

FTAA–2506–1080: Application received for referral of the project under the Fast-track Approvals Act 2024 – Stage 2 decisions

Project Name: Clutha Hydro Scheme – Increasing Flexibility and Security of Electricity Supply

Date submitted:	16 October 2025	Tracking #: BRF–6998	
Security level:	In-Confidence	MfE priority:	Urgent

	Action sought:	Response by:
To Hon Chris Bishop, Minister for Infrastructure	Decision on recommendations	23 October 2025

Actions for Minister's Office staff	Return the signed briefing to MfE FTAreferrals@mfe.govt.nz . Approved the attached notice of decisions letter (if signed).
Number of appendices: 7	Appendices: 1. Statutory framework for making decisions 2. Application documents for Clutha Hydro Scheme and further information received (refer File Exchange) 3. Stage 1 Briefing Note and decisions (refer File Exchange) 4. Section 18 Report on Treaty settlements and other obligations including comments from Māori groups (refer File Exchange) 5. Comments received from all other parties the Minister sought comments from (refer File Exchange) 6. Further information received post-consultation (refer File Exchange) 7. Draft Notice of Decisions

Ministry for the Environment contacts

Position	Name	Cell phone	1 st contact
Principal Author	Helen Willis, Max Gander-Cooper		
Manager	Stephanie Frame	s 9(2)(a)	✓
General Manager	Ilana Miller	s 9(2)(a)	

Project location

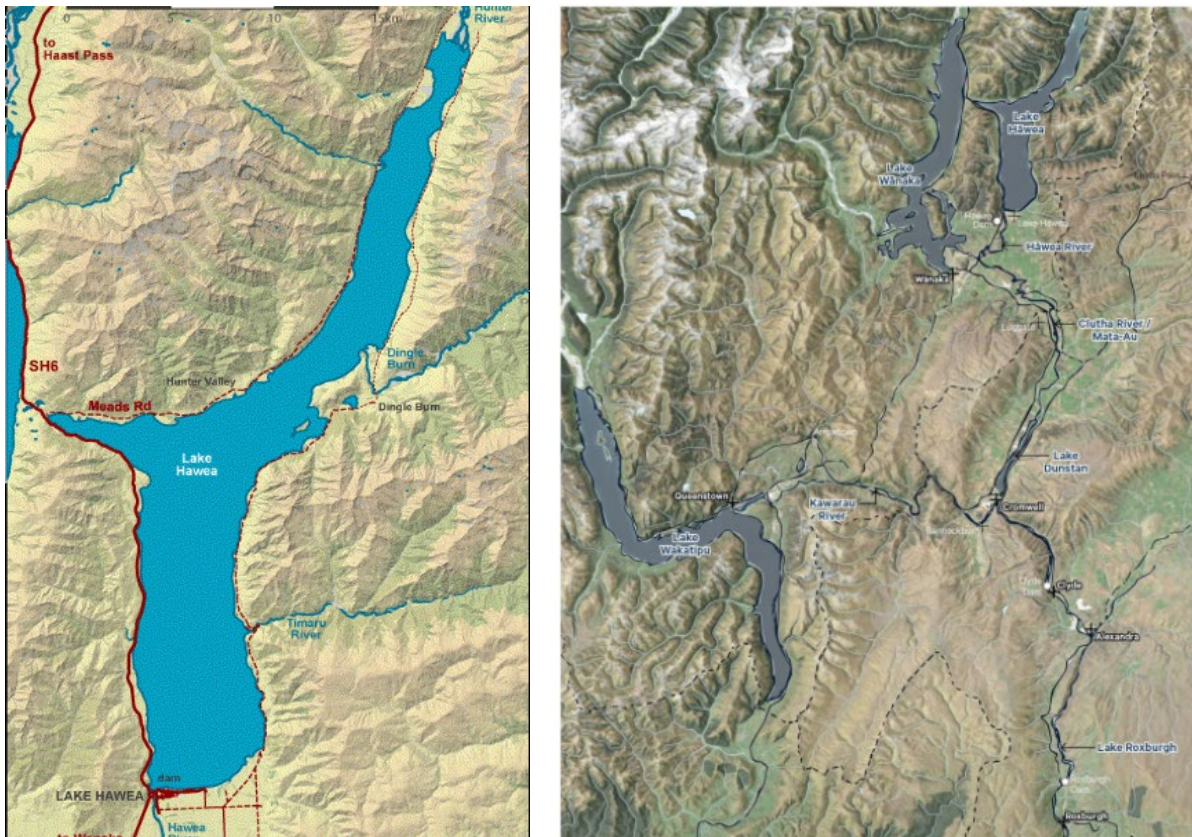


Figure 4: Clutha River / Mata-Au Hydro Scheme Overview.

