

FTC#250 Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decisions:

Application 2023-138 Opunake Solar Farm Project

Date submitted:	30 May 2023	Tracking #: BRF-3151	
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	Return the signed briefing to MfE. Send the attached notice of decisions letter (if signed).
Number of appendices: 7	Appendices: 1. Opunake Solar Farm Project application documents 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 Energy Farms Limited 5. Section 17 Report (Databox link) 6. Comments received from Ministers, South Taranaki District Council and Transpower New Zealand Limited (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#250: 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 Energy Farms Limited to refer the Opunake Solar Farm 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-2937) with your initial decisions annotated is in Appendix 2.
3. The project is to construct and operate a solar farm on an approximately 188-hectare site comprising 2 properties at 574 and 575 Upper Kina Road, Opunake, Taranaki¹, and to connect to and supply electricity to the national grid via existing 33kV Powerco Limited (Powerco) transmission lines. The solar farm will have an output of approximately 80-110 peak megawatts.
4. The solar farm will comprise:
 - a. approximately 152,000 solar panels occupying approximately 180 hectares
 - b. arrays and mounting structures, inverter cabinets, and associated infrastructure
 - c. 11 inverter stations, one substation and an energy storage facility
 - d. ancillary buildings, structures and infrastructure (including an energy storage facility, roads, access and other infrastructure)
 - e. underground electricity cables, including within the Upper Kina Road road reserve
 - f. enhancement of streams and natural inland wetlands.
5. The project will involve activities such as:
 - a. removing vegetation (including within, or within 10 metres of, a natural inland wetland)
 - b. carrying out earthworks (including within, or within 100 metres of, a natural inland wetland and disturbing potentially contaminated soils)
 - c. diverting groundwater
 - d. discharging groundwater, stormwater and contaminants to land and water
 - e. constructing buildings and other structures
 - f. installing underground electricity cables
 - g. constructing or installing infrastructure and structures, including private accessways for vehicles, parking areas and culverts (in the beds of streams) and in drains areas
 - h. landscaping and planting (including for enhancing streams and natural inland wetlands)
 - i. operating a solar farm

¹ The first (Stage 1) briefing (BRF-2937) referred to the project site's physical address as 574 and 575 Kina Road, Opunake, however this has been amended to 574 and 575 Upper Kina Road, Opunake as per South Taranaki District Council's rating information.

- j. carrying out other activities that are:
 - i. associated with the activities described in paragraphs (a) to (i); and
 - ii. within the scope of the project as described in paragraphs 3 and 4.
- 6. The project will require land use consents under the South Taranaki District Plan (STDP), water and discharge permits under the Taranaki Regional Freshwater Plan (TRFP), and resource consents under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS) and the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F).
- 7. The project site is in the Rural zone under the STDP and the project will have discretionary activity status under that plan. The applicant notes the project is considered 'specified infrastructure' and will have discretionary activity status under the NES-F due to the construction of specified infrastructure in a natural inland wetland.
- 8. No parties invited to comment opposed project referral.
- 9. Transpower supported project referral but noted the applicant proposes to connect to the national grid via an existing 33kV PowerCo line, and until such time as the line is upgraded, or new lines are installed, it is only feasible that 40 megawatts of electricity could connect to the grid. We note this is significantly less than the proposed generation capacity of the solar farm, at approximately 80-110 peak megawatts, however the applicant is aware of the constraint and has noted it would allow the project to utilise battery storage inside the switchyard to be distributed into the grid during the evening when the solar farm is not generating any electricity.
- 10. We recommend you accept the referral application under section 24 of the FTCA and refer the project to a panel for fast-track consenting. We seek your decision on this recommendation and on recommendations for directions to the applicant and a panel, and notification of your decisions.

Assessment against statutory framework

- 11. 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 and when deciding on any further requirements or directions associated with project referral.
- 12. Before accepting the application, 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, South Taranaki District Council (STDC), Taranaki Regional Council (TRC) and Transpower New Zealand Limited (Transpower) (in Appendix 6). Following that, you may accept the application if you are satisfied that it meets the referral criteria in section 18 of the FTCA. We provide our advice on these matters below.
- 13. We have also considered if there are any reasons for declining the project, including the criteria in section 23(5) of the FTCA, and provide our advice on these matters to assist your decision-making.

Further information provided by applicant

- 14. In response to your request under section 22 of the FTCA the applicant provided further information on project funding.
- 15. The applicant also supplied a letter from Powerco Limited outlining options and approvals required for connecting to the national grid via lines owned by Powerco Limited.

