



FTC#154 Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decisions:

Application 2022-098 Waiterimu Solar Farm Project

Date submitted:	8 September 2022	Tracking #: BRF-2130	
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: 6	<p>Appendices:</p> <ol style="list-style-type: none"> 1. Waiterimu Solar Farm Project application documents (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 Waikato Solar Farms Limited and Transpower New Zealand Limited 5. Section 17 Report (Databox link) 6. Comments received from Ministers and local authorities (Databox link)

Ministry for the Environment contacts

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FTC#154: 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 Waikato Solar Farms Limited and Transpower New Zealand Limited to refer the Waiterimu 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-1923) with your initial decisions annotated is in Appendix 2.
3. The project is to construct and operate a solar farm on a 380-hectare site at 304 and 345 Waiterimu Road, Waiterimu, Waikato, and to connect the solar farm to the national electricity grid. The solar farm will have an approximate output of 140 Megawatt peak, and will comprise:
 - a. approximately 225,000 solar panels up to approximately 3.5 metres high and, occupying approximately 63 hectares
 - b. inverter cabinets, arrays, mounting structures, motors and poles to support the panels
 - c. a substation and transmission line to connect to the national grid
 - d. an energy storage facility
 - e. underground electricity cables
 - f. ancillary buildings, structures and infrastructure (including roads, fencing, security lighting and for connection to existing overhead electricity lines)
 - g. landscaping including planting and enhancement of wetlands and streams.
4. The project will involve activities such as:
 - a. clearing vegetation (including within 10 metres of a natural wetland)
 - b. carrying out earthworks (including disturbing potentially contaminated soils)
 - c. carrying out earthworks within 10 metres of a natural wetland
 - d. taking, using and diverting groundwater
 - e. discharging groundwater, stormwater and contaminants to land and water
 - f. constructing buildings and other structures
 - g. installing underground electricity cables
 - h. installing infrastructure ancillary to the solar farm
 - i. restoring wetlands
 - j. constructing and upgrading roads, vehicle access and parking areas
 - k. landscaping and planting
 - l. operating a solar farm
 - m. carrying out other activities that are:
 - i. associated with the activities described in paragraphs (a) to (m); and
 - ii. within the scope of the project as described in paragraph 3.

5. The project will require land use consents under the Operative and Proposed Waikato District Plans, land use consents and water and discharge permits under the Waikato Regional Plan 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) 2020 (NES-F).
6. The project site is in the Rural Zone under the Operative and Proposed Waikato District Plans and the proposed activities will have overall discretionary activity status under those plans due to exceeding various permitted activity standards. The applicants note the project is considered 'specified infrastructure' and will have overall discretionary activity status under the NES-F due to the construction of specified infrastructure in a natural wetland.
7. 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 applicants and a panel, and notification of your decisions.

Assessment against statutory framework

8. 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.
9. 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, Waikato District Council (WDC) and Waikato Regional Council (WRC) (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.
10. 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 applicants

11. In response to your request under section 22 of the FTCA the applicants provided further information on job creation and their obligations under the Overseas Investment Act 2005. We have taken this information into account in our analysis and advice.

Section 17 report


12. The Section 17 Report indicates that there are seven iwi authorities, four Treaty settlements and five Treaty settlement entities relevant to the project area. It notes that WRC identified Waahi Whaanui Trust, representing the Resource Management Act 1991 (RMA) interests of four Waikato-Tainui hapū, as a group having interests in the project site and wider area.
13. The project site is subject to the co-governance and co-management arrangements applying to waterways, lakes and wetlands in the Waikato River catchment under the Waikato River Treaty settlement. These requirements have the potential to influence the composition of a hearings panel for certain resource consent applications under standard RMA process. This means that should you decide to refer the Project, the Environmental Protection Authority (EPA) will need to carefully assess any applications for resource consent in the context of these arrangements before a panel is appointed and advise the Panel Convener accordingly.

