note** that section 23(2) of the FTCA also allows you to decline an application for any other reason, whether or not the project meets the referral criteria.
- d. **Note** before making a decision on the application for the project you must consider:
 - i. the application (attached at Appendix 1)
 - ii. the report obtained under section 17 of the FTCA (attached at Appendix 5)
 - iii. any comments and further information sought and provided within the required timeframe (attached at Appendix 6 and 7).
- e. **Decline** to refer the project to a panel under section 23(1) of the FTCA because you cannot be satisfied that the project will help to achieve the purpose of the FTCA and therefore it does not meet the referral criteria in section 18 of the FTCA.

Yes/No
- f. **Decline** to refer the project to a panel under sections 23(2) and 23(5)(b) of the FTCA because it would be more appropriate for the project to go through standard consenting processes under the Resource Management Act 1991.

Yes/No
- g. **Sign** the notice of decisions letter to the applicant (attached in Appendix 4).

Yes/No
- h. **Note** that should you disagree with our recommendation to decline the referral application, we will need to give further consideration to directions to a panel and/or the applicants that would be advisable under section 24 of the FTCA.

- i. **Require** the Ministry for the Environment to publish your decisions, reasons and the Section 17 report on the Ministry for the Environment's website.

Yes/No

Signatures



Rebecca Perrett
Acting Manager – Fast-track Consenting

Hon David Parker
Minister for the Environment

Date:

Table A: Stage 2 - Project summary and section 24 FTCA assessment for projects where the Minister for the Environment is the sole decision maker