16. We have taken this information into account in our analysis and advice.

Section 17 report


17. The Section 17 report identifies that Te Kāhui o Taranaki Trust is the sole iwi authority and treaty settlement entity relevant to the project area. The Taranaki Iwi Claims Settlement Act 2016 is the only relevant treaty settlement.

18. No specific cultural or commercial redress provided under the treaty settlement would be affected by the project and the treaty settlement does not create any new co-governance or co-management processes that would affect decision-making under the Resource Management Act 1991 (RMA) for the project.


Comments received

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


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




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




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



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



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



25. STDC supported project referral. STDC identified a number of matters, such as loss of productive land, reverse sensitivity effects, effects on wetlands and waterbodies, visual and ecological effects, and natural hazards, that are relevant for the project. STDC also noted several reports and assessments that would normally be required for a project of this type.

26. Transpower supported project referral and noted the applicant proposes to connect to the national grid via an existing 33kV PowerCo Limited (PowerCo) line. Transpower noted that until such time as the line is upgraded, or new lines are installed, it is feasible that 40 megawatts of electricity could connect to the grid via the existing Powerco line. Transpower noted that PowerCo would need to confirm it would comply with its connection agreement with Transpower, and Energy Farms Limited would need to obtain generating commissioning approval from the system operator, prior to connection to the national grid occurring. Transpower also confirmed that a PowerCo connection (to provide for an upgraded line and increased generation capacity) is at the back of their Queue Management Framework and that it could be at least 3 years before any increased generation could be connected to the grid.

Section 18 referral criteria

27. You may accept the application for project referral if you are satisfied the project does not include ineligible activities (section 18(3)) and will help to achieve the purpose of the FTCA (section 18(2)).
28. The project does not include any ineligible activities, as explained in Table A.
29. The matters that you may consider when deciding if a project will help achieve the purpose of the FTCA are in Section 19 of the FTCA. Our assessment of these matters is summarised in Table A. We consider the project will help achieve the purpose of the FTCA, and thus meet the requirements of section 18(2), as it has the potential to:
- a. generate employment by creating approximately 306 direct full-time equivalent (FTE) jobs over a 24-month construction period and approximately 54 ongoing FTE jobs
 - b. provide infrastructure that will contribute to improving economic and employment outcomes
 - c. contribute to New Zealand's efforts to mitigate climate change and transition more quickly to a low emissions economy by increasing New Zealand's renewable energy generation
 - d. progress faster than would otherwise be the case under standard RMA process.
30. We consider any actual and potential effects arising from the project, together with any measures to avoid, remedy, mitigate, offset or compensate for adverse effects, could be tested by a panel against Part 2 of the RMA and the purpose of the FTCA.

Issues and risks

31. Even if 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

32. Section 23(5) of the FTCA provides further guidance on reasons to decline an application, and our analysis of these matters is summarised in Table A. Note that you may accept an application even if one or more of those reasons apply.
33. Section 23(5)(b) of the FTCA enables you to decline a project if it is more appropriate for the project to go through standard RMA consenting processes.
34. There is a risk that referring the project could be viewed negatively by the wider community who may expect to be involved in a standard consenting process under the RMA due to the nature and scale of the project. However, we note STDC supported project referral. If you decide to refer the project, a panel must invite comments from adjacent landowners and occupiers under clauses 17(6)(g) and 17(6)(h), Schedule 6 of the FTCA. A panel also can

invite comments from any person they consider appropriate (clause 17(8), Schedule 6 of the FTCA). We consider a panel will be best placed to assess the project's effects, with the benefit of a complete resource consent application. Therefore, we do not consider that you should decline the referral application on the basis that it would be more appropriate for the project to go through the standard consenting process under the RMA (section 23(5)(b)).

35. 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 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'². The project site includes areas of land that are Land Use Capability Class 2 and 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 and should the solar farm activity cease the land can easily be re-utilised to facilitate a range of productive rural activities, noting that the life supporting capacity of the soil will be retained. The applicant has provided a high-level assessment of the project against the NPS-HPL and considers the project is not inconsistent with it.
36. STDC supported the applicant's approach of dual occupancy of the project site by continued grazing beneath the solar panels. 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)).
37. Section 23(5)(g) enables you to decline a project if there is insufficient time for the application to be referred and considered before the FTCA is repealed. At this stage we consider there is sufficient time before 8 July 2023 for you to progress an Order in Council through Cabinet and for it to be authorised by the Executive Council, should you decide to refer the project. Therefore, we consider you should not decline to refer the project on the basis that there is insufficient time for the project to be referred and considered before the FTCA is repealed (23(5)(g)).