14. The Section 17 Report also advises that even if the resource consents sought for the project do not trigger any specific requirements of the co-governance and co-management arrangements, it is important that RMA decision-makers have particular regard to the overarching commitments made by the Crown and local authorities to Waikato-Tainui through the Waikato River Treaty settlement. These include promoting the health and wellbeing of the Waikato River (which, as an indivisible whole includes all of its associated tributaries, lakes and wetlands) and enabling Waikato-Tainui to effectively engage and participate at an early stage in decisions concerning the Waikato River system.

Comments received


15. Comments were received from s 9(2)(f)(ii), s 9(2)(g)(i), WDC and WRC. The key points of relevance from their comments to your decision are summarised in Table A.

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



22. WDC did not oppose project referral and considered the project is likely to progress faster using the FTCA process than under standard RMA consenting processes. The council noted the potential for adverse effects on ecology, freshwater, traffic, landscape and natural character, and that the applicants would need to consider the National Policy Statement for Highly Productive Land if it is operative by the time a resource consent application is lodged with the EPA.
23. WRC opposed project referral and considered it would be more appropriate for the project to proceed through the standard RMA consenting processes due to the significance of the

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



project and potential effects on biodiversity. WRC considered that the applicants have not provided sufficient information to provide a fully informed assessment, particularly on adverse effects on ecology and biodiversity. The Council requested that if the project is referred you require the applicants to provide an ecological assessment.

24. The comments from WDC and WRC were received five working days late. Under section 21(5) of the FTCA you are not required to consider comments received after the 10 working-day period but may do so at your discretion as you have not already made a decision on the application.
25. s 9(2)(f)(ii), s 9(2)(g)(i)
WDC and WRC identified several reports and assessments that would normally be required for a project of this type in this area. We consider these are generally covered by the requirements of clause 9 Schedule 6 of the FTCA but recommend you require the applicant to submit to a panel certain specific information, as detailed in Table A, to assist a panel with timely consideration of the application.

Section 18 referral criteria

26. You may accept the application for project referral if you are satisfied that the project does not include ineligible activities (section 18(3)) and will help to achieve the purpose of the FTCA (section 18(2)).
27. Some activities in a natural wetland, including earthworks, are prohibited under the NES-F where they result or are likely to result in the complete or partial drainage of all or part of a natural wetland. However, earthworks in a natural wetland for the purpose of constructing specified infrastructure is a discretionary activity.
28. As discussed in the Stage 1 briefing, the project involves earthworks within a 10-metre setback from natural wetlands and the applicants have provided an assessment that the project meets the definition of specified infrastructure under the NES-F and the National Policy Statement for Freshwater Management 2020 (NPSFM) because it is regionally significant infrastructure. None of the parties invited to comment raised any issues with the applicants' assessment, and WRC agreed with the applicants' assessment.
29. For the purpose of making your decision on this referral application, we consider that the applicant has provided sufficient evidence that the project does not include an activity that has a prohibited status under the NES-F and the eligibility criteria of section 18(3)(a) of the FTCA are met.
30. 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 105-127 direct full-time equivalent (FTE) jobs over a 15-18 month construction period and approximately 15 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, provided that the applicant lodges their applications for resource consent in a timely manner following project referral.
31. 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

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. 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 size and scale of the project, and its potential adverse effects. 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)).
34. WRC considered that it is more appropriate for significant proposals such as this one to be processed through the existing RMA consenting process, particularly due to the potential effects on biodiversity and ecology. We consider that the scale of the proposal should not necessarily be considered as a reason to decline project referral, unless there is potential for the proposal to have significant adverse effects (section 19(e)), which has not been suggested. We note that you have previously referred the Tauhei Solar Farm project, a solar farm of a similar scale also located in the Waikato Region. With regard to potential effects on ecology and biodiversity, s 9(2)(f)(ii), s 9(2)(g)(i) [redacted] and we consider that a panel is best placed to assess the project's effects with the benefit of a complete resource consent application.