Project details	Project description	Does all or part of the project meet the referral criteria in section 18?		Summary of comments received <i>(Note: for analysis and/or recommended responses to these comments refer to column 7)</i>	Section 23 assessment – potential reasons for declining	Referral conclusions & recommendations
		Project eligibility for referral (section 18(3)(a)–(d))	Section 18 - does the project help achieve the purpose of the FTCA (as per section 19)?			
<p>Name Kilvarock Solar Village Project</p> <p>Applicant Rakaia North Limited</p> <p>c/- Juliette Lovett, Town Planning Group</p> <p>Location <u>Solar Farm and Mixed-Use Development Site:</u> 2830 North Rakaia Road and 317 South Two Chain Road, Bankside, Selwyn</p> <p>(Section 1 Survey Office Plan 1509, Lot 2 Deposited Plan 345273, Lot 2 Deposited Plan 78940 and Lot 2 Deposited Plan 347786,</p> <p>Lot 1 Deposited Plan 81616,</p> <p>Lot 2 Deposited Plan 81616, Rural Section 40748, Section 1 Block 13, Lot 1 DP 73371, Reserve 5078, Reserve 2327)</p> <p>Breadings Road, South Two Chain Road and State Highway 1 road reserves.</p> <p><u>National Grid Connection:</u> Works within North Rakaia Road and Rakaia</p>	<p>The project is to subdivide approximately 124 hectares of land and construct a mixed-use development, and construct and operate a solar farm, at 2830 North Rakaia Road and 317 South Two Chain Road, Bankside, Selwyn.</p> <p>The mixed-use development will comprise:</p> <p>a. approximately 900 residential units in a range of typologies, including approximately 200 residential units located within 33 apartment buildings up to three storeys in height, and terraced, duplex and detached houses</p> <p>b. approximately 5000 square metres of land development and buildings for unspecified commercial activities</p> <p>c. approximately 30 hectares of land development for an industrial innovation campus including multiple buildings for greenhouses and microalgae, cultured meat/dairy and sheep milk drying production, and general industry</p> <p>d. open space network, community, and educational activities.</p> <p>The applicant has not provided any details of the commercial buildings and has only provided a design concept for a typical industrial building. The applicant intends to use a development plan, design guidelines and built form controls, to be specified in consent notices, to control development on the site.</p> <p>The solar farm will be located on approximately 220 hectares of land and will supply electricity to the mixed-use development and the national grid. The solar farm will have an approximate installed capacity of 280 Megawatt peak and will comprise:</p>	<p>Based on available information at this stage, we consider the project is eligible for referral because:</p> <ul style="list-style-type: none"> it does not include any prohibited activities it does not include land returned under a Treaty settlement it does not occur in a customary marine title area or protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011. 	<p>Economic benefits for people or industries affected by COVID-19 (19(a))</p> <p>The applicant estimates the project will:</p> <ul style="list-style-type: none"> provide approximately 2,710 full-time equivalent (FTE) jobs over a 5-year construction period provide approximately 1,551 on-going FTE jobs s 9(2)(b)(ii) <p>Effect on the social and cultural well-being of current and future generations (19(b))</p> <p>The applicant considers the project will contribute to the overall wellbeing of the area with social wellbeing by generating employment and broader economic benefits, contributing to increased electricity supply and security and providing opportunities for recreation and public amenity.</p> <p>Is the project likely to progress faster by using this Act? (19(c))</p> <p>The applicant estimates the FTCA process will allow the project to progress 3.5 years faster than under standard RMA processes due to the likelihood of notification and a hearing and potential for appeals under standard process. We consider the applicant's estimate to be reasonable.</p> <p>Will the project result in a public benefit? (19(d))</p> <p>Based on the applicant's information we consider the project may result in the following public benefits:</p> <ul style="list-style-type: none"> generating employment increasing electricity supply and security increasing housing supply 	<p>Ministers</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p>	<p>Section 23(5) matters:</p> <p>Insufficient information (23(5)(a))</p> <p>The applicant has provided sufficient information for you to determine whether the project meets the criteria in section 18 of the FTCA.</p> <p>More appropriate to go through standard RMA process (23(5)(b))</p> <p>We have considered whether it would be more appropriate for the project to be considered under standard RMA consenting process, particularly given the wider community may expect the project to be preceded by a plan change and/or submissions to the proposed District Plan and Variations, which allows for full public consultation. The site is located within the Rural zone under the SDP therefore, urban development on the site is unlikely to be readily anticipated by the public and there is a risk that referring the project could be viewed negatively by the wider community and this risk cannot be completely avoided. We consider it would be more appropriate for the project to be considered under standard RMA consenting process to enable broader public consultation.</p> <p>We consider that proceeding via a resource consent process in advance of re-zoning is generally not regarded as good planning practice because it raises risks of fragmented or poorly integrated development. We have provided advice on several referral applications confirming that the FTCA does not preclude referral of the project for this reason. However, for this project we consider the misalignment with existing operative and proposed district plan policy, regional policy and spatial direction of the CRPS, require cumulative consideration alongside the potential for public interest in the project. Therefore, we are of the view that referral of the project should be declined as it would be more appropriately considered under the RMA.</p> <p>Inconsistency with a national policy statement (23(5)(c))</p> <p>Section 23(5)(c) enables you to decline a project if the project is considered to be inconsistent with a relevant national policy statement. The NPS-UD defines SDC as a tier 1 territorial authority and if you decide to refer the project a panel must have regard to any relevant provisions of the NPS-UD when considering a consent application. The applicant considers the project meets the objectives and policies of the NPS-UD. At this stage we cannot provide definitive advice on whether the project is consistent with the NPS-UD as that would require further detailed analysis.</p>	<p>In response to key comments:</p> <p>We consider the project can help to achieve the employment objectives of the FTCA's purpose and meets section 18(2) in this regard. This is because the project has the potential to create approximately 1,471 direct full-time equivalent (FTE) jobs over a 7-year construction period.</p> <p>However, the FTCA purpose requires that these objectives are achieved while promoting sustainable management of natural and physical resources.</p> <p>We consider the project may not promote sustainable management of natural and physical resources as it involves the use and development of land in a way and rate that may not enable people and communities to provide for their social, economic, and cultural well-being, while sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations. The project does not align with existing operative and proposed district plan policy, regional policy and spatial direction of the CRPS. This may result in an inefficient use of the land.</p> <p>We consider that lack of certainty of funding of the project is a significant risk to the delivery of the project given the scale and proposed timeline and we do not consider you can be satisfied that the project will help to achieve the purpose of the FTCA under section 18(2).</p>