Other matters

38. Transpower noted the applicant proposes to connect to the national grid via an existing 33kV PowerCo line. Transpower noted that until such time as the line is upgraded, or new lines are installed, it is feasible that 40 megawatts of electricity could connect to the grid via the existing Powerco line. We note this is significantly less than the proposed generation capacity of the solar farm, at approximately 80-110 peak megawatts, however the applicant is aware of the constraint and has noted it would allow the project to utilise battery storage inside the switchyard to be distributed into the grid during the evening when the solar farm is not generating any electricity.

² 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 KDCD growth strategy and WRGF, it is unclear whether this will be commenced over the next 10 years.

39. Transpower also noted that PowerCo would need to confirm it would comply with its connection agreement with Transpower, and Energy Farms Limited would need to obtain generating commissioning approval from the system operator, prior to connection to the national grid occurring. However, Transpower supported project referral and we do not consider the need to obtain separate agreements/approvals from Transpower presents a high risk to project delivery or timing.
40. We note that PowerCo did not respond to your invitation to comment on project referral, however the applicant has been engaging directly with PowerCo. The applicant has provided correspondence from PowerCo confirming that based upon PowerCo's preliminary investigation, the proposed connection to the national grid would have a significant impact at the Opunake Grid Exit Point (GXP) and new 33 kV feeders would need to be installed to allow a 76 megawatt generation connection. PowerCo acknowledged that Transpower has indicated that the maximum allowable generation at Opunake GXP is 50 megawatt³ and the applicant will need to limit their generation or alternatively upgrade the Transpower GXP transformers. PowerCo also stated that the generation should not risk the quality of supply to other PowerCo customers or PowerCo equipment or prevent PowerCo from meeting its obligations to Transpower. As previously discussed, the applicant is aware of the constraints identified by PowerCo and considers these can be addressed via on-site storage and distribution into the national grid during the evening. We therefore do not consider the matters raised with the applicant by PowerCo present a high risk to project delivery or timing.

Conclusions

41. We do not consider that you should decline to refer the project in whole or in part on the basis of the risks and issues identified above. You could accept the application under section 24 of the FTCA and refer all of the project to a panel.
42. If you decide to refer the project, we do not consider that you need to specify any additional information that the applicants must submit to a panel under s 24(2)(d) of the FTCA.
43. If you decide to refer the project, we consider you should specify under section 24(2)(e) of the FTCA that a panel must invite comments on consent applications for the project from the following parties:
- a. Minister of Energy and Resources
 - b. Minister of Agriculture
 - c. Transpower New Zealand Limited
 - d. PowerCo Limited.

Next steps

44. If you decide to refer the project, you must give notice of your decisions on the referral application, and the reasons for them, to the applicant, anyone invited to comment under section 21, and the persons, entities and groups listed in section 25(2) of the FTCA.
45. 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.

³ We note the 50 megawatt constraint identified by PowerCo differs to the 40 megawatt constraint identified by Transpower, however this does not affect our analysis or advice.

46. 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.
47. To refer the project, you must recommend that a referral order be made by way of an Order in Council (OIC). Cabinet has agreed that you can issue drafting instructions to the Parliamentary Counsel Office without the need for a policy decision to be taken by Cabinet in the first instance.⁴
48. 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.
49. Our recommendations for your decisions follow.

⁴ Following the first OIC, the Minister for the Environment (and Minister of Conservation for projects in the Coastal Marine Area) can issue drafting instructions directly to the Parliamentary Counsel Office. Cabinet has also agreed that a Regulatory Impact Assessment is not required for an OIC relating to projects to be referred to a panel [ENV-20-MIN-0033 and CAB-20-MIN-0353 refer].