Key messages

1. This briefing seeks your decisions under section 21 of the Fast-track Approvals Act 2024 (the Act) on the application from Contact Energy Limited (the applicant) to refer the Clutha Hydro Scheme – Increasing Flexibility and Security of Electricity Supply project (the project) to the Fast-track approvals process.
2. A copy of the application is in Appendix 2. This is the second briefing on this application. The first (Stage 1) briefing (BRF-6466) with your initial decisions annotated is in Appendix 3.
3. Lake Hāwea (the Lake) is a large, glacial lake with a body measuring 5 kilometres wide and 20 kilometres long, located in the Otago region approximately 17 kilometres north of Wānaka. The Lake forms part of the wider Clutha Hydro Scheme (CHS) which is owned and operated by the applicant.
4. The project seeks to use the Fast-track process to enable an adjustment of the applicant's generation capacity and an increase of the Lake's usable energy storage by allowing operation at lower lake levels.
5. The applicant already holds resource consents to operate Lake Hāwea between 338 – 346 metres above sea level (masl), with contingent storage allowed down to 336 masl. The application seeks consents to enable the normal minimum operating level of the lake to be lowered to 336 masl, and for contingent storage to 333 masl during a 4%

Electricity Risk Curve alert (ERC) and to 330 masl during an 8% ERC. A summary of the existing consented operating range and proposed new operating range can be seen in Table 1 below.

6. The ERC is the alert level which indicates the risk level of an electricity supply shortage (or low contingent storage event) and can only be determined by the system operator, Transpower New Zealand (Transpower).
7. The project additionally seeks a variation to current consent conditions, specifically, those conditions which specify the minimum allowable lake level and contingent storage, to remove reference to the current minimum allowable lake level and enable lower levels of contingent storage. Contact considers these variations necessary to implement the project by ensuring current consent conditions do not conflict with the proposed new consents. The applicant does not wish to apply for new consents for the entirety of the proposed activity.

Table 1: Summary of the existing consented operating range and proposed new operating range.

Operating Condition	Existing Consented Lake Levels	Proposed New Lake Levels	Increase in accessible MW from new consent
Normal Operating Range (minimum – maximum)	338masl – 346masl	336masl – 346masl	Increase of 70GWh / 23% increase (enough to power 10,000 homes for 1 year)
Contingent Storage Operating Range (minimum – maximum)	336masl – 338masl	333masl – 336masl at 4% ERC 330masl – 336masl at 8% ERC	333 – Provides ~100GWh of contingent storage (up from ~70GWh currently) at 4% ERC 330 – Provides an additional ~100GWh contingent storage at 8% ERC

8. No construction works are proposed as a part of the project.
9. All proposed approvals and variations are required under the RMA.
10. We recommend you **decline** the referral application under section 21(4) pursuant to reasons under s 21(5)(b) and (c), as detailed below.

New information since Stage 1 Briefing and other matters

11. On 24 July 2025 after receiving our initial advice (on 15 July 2025 BRF-6466) you invited comments under section 17 from prescribed and additional parties. On 12 September, under delegation we asked Otago Regional Council (ORC) and the applicant for further information under section 20 of the Act to clarify matters relating to the proposed variations, economic benefits of the project, the ability to access further contingent storage under the RMA and the potential for significant adverse effects arising from the project, particularly on groundwater. Both parties provided further information within the specified time frame.
12. In the response to your request for further information under section 20, the applicant proposed amending the operating levels applied for as follows: to enable the normal operating range of Lake Hāwea to be 336-346 masl and the contingent storage operating range to be 334-336 masl. They also proposed removing the 8% ERC range. The below diagram shows the difference between the lake levels the applicant had originally sought in its referral application, and the new lake levels the applicant is now proposing.
13. While this is a reduction in the likely adverse effects of the proposal compared to the initial project description, we consider it is so material a change as to effectively constitute a different application. This is discussed further below.