Conclusions

35. We do not consider there are any significant reasons for you to decline to refer the project in whole or in part on the basis of the issues and risks identified. You could accept the application under section 24 of the FTCA and refer all of the project to a panel.
36. If you decide to refer the project, we consider you should specify under section 24(2)(d) of the FTCA (as requested in comments) that the applicant must submit the following information to a panel with their consent applications, in addition to the requirements of clause 9 of Schedule 6 of the FTCA:
 - a. an integrated transport assessment
 - b. a glint and glare assessment
 - c. an ecological assessment
 - d. a landscape and visual assessment
 - e. supporting information and calculations which confirm the expected electricity output of the solar farm
 - f. information to demonstrate what climate change impacts have been provided for as part of a flooding assessment
 - g. an archaeological assessment

37. The above information will inform a panel's assessment of the project's effects and whether to invite comments from any additional persons or groups. This does not preclude a panel from requiring the applicant to provide any additional information on any application lodged with the EPA under the FTCA.
38. 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. Ngāti Koheriki Claims Committee
 - c. Waahi Whaanui Trust.

Next steps

39. 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 applicants, anyone invited to comment under section 21, and the persons, entities and groups listed in section 25(2) of the FTCA. We consider you should also give the notice of decisions together with a copy of the application to the parties identified in paragraph 38.
40. If you decide to decline project referral, you must give the notice of your decisions, and the reasons for them, to the applicants and anyone invited to comment under section 21.
41. We have attached a notice of decisions letter to the applicants based on our recommendations (refer Appendix 4). We will provide you with an amended letter if required. Once you have signed the letter we will assist your office to copy it to all relevant parties.
42. 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.²
43. 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.
44. Our recommendations for your decisions follow.

² 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

45. 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 Waikato Solar Farms Limited and Transpower New Zealand Limited unless you are satisfied that the Waiterimu 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.
- d. **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.
- e. **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.
- f. **Agree** the project meets the referral criteria in section 18(3) of the FTCA.

Yes/No
- g. **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 105-127 direct full-time equivalent (FTE) jobs over a 15-18 month construction period and approximately 15 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

- iv. progress faster than would otherwise be the case under standard Resource Management Act 1991 process, provided that the applicant lodges their applications for resource consent in a timely manner following project referral.

Yes/No

- h. **Agree to refer** all of the project to a panel.

Yes/No

- i. **Agree** to specify under section 24(2)(d) of the FTCA the following additional information that the applicants must submit with any resource consent application lodged with the Environmental Protection Authority:
 - i. an integrated transport assessment that:
 - 1. identifies the existing capacity of the local road network to service traffic associated with the project including effects on road safety and maintenance
 - ii. a glint and glare assessment of the photovoltaic panels, including:
 - 1. modelling the location and nature of glint and glare on road users and sensitive receptors such as dwellings
 - 2. any measures for mitigating those effects
 - iii. an ecological assessment including:
 - 1. an assessment of the effects of the project on vegetation, natural wetlands, freshwater, avifauna, lizards and bats
 - 2. an assessment of the effects of the project on significant natural areas
 - 3. details of measures to avoid or mitigate these effects
 - 4. a bat management plan that sets out how the project will avoid the loss of roost trees, mitigate the loss of vegetation, and address effects of lighting and noise
 - iv. an assessment of the visual effects of the project on the landscape and natural character of the project site, including any effects on the rural landscape
 - v. supporting information and calculations which confirm the expected electricity output of the solar farm in GWh/annum, and identification of how many kg/annum of CO₂ emissions this is expected to displace
 - vi. a flood risk assessment including
 - 1. an assessment of climate change impacts on the project
 - 2. information to demonstrate what climate change impacts have been provided for as part of a flooding assessment
 - 3. details of measures to ensure resilience of battery and substation infrastructure
 - vii. an archaeological assessment.

Yes/No

- j. **Agree** to specify under section 24(2)(e) of the FTCA that a panel must invite comments from Ngāti Koheriki Claims Committee and Waahi Whaanui Trust in addition to the parties listed in clause 17 of Schedule 6 of the FTCA.

Yes/No

- k. **Agree** to copy the application and notice of decisions to the Minister of Energy and Resource, Ngāti Koheriki Claims Committee and Waahi Whaanui Trust in addition to those specified in section 25 of the FTCA.