Recommendations

1. 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 Energy Farms Limited unless you are satisfied that the Opunake Solar Farm Project (project) meets the referral criteria in section 18 of the FTCA including that it would help to achieve the FTCA's purpose.
- b. **Note** when assessing whether the project would achieve the FTCA's purpose, you may consider a number of matters under section 19, including the project's economic benefits and costs, and effects on social or cultural well-being; whether it may result in a public benefit (such as generating employment or increasing housing supply); and whether it could have significant adverse effects.
- c. **Note** before deciding to accept the application for project referral under section 24(1) of the FTCA you must consider:
 - i. the application
 - ii. the report obtained under section 17 of the FTCA
 - iii. any comments and further information sought and provided within the required timeframe.
- e. **Note** if you are satisfied that all or part of the project meets the referral criteria in section 18 of the FTCA you may:
 - i. refer all or part of the project to an expert consenting panel (panel)
 - ii. refer the initial stages of the project to a panel while deferring decisions about the project's remaining stages
 - iii. still decline the referral application for any reason under section 23(2) of the FTCA.
- f. **Note** if you do refer all or part of the project you may:
 - i. specify restrictions that apply to the project
 - ii. specify the information that must be submitted to a panel
 - iii. specify the persons or groups from whom a panel must invite comments
 - iv. set specific timeframes for a panel to complete their process.
- g. **Agree** the project meets the referral criteria in section 18(3) of the FTCA.
- h. **Agree** the project will help achieve the purpose of the FTCA (and therefore meets the referral criteria in section 18(2) of the FTCA) as it has the potential to:
 - i. generate employment by creating approximately 306 direct full-time equivalent (FTE) jobs over a 24-month construction period and approximately 54 ongoing FTE jobs
 - ii. provide infrastructure that will contribute to improving economic and employment outcomes
 - iii. contribute to New Zealand's efforts to mitigate climate change and transition more quickly to a low emissions economy by increasing New Zealand's renewable energy generation

Yes/No

- iv. progress faster than would otherwise be the case under standard Resource Management Act 1991 process.

Yes/No
- i. **Agree** to **refer** all of the project to a panel.
- Yes/No
- j. **Agree** to specify under section 24(2)(e) of the FTCA that a panel must invite comments from the following persons or groups in addition to the parties listed in clause 17 of Schedule 6 of the FTCA:
 - i. Minister of Energy and Resources
 - ii. Minister of Agriculture
 - iii. Transpower New Zealand Limited
 - iv. PowerCo Limited

Yes/No
- k. **Agree** to the Ministry for the Environment issuing drafting instructions to the Parliamentary Counsel Office for an Order in Council to refer the project to a panel in accordance with your decisions recorded herein.
- Yes/No
- l. **Sign** the notice of decisions letter to the applicant (attached in Appendix 4).
- Yes/No