	Consented Level	Initial Referral Level	New Referral Level
Operating Range	338 masl – 346 masl	336 masl – 346 masl	336 masl – 346 masl
Contingency Storage	336 masl – 338 masl at 4% ERC	333 masl – 336 masl at 4% ERC	334 masl – 336 masl at 4% ERC
Contingency Storage	N/A	330 masl – 333 masl at 8% ERC	N/A

s 9(2)(h)

s 9(2)(h)



Assessment against statutory framework

18. The statutory framework for your decision-making is set out in Appendix 1. You must apply this framework when you are deciding whether to accept or decline the referral application.
19. We have considered if there are any reasons for declining the project, and we provide our advice on these matters below.
20. In accordance with section 21 of the Act, you must decline the referral application if you consider the project does not meet the criteria in section 22, involves an ineligible activity or does not contain adequate information for you to make your decision. You may decline the application for any other reason under section 21(4), including those listed in section 21(5), whether or not the project meets the section 22 referral criteria.

21. However, before you make that decision you must consider the application and any reports and comments provided in the required time frame, including:
- a. the section 18 Treaty settlements report (in Appendix 4)
 - b. the comments received from invited parties under section 17 (in Appendix 5)
 - c. the further information received from the applicant and ORC under section 20 (in Appendix 5).
22. We have considered these matters and provide our advice below.

Section 18 Treaty settlements and other obligations report

23. The report identifies Te Rūnanga o Ngāi Tahu (TRoNT), Te Rūnanga o Waihao, Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou, Hokonui Rūnanga, Waihōpai Rūnaka, Te Rūnanga o Awarua, Te Rūnanga o Ōraka-Aparima, Aukaha, and Te Ao Marama Incorporated as the relevant groups for the project area.
24. The report identifies the Ngāi Tahu Claims Settlement Act 1998 is the relevant Treaty settlement for the project area and does not identify any other obligations such as Mana Whakahono ā Rohe or joint management agreements.
25. The Ngāi Tahu settlement provides for a statutory acknowledgement and a deed of recognition over Lake Hāwea, which encompasses most of the project area. Under the RMA and the settlement legislation, a consent authority must have regard to a statutory acknowledgement when deciding whether an iwi is an 'affected person' for the purposes of notification decisions and must provide a summary of any consent applications relevant to the statutory area to a statutory acknowledgement holder.
26. The report considers the process of inviting comment from TRoNT under the Act is comparable to the requirements for statutory acknowledgements under the RMA and Treaty settlements. Similarly, the process of inviting comment is also comparable with some of the procedural requirements of the deed of recognition. However, to comply fully with the procedural requirements of the deed of recognition, you must also have particular regard to the views of TRoNT relating to its association with Lake Hāwea.
27. TRoNT, Te Ao Mārama Inc., and Kā Rūnaka (representing seven papatipu rūnanga) provided comments on the application. All of the comments emphasised the deep connections Ngāi Tahu have with Lake Hāwea, Mata-au (Clutha River), and the surrounding area. All of the comments were neutral on project referral, and are awaiting further engagement by, and information from, the applicant before they form a view. In particular, TRoNT and Kā Rūnaka are seeking further detail on the impact of the project on all of their applicable settlement redress, as well as their broader connection with the area and its environment.
28. The Minister for Māori Development/Minister for Māori Crown Relations: Te Arawhiti support the application, subject to further engagement with the relevant Māori groups identified in this report, and giving reasonable consideration to their views, particularly as it relates to redress under the Ngāi Tahu Claims Settlement Act 1998.
29. The report does not identify any matters which make it more appropriate for the proposed approvals to be authorised under another Act or Acts.