Yes/No

- l. **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

- m. **Sign** the notice of decisions letter to the applicants (attached in Appendix 4).

Yes/No

Signatures



Stephanie Frame
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(2) - does the project help achieve the purpose of the FTCA (as per section 19)?			
<p>Name Waierimu Solar Farm Project</p> <p>Applicants Waikato Solar Farms Limited and Transpower New Zealand Limited</p> <p>c/- Chapman Tripp</p> <p>Location 304 and 345 Waierimu Road, Waierimu, Waikato</p>	<p>The project is to construct and operate a solar farm on a 380-hectare site at 304 and 345 Waierimu Road, Waierimu, Waikato, and to connect the solar farm to the national electricity grid. The solar farm will have an approximate peak output of 140 Megawatts, and will comprise:</p> <p>a. approximately 225,000 solar panels up to approximately 3.5 metres high and, occupying approximately 63 hectares</p> <p>b. inverter cabinets, arrays, mounting structures, motors and poles to support the panels</p> <p>c. a substation and transmission line to connect to the national grid</p> <p>d. an energy storage facility</p> <p>e. underground electricity cables</p> <p>f. ancillary buildings, structures and infrastructure (including roads, fencing, security lighting and for connection to existing overhead electricity lines)</p>	<p>The project is eligible for referral under section 18(3)(a)–(d) as:</p> <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 under the Marine and Coastal Area (Takutai Moana) Act 2011. <p>Some activities in a natural wetland, including earthworks, are prohibited under the NES-F where they result or are likely to result in the complete or partial drainage of all or part of a natural wetland. However, earthworks in a natural wetland for the purpose of constructing specified infrastructure are a discretionary activity.</p> <p>The project involves earthworks within a 10-metre setback from natural wetlands and the applicants have provided an assessment that the project meets the definition of specified infrastructure and regionally significant infrastructure under the NES-F and the National Policy Statement for Freshwater Management 2020 (NPSFM). None of the parties invited to comment have disagreed with the applicants' assessment.</p>	<p>Economic benefits for people or industries affected by COVID-19 (19(a))</p> <p>The applicants estimate the project will:</p> <ul style="list-style-type: none"> create 105-127 FTE jobs over a 15-18 month construction period and approximately 15 ongoing FTE jobs contribute up to \$72 million to Waikato GDP during construction and \$2 million annually once operational <p>Economic costs for people or industries affected by COVID-19 (19(a))</p> <p>N/A</p> <p>Effect on the social and cultural well-being of current and future generations (19(b))</p> <p>The applicants consider the project will contribute to the social and cultural well-being of current and future generations as it will:</p> <ul style="list-style-type: none"> contribute to job creation and flow-on economic benefits mitigate the effects of climate change and contribute to reducing greenhouse gas emissions <p>Is the project likely to progress faster by using this Act? (19(c))</p> <p>The applicants estimate that the FTCA process will allow the project to progress 6-12 months faster than under standard RMA processes due to the likelihood of notification and a hearing and potential for appeals under standard process. We consider that this assessment is reasonable.</p>	<p>Ministers</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <ul style="list-style-type: none"> s 9(2)(f)(ii), s 9(2)(g)(i) <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> <ul style="list-style-type: none"> s 9(2)(f)(ii), s 9(2)(g)(i) 	<p>Section 23(5) matters:</p> <p>Insufficient information (23(5)(a))</p> <p>The applicants have 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>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, and its potential adverse effects. 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)).</p> <p>Inconsistency with a national policy statement (23(5)(c))</p> <p>The application involves earthworks within a 10-metre setback from natural wetlands and the applicants have provided an assessment that the project meets the definition of specified infrastructure and regionally significant infrastructure under the NES-F and the NPS-FM. The NPS-FM enables the loss of extent of natural wetlands for the construction of specified infrastructure. None of the parties invited to comment have disagreed with the applicants' assessment that the project</p>	<p>In response to key comments:</p> <ul style="list-style-type: none"> 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) <p>There are no significant reasons to decline to refer the project. We recommend that you accept the application under section 24 of the FTCA and refer all of the project to a panel.</p> <p>We recommend you require the applicants to provide the following information with their resource consent applications to a panel:</p> <p>a. an integrated transport assessment that:</p> <ol style="list-style-type: none"> identifies the existing capacity of the local road network to service traffic associated with the project including effects on road safety and maintenance <p>b. a glint and glare assessment of the photovoltaic panels, including:</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(2) - does the project help achieve the purpose of the FTCA (as per section 19)?			