- m. **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)?			
Name Opunake Solar Farm Project Applicant Energy Farms Limited [c/- Thomas Keogh, Reyburn and Bryant 1999 Limited] Location 574 and 575 Upper Kina Road, Opunake (Lot 3 DP 682 and Lot 15 DP 682) Upper Kina Road road reserve	The project is to construct and operate a solar farm on an approximately 188-hectare site comprising 2 properties at 574 and 575 Upper Kina Road, Opunake, Taranaki , and to connect to and supply electricity to the national grid via existing 33kV Powerco Limited (Powerco) transmission lines. The solar farm will have an output of approximately 80-110 peak megawatts. The solar farm will comprise: a. approximately 152,000 solar panels occupying approximately 180 hectares b. arrays and mounting structures, inverter cabinets, and associated infrastructure c. 11 inverter stations, one substation and an energy storage facility d. ancillary buildings, structures and infrastructure (including an energy storage facility, roads, access and other infrastructure) e. underground electricity cables, including within the Upper Kina Road road reserve f. enhancement of streams and natural inland wetlands.	The project is eligible for referral under section 18(3)(a)–(d) as: <ul style="list-style-type: none"> it does not include any prohibited activities it does not include activities on land returned under a Treaty settlement it does not include activities in a customary marine title area or a protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011 	Economic benefits for people or industries affected by COVID-19 (19(a)) The applicant estimates the project will: <ul style="list-style-type: none"> provide approximately 306 direct full-time equivalent (FTE) jobs over a 24-month construction period and approximately 54 ongoing FTE jobs for the life of the project (approximately 30 years). Economic costs for people or industries affected by COVID-19 (19(a)) <ul style="list-style-type: none"> N/A Effect on the social and cultural well-being of current and future generations (19(b)) The applicant considers the project will contribute to social wellbeing by providing economic benefits and employment opportunities, and contribute to increased electricity supply and security which will assist communities. Is the project likely to progress faster by using this Act? (19(c)) The applicant estimates the FTCA process will allow the project to progress 12-20 months faster than under standard RMA processes due to the likelihood of notification, a hearing and potential for appeals under standard process. We consider the applicant's estimate is reasonable. Will the project result in a public benefit? (19(d)) Based on the applicant's information we consider the project may result in the following public benefits: <ul style="list-style-type: none"> generating employment by providing approximately 306 direct FTE jobs over a 24-month construction period; and 54 ongoing FTE jobs 	Ministers s 9(2)(f)(ii), s 9(2)(g)(i) s 9(2)(f)(ii), s 9(2)(g)(i) s 9(2)(f)(ii), s 9(2)(g)(i) s 9(2)(f)(ii), s 9(2)(g)(i) s 9(2)(f)(ii), s 9(2)(g)(i)	Section 23(5) matters: Insufficient information (23(5)(a)) The applicant has provided sufficient information for you to determine whether the project meets the criteria in section 18 of the FTCA. More appropriate to go through standard RMA process (23(5)(b)) There is a risk that referring the project could be viewed negatively by the wider community who may expect to be involved in a standard consenting process under the RMA due to the scale of the project. However, we note that STDC support project referral. If you decide to refer the project, a panel must invite comments from adjacent landowners and occupiers under clauses 17(6)(g) and 17(6)(h), Schedule 6 of the FTCA. A panel also can invite comments from any person they consider appropriate (clause 17(8), Schedule 6 of the FTCA). We consider a panel will be best placed to assess the project's effects, with the benefit of a complete resource consent application. Therefore, we do not consider that you should decline the referral application on the basis that it would be more appropriate for the project to go through the standard consenting process under the RMA (section 23(5)(b)). Inconsistency with a national policy statement (23(5)(c)) 3Section 23(5)(c) enables you to decline a project if the project is considered to be inconsistent with a relevant national policy statement. 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 2 and 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	In response to key comments: <ul style="list-style-type: none"> s 9(2)(f)(ii), s 9(2)(g)(i) <ul style="list-style-type: none"> we note that STDC identified a number of reports and assessments which would normally be required for a project of this type. We consider these reports are generally covered by the requirements of clause 9 Schedule 6 of the FTCA and STDC will have the opportunity to comment on a resource consent application to a panel. We therefore do not consider you need to require the applicant to provide the information specified by STDC in their resource consent applications to a panel. We do not consider you should decline to refer the project in whole or in part on the basis of the issues and risks identified. We recommend that you accept the application under section 24 of the FTCA and refer all of the project to a panel. We recommend you direct a panel to invite comment on any resource consent applications for the project from: <ul style="list-style-type: none"> Minister of Energy and Resources Minister of Agriculture Transpower New Zealand Limited PowerCo Limited