Section 16 Effects of Treaty settlements and other obligations on decision-making

30. To comply fully with the procedural requirements of the deed of recognition for Lake Hāwea, you must also have particular regard to the views of TRoNT relating to its association with Lake Hāwea, as outlined in clause 2 of the deed of recognition, in considering any application for any rights for use of occupation (including any renewals) in relation to the statutory area.
31. Section 16(2)(c) of the Act requires that you must, where relevant, in your notice of decisions on the referral application, direct any panel that considers a substantive application for the project to comply with any applicable requirements. Accordingly, should you decide to accept this referral application, we recommend you direct any panel considering a substantive application for the project to have particular regard to the views of TRoNT relating to its association with Lake Hāwea.

Written comments received

32. Comments were received under section 17 of the Act from the parties below:
 - a. relevant local authorities – ORC and Queenstown Lakes District Council (QLDC)
 - b. Ministers – Minister for Economic Growth, Minister for Energy, Minister for the Environment, and the Minister for Regional Development.
 - c. the Māori groups identified in the list provided to the Minister – Kā Rūnaka, Te Ao Mārama Inc, and Te Rūnanga.
 - d. any other parties – Transpower New Zealand Limited (Transpower).
33. A summary of the comments received from the relevant Māori groups is provided under the assessment of the section 18 report above. The key points relevant to your decision-making are outlined in Table A, with a summary provided below:
 - a. Neither ORC nor QLDC identified competing applications or relevant existing consents under sections 124C(1)(c) or 165ZI of the RMA
 - b. ORC has concerns with the project regarding its potential for significant adverse environmental effects including on groundwater and hydrology, ecology, the local township and community drinking water, inadequate consultation and community interest (section 21(5)(c))
 - c. QLDC has concerns with the project regarding its potential for significant adverse environmental effects including on groundwater and hydrology, recreation and reserves values, tourism, local community and outstanding natural landscape (section 21(5)(c))
 - d. Transpower considers the project relates to the continued functioning of regionally and nationally significant infrastructure (section 22(2)(a)(ii)), renewable energy generation and supporting climate change mitigation (section 22(2)(a)(vii)) but has concerns regarding water availability for contingent storage and national security of supply
 - e. The Minister for Economic Growth considers the project could have a positive economic impact but notes no economic assessment qualifying this was provided and considers the project could have wider implications on national security of storage. The Minister considers the project could be assessed as supporting climate change mitigation and reduction or removal greenhouse gas emissions under section 22(2)(a)(vii)

- f. The Minister for Energy considers the project relates to the continued functioning of regionally or nationally significant infrastructure (section 22(2)(a)(iii) but notes wider implications for energy security of supply at a national level
 - g. The Minister for the Environment considers the level of information provided insufficient to determine the extent of potential adverse effects arising from the project and comments on community interest in the project
 - h. The Minister for Regional Development considers the project could provide regional and national economic benefits but notes this was not quantified in the application.
34. The following parties were invited to comment on the project under section 17 of the Act; however, no responses had been received at the time this briefing was finalised: the Ministry for the Environment, Electricity Authority, New Zealand Transport Agency Waka Kotahi, Te Rūnanga o Waihao, Aukaha Limited

Requests for Further Information

35. Under section 20 of the Act, requests for further information were sent to both the applicant and ORC. The applicant clarified matters relating to the potential for the project to have significant adverse environmental effects, economic impacts of the project, the relationship between the proposed variations and new consents and powers that may be available under the RMA to access contingent storage. ORC clarified the powers that may already be available under the RMA to access contingent storage and provided details on current consent holders of water permits who will likely be negatively affected by the project.
36. The requests and responses are detailed further in Table A.

Reasons to decline

37. The statutory framework in Appendix 1 sets out the situations where you must decline the application for referral under section 21(3). You may also decline a referral application for any other reason under section 21(4), regardless of whether or not the project meets the criteria in section 22. The Act provides some guidance on matters you could consider when deciding whether to decline an application and these are set out in section 21(5). We have considered section 21(4) and the matters under section 21(5), and this is outlined in Table A.
38. We have considered the applicant's intention to substantively amend the referral application as an 'other matter' under section 21(4).
39. Our initial briefing on this application (BRF-6466) advised you that further analysis would be required to understand whether the applicant's proposed variations meet the legal tests under section 42(4) and 42(6) of the Act. Although the applicant asserts that the variations would be permitted, further analysis has concluded that we are not confidently able to advise you that this is the case and we consider there may be risk in referring the project.
40. We consider it is unclear that a change to conditions which could not be processed as a s127 variation under the RMA could be processed as a s127 variation under the FTAA.
41. This presents the risk that if an expert panel determined that it was unable to process the variation component of the project then the project could not be implemented due the ongoing restriction of the unvaried conditions of the existing resource consent.