	<p>g. landscaping including planting and enhancement of wetlands and streams.</p> <p>The project will involve activities such as:</p> <p>a. clearing vegetation (including within 10 metres of a natural wetland)</p> <p>b. carrying out earthworks (including disturbing potentially contaminated soils)</p> <p>c. carrying out earthworks within 10 metres of a natural wetland</p> <p>d. taking, using and diverting groundwater</p> <p>e. discharging groundwater, stormwater and contaminants to land and water</p> <p>f. constructing buildings and other structures</p> <p>g. installing underground electricity cables</p> <p>h. installing infrastructure ancillary to the solar farm</p> <p>i. restoring wetlands</p> <p>j. constructing and upgrading roads, vehicle access and parking areas</p>		<p>Will the project result in a public benefit? (19(d))</p> <p>Based on the applicants' information we consider the project may result in the following public benefits:</p> <ul style="list-style-type: none"> generating employment by providing 105-127 FTE jobs over a 15-18 month construction period and approximately 15 ongoing FTE jobs providing infrastructure that will contribute to improving economic and employment outcomes assisting 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 generation and effects on access amenity effects landscape, rural character and visual amenity effects ecological effects temporary construction effects, including noise and vibration glint and glare effects effects of the project on contaminated land loss of productive land <p>The applicants have confirmed that specialists have prepared technical assessments on the above matters. The applicants consider the project will not result in significant adverse environmental effects.</p>	<p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <ul style="list-style-type: none"> s 9(2)(f)(ii), s 9(2)(g)(i) <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>Waikato District Council (WDC) did not oppose project referral and noted that they expect the project to progress faster through the FTCA process than would be the case under the RMA. WDC noted the following adverse effects which may arise from the project:</p> <ul style="list-style-type: none"> erosion & sedimentation into waterways and Lake Waikare during construction stormwater management and impacts on waterways and/or Lake Waikare ecological impacts associated with works near to Significant Natural Features, waterways and Lake Waikare, having regard to climate change and how it impacts on emissions reduction requirements managing people's expectations in relation to an unanticipated activity in this area, especially in consideration of the size and scale of the activity localised environmental effects including reverse sensitivity, amenity (including visual amenity), landscape & character effects especially in relation to existing land use activities in the vicinity of the site increase in traffic volumes along Council roads especially during construction phase 	<p>meets the definition of specified infrastructure. We do not consider that the project is contrary to the NPS-FM and does not constitute a prohibited activity under the NES-F.</p> <p>WDC noted that decisions on the NPS-HPL are expected to be made imminently and the applicants will need to provide an assessment against this NPS if it is operative at the time they lodge with the EPA. We have sought advice on this matter and can confirm the NPS-HPL will not impose a prohibited activity status on the project. While the NPS may include policy direction to avoid certain activities on land for productive use, we consider that this can be considered by a panel as part of their merit-based assessment and is not a reason to decline project referral.</p> <p>No comments received indicated that the project is inconsistent with any other National Policy Statement.</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> <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>Neither WDC or WRC have not identified any environmental regulatory compliance history for the applicant.</p> <p>Insufficient time for the project to be referred and considered before FTCA repealed (23(5)(g))</p> <p>There is sufficient time for the application to be referred and considered before the FTCA is repealed.