Project details	Project description	Does all or part of the project meet the referral criteria in section 18?		Summary of comments received (Note: for analysis and/or recommended responses to these comments refer to column 7)	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>The project will involve activities such as:</p> <p>a. removing vegetation (including within, or within 10 metres of, a natural inland wetland)</p> <p>b. carrying out earthworks (including within, or within 100 metres of, a natural inland wetland and disturbing potentially contaminated soils)</p> <p>c. diverting groundwater</p> <p>d. discharging groundwater, stormwater and contaminants to land and water</p> <p>e. constructing buildings and other structures</p> <p>f. installing underground electricity cables</p> <p>g. constructing or installing infrastructure and structures, including private accessways for vehicles, parking areas and culverts (in the beds of streams) and in drains areas</p> <p>h. landscaping and planting (including for enhancing streams and natural inland wetlands)</p> <p>i. operating a solar farm</p> <p>j. carrying out other activities that are:</p> <p>i. associated with the activities described in paragraphs (a)</p>		<ul style="list-style-type: none"> providing infrastructure that will contribute to improving economic and employment outcomes contributing to New Zealand's efforts to mitigate climate change and transition more quickly to a low emissions economy by increasing New Zealand's total amount of renewable energy generation. <p>Potential to have significant adverse environmental effects, including greenhouse-gas emissions (19(e))</p> <p>The project has the potential for adverse environmental effects including:</p> <ul style="list-style-type: none"> traffic and access amenity effects landscape, rural character and visual amenity ecological effects noise and vibration temporary construction effects contaminated land effects loss of productive land <p>The applicant has confirmed that specialists have prepared technical assessments on the above matters. The applicant considers the project will not result in significant adverse environmental effects.</p> <p>We note that you do not require a full Assessment of Environment Effects and supporting evidence to make a referral decision, and that a panel will consider the significance of effects and appropriate mitigation should the project be referred.</p> <p>Other relevant matters (19(f))</p> <p>The project involves vegetation clearance, earthworks and land disturbance within, or within a 10-metre setback from natural wetlands. The applicant has provided an assessment which states the project is specified infrastructure under the NES-F and NPS-FM, as it is infrastructure that delivers a service operated by a lifeline utility (as defined in the</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>Local authorities</p> <p>STDC supported project referral. STDC identified a number of matters, such as loss of productive land, reverse sensitivity effects, effects on wetlands and waterbodies, visual and ecological effects, and natural hazards, that are relevant for the project. STDC also noted several reports and assessments that would normally be required for a project of this type.</p> <p>Other parties</p> <p>Transpower supported project referral and considered that it appears feasible that 40 megawatt of electricity could connect to the grid via an existing 33kV Powerco line, until such time as the lines are upgraded, or new lines are installed. Transpower also identified a number of agreements and approvals that must be entered into prior to connection works, including approval from PowerCo would need to confirm it would comply with its connection agreement with Transpower, and Energy Farms Limited would need to obtain generating commissioning approval from the System Operator. Transpower have also confirmed that the PowerCo 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 via an upgraded PowerCo line.</p> <p>All responses received by parties invited to comment are attached in Appendix 6.</p>	<p>activities (sheep grazing) beneath and around the solar panels and should the solar farm activity cease the land can easily be re-utilised to facilitate a range of productive rural activities, noting that the life supporting capacity of the soil will be retained. 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>STDC supported the applicant's approach of dual occupancy of the project site by continued grazing beneath the solar panels. 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 is not inconsistent with Treaty Settlement redress.</p> <p>Involves land needed for Treaty settlements (23(5)(e))</p> <p>The project is located on private land which is not available for Treaty settlement purposes.</p> <p>Applicant has poor regulatory compliance (23(5)(f))</p> <p>STDC did not identify a poor history of environmental regulatory compliance for 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</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)?			
	<p>to (i); and</p> <p>ii. within the scope of the project as described in paragraphs 3 and 4.</p> <p>The project will require land use consents under the South Taranaki District Plan (STDP), water and discharge permits under the Taranaki Regional Freshwater Plan (TRFP), and resource consents under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS) and the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F).</p>		<p>Civil Defence Emergency Management Act 2002). We are satisfied the project will not include prohibited activities.</p>		<p>steps and the capacity and resourcing of officials. This is becoming increasingly time-pressured as the 8 July deadline approaches.</p> <p>At this stage we consider there is still sufficient time for an Order in Council to be considered by Cabinet and (if approved) authorised by the Executive Council, should you decide to refer the project.</p> <p>Other issues and risks:</p> <p>Transpower noted the applicant proposes to connect to the national grid via an existing 33kV PowerCo line. Transpower noted that until such time as the line is upgraded, or new lines are installed, it is feasible that 40 megawatts of electricity could connect to the grid via the existing Powerco line. We note this is significantly less than the proposed generation capacity of the solar farm, at approximately 80-110 peak megawatts, however the applicant is aware of the constraint and has noted it would allow the project to utilise battery storage inside the switchyard to be distributed into the grid during the evening when the solar farm is not generating any electricity.</p> <p>Transpower also noted that PowerCo would need to confirm it would comply with its connection agreement with Transpower, and Energy Farms Limited would need to obtain generating commissioning approval from the system operator, prior to connection to the national grid occurring. However, Transpower supported project referral and we do not consider the need to obtain separate agreements/approvals from Transpower presents a high risk to project delivery or timing.</p> <p>We note that PowerCo did not respond to your invitation to comment on project referral, however the applicant has been engaging directly with PowerCo. The applicant has provided correspondence from PowerCo confirming that based upon PowerCo's preliminary investigation, the proposed connection to the national grid would have a significant impact at the Opunake Grid Exit Point (GXP) and new 33 kV feeders would need to be installed to allow a 76 megawatt generation connection. PowerCo acknowledged that Transpower has indicated that the maximum allowable generation at</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)?			
					Opunake GXP is 50 megawatt and the applicant will need to limit their generation or alternatively upgrade the Transpower GXP transformers. PowerCo also stated that the generation should not risk the quality of supply to other PowerCo customers or PowerCo equipment or prevent PowerCo from meeting its obligations to Transpower. As previously discussed, the applicant is aware of the constraints identified by Powerco and considers these can be addressed via on-site storage and distribution into the national grid during the evening. We therefore do not consider the matters raised with the applicant by PowerCo present a high risk to project delivery or timing.	