42. In light of this we consider that there is some ambiguity as to whether the project could actually achieve the significant regional and national benefits identified above, since it may not be able to include the variations required to enable it. If you agree, you must decline the application under section 21(3)(a) as you are not satisfied the project would have significant regional or national benefits.
43. We therefore consider you cannot be confident the project would not materially impact the efficient operation of the Fast-track approvals process, and the application would be more appropriately considered under the RMA where processes exist relating to proposed variations to existing consent conditions.
44. The applicant seeks approval to drop the normal minimum operating level of Lake Hāwea by two metres and acknowledges the adverse environmental effects this may have. Comments received and further analysis highlighted the potential for the project to have significant adverse effects on the environment including (but not limited to) on other consent holders in the area, hydrology, groundwater and availability of water for irrigation, domestic supply and regionally significant wetlands, ecology, local tourism, recreation values and outstanding natural landscapes, the local community including potentially significant effects on resident health and the national security of electricity supply have been identified.
45. A key potential adverse effect of the project is the potential that it may eliminate or reduce the available water supply for the Hāwea township (as identified by both relevant Councils). While neither the application nor the comments received at this stage provide substantial evidence in relation to the significance of effects, we consider this is a matter which will require significant scrutiny and may benefit from the public consultation processes available under the RMA.
46. The project has also garnered significant community interest as the potential for significant adverse environmental effects is largely concentrated to that local community. The potential for significant adverse effects, particularly those relating to hydrology and groundwater, are complex, technical matters which may place undue burden on an expert panel and therefore we consider it would be more appropriate to assess the project under normal RMA processes to avoid materially affecting the timeliness and efficiency intended by the Fast-track approvals process.
47. Based on the matters outlined above and which are further detailed in Table A, we recommend you decline the referral application. This recommendation is because we consider
- a. you cannot be satisfied the project would have significant regional or national benefits (section 21(3)(a))
 - b. it would be more appropriate to deal with the matters that would be authorised by the proposed approvals under another Act (section 21(5)(b)) and
 - c. the project may have significant adverse effects on the environment (section 21(5)(c)).
48. Additionally, we recommend that you decline the referral application under section 21(4), because the Act does not allow applicants to substantively amend referral applications post-lodgement, that the Fast-track referral process requires consultation and affected parties may not have been appropriately consulted if the application is substantively changed through a further information request under section 20.

49. This is our consideration based on the available information; however, you retain the discretion to agree or disagree with our recommendations and determine the outcome of the referral application.

Reasons to accept

50. The statutory framework in Appendix 1 sets out the reasons you can accept a referral application. Our assessment of these matters is summarised in Table A.
51. We consider the project may meet some requirements in section 22 of the Act, including the potential for the project to deliver significant economic benefits and support climate change mitigation and/or adaptation. This is detailed further in Table A.
52. However, we consider you cannot be satisfied the project meets the requirement in section 22(1)(b)(ii), that the project is unlikely to materially affect the efficient operation of the fast-track approvals process.
53. Given the reasons summarised above and discussed in Table A, we recommend that you decline the referral application under sections 21(3)(a), 21(4), 21(5)(b) and 21(5)(c) of the Act. This recommendation has been weighed against the potential benefits of the project and we consider that, on balance, the reasons for declining the application are in this instance more paramount than the reasons for accepting. We note that you retain discretion to accept the referral application if you wish.
54. If you disagree, and you consider that the project should be referred on the basis of its ability to meet some of the section 22 criteria, we will provide you with a revised Notice of Decision letter, along with proposed directions to a panel and the applicant.