Project details	Project description	Does all or part of the project meet the referral criteria in section 18?		Summary of comments received <i>(Note: for analysis and/or recommended responses to these comments refer to column 7)</i>	Section 23 assessment – potential reasons for declining	Referral conclusions & recommendations
		Project eligibility for referral (section 18(3)(a)–(d))	Section 18 - does the project help achieve the purpose of the FTCA (as per section 19)?			
Terrace Road road reserves	<p>a. approximately 300,000 solar panels occupying approximately 220 hectares</p> <p>b. arrays and mounting structures, inverter cabinets, and associated infrastructure</p> <p>c. one power station, one substation and a battery storage facility</p> <p>d. ancillary buildings, structures and infrastructure (including a storage building, roads, access, security fencing, CCTV poles and other infrastructure)</p> <p>e. underground electricity cables, including within the North Rakaia Road and Rakaia Terrace Road road reserves.</p> <p>The project includes upgrade works within Breadings Road, South Two Chain Road and State Highway 1 road reserves, creation of private open spaces, landscaping and planting, and construction of supporting infrastructure including roads, accessways, car-parking areas and three-waters services. The project also includes the ecological restoration of approximately 17.2 hectares of low-lying land adjacent to the Rakaia River.</p> <p>The project will involve activities such as:</p> <p>a. subdividing land</p> <p>b. carrying out earthworks</p> <p>c. discharging stormwater (which may contain contaminants) onto land or into water</p> <p>d. water take</p> <p>e. constructing solar panels and electricity infrastructure</p> <p>f. constructing residential, industrial and commercial units</p> <p>g. landscaping including amenity planting and restoration planting</p> <p>h. installing infrastructure or structures including roads and accessways, and infrastructure for three waters services</p>		<p>Potential to have significant adverse environmental effects, including greenhouse-gas emissions (19(e))</p> <p>The applicant considers the project has the potential for adverse environmental effects including:</p> <ul style="list-style-type: none"> • reverse sensitivity effects • amenity effects • on rural character, landscape and visual amenity values • access and traffic effects • ecological effects • glint and glare effects • temporary construction effects, including noise and vibration • loss of productive land <p>The applicant has engaged specialists to prepare technical assessments on the above matters, and based on these reports considers the project will not result in significant adverse environmental effects.</p> <p>We note you do not require a full Assessment of Environment Effects and supporting evidence to make a referral decision, and a panel can consider this and any appropriate mitigation, offsetting or compensation to manage adverse effects should the project be referred.</p> <p>Other relevant matters (19(f))</p> <p>We note that the application confirms that funding of the project is primarily sourced overseas and subject to further consent approval. The Minister of Local Government considered that the evidence of funding is doubtful, there is no confirmation of funding from the Chinese Construction Bank New Zealand and that the messaging for investors also appeared not to be in keeping with the spirit of the Overseas Investment Framework, noting that the applicant stated that as it is not the landowner and it would be easier for overseas investors to</p>	<p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>Local authorities</p> <p>SDC opposed the referral of the project. SDC considered that there are a range of actual and potential strategic and planning issues that would arise from the development of this proposal including, it is contrary to strategic planning documents that direct new urban development to occur in form that concentrates or attaches to existing urban areas, contrary to the objectives and policies of the Operative and Proposed Selwyn District Plans, contrary to the National Policy Statement for Highly Productive Land (NPS-HPL). SDC considered that there is potential for significant adverse effects in terms of, landscape and visual impact, rural character and amenity and glint and glare. SDC noted that the development does not support the reduction of greenhouse gases as residents will still need to commute for other needs, and that it would potentially be challenging to gain water take approval.</p> <p>ECan stated that they are hesitant to support the application identifying issues including, waste water treatment and discharge of this scale and nature potential significant risk as a result of lack of detailed information, lack of consideration of alternatives in accordance with the National Policy Statement for Freshwater Management (NPS-FW), lack of assessment of discharge contaminants into air from the operation of a reticulated sewerage network, lack of detail of stormwater management and water supply, lack of assessment of multiple surface water bodies and relevance of the National Environmental Standards for Freshwater (NES-FW), potential temporary construction effects, the need to consult with mana whenua on all aspects of the proposal, including the proposed discharge of wastewater into land, consideration of vesting of services, reverse sensitivity effects, limited public and active transport options between Kilvarock and other townships and the flood risk of the site. ECan is concerned that this proposal will not give effect to the relevant provisions of the CRPS by providing for growth outside of existing urban areas and</p>	<p>However, we consider this matter can be appropriately determined by a panel and therefore we do not consider that you should decline the referral application on the basis of section 23(5)(c) of the FTCA (inconsistency with a relevant national policy statement).</p> <p>The National Policy Statement for Highly Productive Land 2022 (NPS-HPL) came into effect on 17 October 2022 and includes a definition of 'highly productive land'. The project site includes areas of land that are Land Use Capability Class 3 and therefore are likely to meet the definition of 'highly productive land' under the NPS-HPL. The NPS-HPL places restrictions on development, subdivision and inappropriate use of highly productive land. The applicant considers the project meets the definition of specified infrastructure under the NPS-HPL and has noted the project site will continue to be used for productive farming activities (sheep grazing) beneath and around the solar panels. The applicant has provided a high-level assessment of the project against the NPS-HPL and considers the project is not inconsistent with it.</p> <p>SDC considered that the project would be contrary to the NPS-HPL stating that solar farm infrastructure, intensive farming and urban development are all considered inappropriate uses of highly productive land under the NPS. ECan also noted that resource consent application RC225180 for a solar farm within the Selwyn district was recently declined by the Hearing Commissioner on the on the basis that the application was not publicly notified and the Commissioner found that "the effects of the loss of productive capacity of the highly productive land over an indefinite period are more than minor". ECan considered that given the similar nature of activities on highly productive land for the Kilvarock Solar Village proposal, Environment Canterbury considers that public notification would be appropriate.</p> <p>If you decide to refer the project the applicant will need to undertake a detailed assessment, and a panel must have regard to any relevant provisions of the NPS-HPL when considering resource consent applications for the project. We consider a panel will be best placed to assess the project against the NPS-HPL, with the benefit of a complete resource consent application, and we do not consider that you should decline the referral application on the basis that it would be inconsistent with a relevant national policy statement (section 23(5)(c)).</p> <p>Inconsistent with a Treaty settlement (23(5)(d))</p> <p>The project does not directly affect any Treaty settlement redress.</p> <p>Involves land needed for Treaty settlements (23(5)(e))</p>	<ul style="list-style-type: none"> • We consider that you should decline the referral application on the basis that the project may not promote sustainable management of natural and physical resources as it does not align with existing operative and proposed district plan policy, regional policy and spatial direction of the CRPS, and on balance the project does not help to achieve the purpose of the Act, and that it is more appropriate for the project to proceed through a standard consenting process under the RMA.