</p> <p>Other issues and risks:</p> <p>N/A</p>	<p>modelling the location and nature of glint and glare on road users and sensitive receptors such as dwelling, and any measures for mitigating of those effects</p> <p>c. an ecological assessment including:</p> <ol style="list-style-type: none"> an assessment of the effects of the project on vegetation, natural wetlands, freshwater, avifauna, lizards and bats an assessment of the effects of the project on significant natural areas details of avoidance and mitigation measures to address these effects a bat management plan that sets out how the project will avoid the loss of roost trees, mitigate for the loss of vegetation, and address effects of lighting and noise <p>d. an assessment of the visual effects of the project on the landscape and natural character of the project site, including any effects on the rural landscape</p> <p>e. supporting information and calculations which confirm the expected electricity output of the solar farm in GWh/annum, and identification of how many kg/annum of CO2 emissions this is expected to displace</p> <p>f. a flood risk assessment including</p> <ol style="list-style-type: none"> an assessment of climate change impacts on the project information to demonstrate what climate change impacts have been provided for as part of a flooding assessment details of measures to ensure resilience of battery and substation infrastructure <p>g. an archaeological assessment</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(2) - does the project help achieve the purpose of the FTCA (as per section 19)?			
	<p>k. landscaping and planting</p> <p>l. operating a solar farm</p> <p>m. carrying out other activities that are:</p> <p>i. associated with the activities described in paragraphs (a) to (m); and</p> <p>ii. within the scope of the project as described above.</p> <p>The project will require land use consents under the Operative and Proposed Waikato District Plans, land use consents and water and discharge permits under the Waikato Regional Plan 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) 2020 (NES-F).</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>N/A</p>	<ul style="list-style-type: none"> loss of some high class soil/land for productive use – the National Policy Statement for Highly Productive Land (NPS-HPL) final decisions will be made at the end of August and the application will need to address this. <p>Waikato Regional Council (WRC) opposed project referral due to the significance of the proposal and potential effects on biodiversity. The Council also noted:</p> <ul style="list-style-type: none"> the application indicates that the improvement of fauna habitat will materialise via plantings however, there is no mentioning of what fauna species will be captured by the improvement's approach as only a bat survey was undertaken the application also proposes the planting of fast-growing exotic trees to be used as bat habitats. WRC strongly recommend planting indigenous trees and vegetation instead, as these will better provide for all local indigenous biodiversity. WRC also recommend that the existing bat habitats are not disturbed or removed as part of the proposed activity the Significant Natural Areas (SNAs) (usually podocarp dominated) consist of underrepresented forest types in the ecological district and require enhancement. Therefore, WRC recommended a proper assessment of the effects of the project on SNAs the direct and indirect impacts on wetlands during the initial set-up phases of the project have not been assessed. WRC notes the documentation comments on a "lack of species diversity within the wetlands," but find this to be hard to justify due to the lack of presented data. Therefore, WRC recommend the Minister requests an ecological assessment of the site to understand which species are part of the wetlands' habitats and recommend that the applicants provide an assessment of the impacts for the set-up phases, including the indirect impacts on the ecosystems. Avifauna value of site has been assessed as low; however, no assessment has been conducted. Therefore, WRC also recommend an avifauna survey for the entire site a key concern is the lack of study to determine if any part of the site provides habitat for any threatened/at risk species such as black mudfish, bittern, Sporodanthus, etc. WRC highlight that a survey has not been completed and made available in the documentation attached to the application. Furthermore, there are no historical records available. the application refers to the wetland as 'low-value.' However, the 'value' of a wetland is not a relevant 		<p>We recommend you direct a panel to invite comments on any resource consent applications for the project from:</p> <ul style="list-style-type: none"> Minister of Energy and Resources Ngāti Koheriki Claims Committee Waahi Whaanui Trust.

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		Project eligibility for referral (section 18(3)(a)–(d))	Section 18(2) - does the project help achieve the purpose of the FTCA (as per section 19)?			
				<p>consideration for the requirement of a resource consent under the NES-F. All wetlands, regardless of their assessed value are to be considered if the regulations of the NES-F apply. The application defines the proposed activity as “specified infrastructure” under the NPSFM and WRC agree with this interpretation.</p> <p>We note the comments from WDC and WRC were received five working days late and under section 21(5) of the FTCA you are not required to consider comments received after the 10 working-day period but may do so at your discretion as you have not already made a decision on the application.</p> <p>All responses received by parties invited to comment are attached in Appendix 6.</p>		