Conclusions

55. Based on the matters above and detailed in Table A, we recommend that you decline the referral application. This recommendation is due to the fact that we consider:
- a. you cannot be satisfied the project would have significant regional or national benefits
 - b. it would be more appropriate to deal with the matters that would be authorised by the proposed approvals under another Act (section 21(5)(b)) and
 - c. the project may have significant adverse effects on the environment (section 21(5)(c)).
56. Additionally, we recommend that you decline the referral application under section 21(4). This is due to the fact that the Act does not allow applicants to substantively amend referral applications post-lodgement, that the Fast-track referral process requires consultation and affected parties may not have been appropriately consulted if the application is substantively changed through a further information request under section 20.
57. If you agree with our recommendations, you must decline the project under section 21(3)(a) and may decline the application under sections 21(5)(b), 21(5)(c), section 21(4), or one of all of these sections.
58. Notwithstanding our recommendations, the decision to accept or decline the referral application remains at your discretion.

Next steps

- 59. If you agree with the recommendation to decline the referral application, MfE must give notice of your decisions to the applicant and any parties invited to comment under section 17, including the reasons for your decisions, and publish the notice on the Fast-track website.
- 60. A draft Notice of Decisions letter addressed to the applicant has been prepared based on our recommendations (refer to Appendix 6). Subject to your approval, we will send a copy to anyone invited to comment on the application. If any amendments to the letter are required, we will provide you with an updated version accordingly.
- 61. Our recommendations for your decisions follow.

Recommendations

62. We recommend that you:

- a. **Note** section 21(3) of the Fast-track Approvals Act 2024 (FTAA) requires you to decline the referral application from Contact Energy Limited if you are satisfied that the project involves an ineligible activity, or you consider that you do not have adequate information to inform the decision under this section or if you are not satisfied that the Clutha Hydro Scheme Project (project) meets the referral criteria in section 22 of the FTAA.

Noted
- b. **Agree** that before deciding on the application for project referral under section 21(1) of the FTAA you have considered:
 - 1. the application in Appendix 2
 - 2. the report obtained under section 18 in Appendix 4
 - 3. any comments and further information sought under sections 17 and 20 and provided within the required timeframe (if you have received any comments or further information after the required timeframe you are not required to consider them but may do so at your discretion) in Appendix 5.

Yes / No
- c. **Note** the application under section 16 of:
 - i. The Ngāi Tahu Claims Settlement Act 1998

Noted
- d. **Agree** to have particular regard to the views of TRoNT relating to its association with Lake Hāwea (as outlined in clause 2 of the deed of recognition) in considering this application, in compliance with the deed of recognition in the Ngāi Tahu settlement.

Yes / No
- e. **Agree**, pursuant to section 16(2)(c), if you refer the project, to direct any panel considering a substantive application for the project (in a notice of your decisions) to

have particular regard to the views of TRoNT relating to its association with Lake Hāwea (as outlined in clause 2 of the deed of recognition).

Yes / No

- f. **Note** that under section 21 you **must** decline a referral application if:
- i. the application **may not** be accepted under section 21(1) (which relates to the criteria for assessing a referral application in section 22); or
 - ii. you are **satisfied** that the project involves an ineligible activity; or
 - iii. you are **satisfied** that you do not have adequate information to inform your referral decision.

Noted

- g. **Note** that you **may** decline a referral application for any other reason under section 21(4), whether or not the project meets the criteria in section 22, including (but not limited to) the reasons for decline set out at section 21(5).

Noted

- h. **Decline** the referral application under either or all of sections 21(3)(a), 21(5)(b), 21(5)(c) and section 21(4) of the FTAA, on the basis you:

- i. are not satisfied the project would have significant regional or national benefits

Yes / No

- ii. consider it would be more appropriate to deal with the matters that would be authorised by the proposed approvals under another Act (section 21(5)(b))

Yes / No

- iii. consider the project may have significant adverse effects on the environment (section 21(5)(c):

Yes / No

- iv. consider the project should be declined under section 21(4):

Yes / No

- i. **Approve** the Notice of Decisions letter to the applicant (attached in Appendix 6).

Yes / No

- j. **Agree** that MfE will provide the Notice of Decisions to anyone invited to comment on the application including relevant local authorities, the Minister for the Environment and relevant portfolio Ministers, relevant administering agencies and relevant Māori groups.

Yes / No

- k. **Note** that should you disagree with our recommendations above, we will provide you with a revised notice of decision letter, along with proposed directions to a panel and the applicant.

Noted

Signatures

A handwritten signature in dark ink, featuring a large, stylized loop at the beginning and a long, horizontal stroke extending to the right.