Project details	Project description	Does all or part of the project meet the referral criteria in section 18?		Summary of comments received <i>(Note: for analysis and/or recommended responses to these comments refer to column 7)</i>	Section 23 assessment – potential reasons for declining	Referral conclusions & recommendations
		Project eligibility for referral (section 18(3)(a)–(d))	Section 18 - does the project help achieve the purpose of the FTCA (as per section 19)?			
	<p>i. carrying out other activities that are:</p> <p>i. associated with the activities described in paragraphs (a) to (h)</p> <p>ii. within the scope of the project as described in paragraphs 3 to 5.</p> <p>The project will require subdivision and land use consents under the operative Selwyn District Plan (SDP), land use consent under the Proposed Selwyn District Plan (PDP), and land use consent and water and discharge permits under the Canterbury Land and Water Regional Plan (CLWRP).</p>		<p>get involved in the project. We consider that this is a significant risk to the delivery of the project given the scale and proposed timeline and we do not consider you can be satisfied that the project will help to achieve the purpose of the FTCA under section 18(2).</p>	<p>that the NPS-HPL applies to the site and needs to be given effect to. ECan consider that public notification would be appropriate.</p> <p>Other parties</p> <p>Transpower supported project referral and noted that the applicant proposes to connect the generation to Transpower's Roxburgh-Islington A line and this connection would require construction of a greenfield grid injection point/substation. Transpower identified a number of agreements and approvals that must be entered into prior to connection works. Transpower have also confirmed that the connection is at the back of their Queue Management Framework stating that it could be at least 3 years before any generation could be connected to the grid.</p> <p>Waka Kotahi neither supported nor opposed the project referral, noting that they had significant questions regarding the merits of the proposal, including the distance of the proposed development from any existing urban development (meaning a likely heavy reliance on private vehicles), inconsistency with the SDP, the PDP and the CRPS. Waka Kotahi noted that there are implications from the project both for the safety and operation of State Highway 1 and a current Waka Kotahi safety project (Templeton to Ashburton) – insufficient information has been provided to enable any effects to be understood.</p> <p>All responses received by parties invited to comment are attached in Appendix 6.</p>	<p>The project site does not include any land needed for Treaty Settlement purposes.</p> <p>Applicant has poor regulatory compliance (23(5)(f))</p> <p>SDC and ECan have confirmed that they do not have any records of enforcement action being taken against the applicant.</p> <p>Insufficient time for the project to be referred and considered before FTCA repealed (23(5)(g))</p> <p>The FTCA will be repealed on 8 July 2023, meaning that a referral order must exist for the project by this date if the project's resource consent applications are to be considered by a panel under FTCA process. The timeframe for completing a referral order following a decision to refer the project is dependent on certain statutory obligations, process steps and the capacity and resourcing of officials. This is becoming increasingly time-pressured as the 8 July deadline approaches.</p> <p>Other issues and risks:</p> <p>A key issue is whether the project would be more appropriately considered as part of a broader strategic planning process that assesses appropriate locations for future urban development, followed by a site-specific RMA consenting process.</p> <p>We consider that proceeding via a resource consent process in advance of re-zoning is generally not regarded as good planning practice because it raises risks of fragmented or poorly integrated development. We have provided advice on several referral applications confirming that the FTCA does not preclude referral of the project for this reason. However, for this project we consider the misalignment with existing operative and proposed district plan policy, regional policy and spatial direction of the CRPS, require cumulative consideration alongside the potential for public interest in the project. Therefore, we are of the view that referral of the project should be declined as it would be more appropriately considered under the RMA.</p>	