Ilana Miller
General Manager, Delivery and Operations

Hon Chris Bishop
Minister for Infrastructure

Date:

Table A: Stage 2 analysis

Recommendation	Decline the application		
Project details	Project Name	Applicant	Project Location
	Clutha Hydro Scheme – Increasing Flexibility and Security of Electricity Supply	Contact Energy Limited c/- Mitchell Daysh Limited The applicant intends to apply for resource consents, and change/cancellation of resource consent conditions under the Resource Management Act 1991 (RMA), therefore is eligible to apply.	Lake Hāwea in the Otago Region. Section 1-7 Survey Office Plan 24526 Lot 2-3, 5-6 Deposited Plan 25173 and Section 3 Survey Office Plan 16473 Lot 4 Deposited Plan 25173 and Lot 1 Deposited Plan 331348 Section 1 Survey Office Plan 24526.
Project description	Lake Hāwea (the Lake) is a large, glacial lake with a body measuring 5 kilometres wide and 20 kilometres long, located in the Otago region approximately 17 kilometres north of Wānaka. The Lake forms part of the wider Clutha Hydro Scheme (CHS) which is owned and operated by the applicant. The project seeks to use the Fast-track process to enable an adjustment of Contact's generation capacity and increase the Lake's critical energy storage levels to manage dry year risks. The applicant already holds resource consents to operate and dam the Lake at a normal operating range between 338 – 346 metres above sea level (masl) and for contingent storage at a range between 336 – 338 masl. The project seeks new consents under section 42(4)(a) of the Act to enable the normal minimum operating level of the lake to be lowered to 336 masl, and for contingent storage to 333 masl during a 4% ERC and to 330 masl during an 8% ERC. The ERC is the alert level which indicates the risk level of an electricity supply shortage (or low contingent storage event) and can only be determined by the system operator, in this instance Transpower New Zealand (Transpower). The project additionally seeks a variation to current consent conditions under section 42(4)(b) of the Act. Specifically, Contact seeks to change those conditions which specify the minimum allowable lake level and contingency storage. Contact considers this necessary to implement the project by ensuring current consent conditions do not conflict with the proposed new consents. Contact considers these variations to be largely administrative in nature to enable the project and intends to process these simultaneously with the new consents sought under the Act. No construction works are proposed. All proposed approvals and variations are required under the Resource Management Act 1991 (RMA). Since lodging its referral application, the applicant has proposed an amendment to the project description to enable the normal operating range of Lake Hāwea to be 336-346 masl and 334-336 masl during contingent access storage events. For completeness, we reiterate again that the analysis in Table A relates to the original scope of the project, and not the proposed amendment, s 9(2)(h)		
Minister invites comments / requests information	Comments from invited parties		
	Local authorities <u>Otago Regional Council (ORC)</u> stated that there are no competing applications to the project, nor any consents where sections 165ZI or 124C(1)(c) of the RMA could apply. Regarding the project, ORC made the following key comments relating to your referral decision: - there are potential significant adverse environmental effects on surface water hydrology of the Hāwea River and the proposed lake levels could cut off the Hāwea Irrigation Company's water take, affecting irrigation supply. ORC has concerns regarding groundwater and provides a 2023 modelling which shows a strong connection between Lake Hāwea and the Hāwea aquifer, which supplies drinking water, domestic use, irrigation, and supports regionally significant wetlands¹. ORC considers lowering lake levels to 330 masl could impede aquifer recharge and disconnect it from the lake, substantially reducing groundwater availability. - potentially significant adverse effects on freshwater ecology including on macrophyte communities, at-risk littoral birds, indigenous and sports fish (including access to tributaries), and bryophyte communities in deep-lake environments. ORC notes there are potentially significant adverse effects relating to air quality as there is a risk of dust and silt mobilisation from exposed lakebeds which could negatively affect the Hāwea township and surroundings. - ORC considers its consultation with the applicant to have been inadequate, with limited opportunity for information to be exchanged or detailed discussion, restricting technical discussion and clarity on project scope. ORC notes that no technical assessments were provided to support the application and it is difficult to ascertain potential effects of the project and considers the list of potential effects included in the application to be insufficient, particularly in relation to groundwater. ORC notes that discussions at the pre-application meeting with the applicant covered the wider Clutha system rather than focusing on Lake Hāwea which is the scope of this project. - ORC considers that robust technical evidence is required to evaluate the project's effects on groundwater, hydrology and freshwater ecology. We note that this could implicate the timeliness and cost-effective aspects that the applicant considers the project will bring. Whilst an expert panel may be adequately able to consider the potential for significant adverse environmental effects with the benefit of having full technical assessments, we note that the uncertainties surrounding the severity and scope of potentially adverse environmental effects could add undue time and costs to the panel process, and therefore affect the efficiency of the process.		

¹ Campbells Reserve Pond Margins and Butterfield Wetlands

- ORC reports significant community interest in the project, including from the Guardians of Lake Hāwea, the Kane Road Utilities Society and the Upper Clutha Angling Club. ORC advises that significant community concerns relate to natural character, amenity, drinking-water supplies, water quality, recreation, hydrology and groundwater effects. ORC advises it has also been contacted by Taumata Arowai about its role under Section 35A of the Water Services Act 2021² and the potential implications of the project on drinking water with potential contamination of the aquifer.
- ORC was asked to comment on the relationship between the applicant's current consent conditions to dam and take water from Lake Hāwea, and the proposed new consents/variations. ORC stated that the applicant intends to vary an existing consent condition to remove reference to minimum lake levels and return periods, and that careful consideration would need to be given to the relationship between existing and proposed conditions to ensure there is no conflict between specific conditions in the two consents.

Queensland Lakes District Council (QLDC) stated that there are no competing applications to the project that it is aware of under section 17(3)(a) of the Act, nor is it aware of any resource consents or applications relevant to this site or project where sections 165ZI or 124(1)(c) of the RMA could apply.

QLDC expressed significant concerns about project referral. Key comments include:

- concerns that the project may impact QLDC's functions as a local authority, particularly regarding its ability to maintain a reliable and resilient water community supply for the Hāwea area
- concerns that lowering Lake Hāwea's normal minimum operating level could significantly compromise the community water supply bore fields, reducing resilience and potentially rendering some existing bores inoperable or not financially feasible to maintain
- regarding groundwater and hydrology, concerns that the hydraulic connection between Lake Hāwea and the Hāwea aquifer underpins community and private water supplies. QLDC notes modelling which shows that water yields are dependent on lake levels, and projected township growth (peak day demand reaching approximately 16,900 m³/day by 2054) will increase demand on these systems
- regarding recreation and reserves, QLDC considers lowered lake levels may render boating and water sport facilities (including boat ramps, floating jetties, swimming platforms) unusable, and may negatively impact campground operations, public foreshore reserves, trails and tourism infrastructure. QLDC notes that it manages many of these recreational facilities which operate at peak capacity during peak season. QLDC considers that in order to continue recreational use at the proposed levels additional funding from ratepayers will be required, and the safety of recreational swimmers at the swimming platform adjacent to the boat ramps is likely to be compromised at lower lake levels
- QLDC owns the public foreshore reserve land between the campground and John Creek including Scotts Beach (where QLDC water supply bores are located) which may also be negatively affected
- regarding landscape (including outstanding natural landscape), amenity and natural character, QLDC considers there is potential for increased exposure of gravel beaches, altered visual fullness of the lake, and impacts on outstanding landscape values along surrounding roads and trails (including the Te Araroa Trail, other biking and walking trails and the only state highway connection between central lakes and the west coast) which QLDC considers a key part of Hāwea and the wider Wānaka area's identity.
- concerns of potentially significant adverse environmental effects relating to air quality due to risk of dust mobilisation which could affect campers, recreational users, residents, visitors, and Nohoanga users.
- QLDC considers the referral application has insufficient technical evidence to fully impact potential project effects on community water supply, hydrology, ecology, or recreational amenity and the project would be better assessed under normal consenting processes
- QLDC highlights that the Queenstown Lakes Spatial Plan identifies urban areas earmarked for growth and includes land to the South of Hāwea, intended to provide new housing options in the region, which is contingent on adequate and reliable community water supply.

QLDC comments included three responses from Individual Elected Members. We note that the Chief Executive of QLDC was invited to comment on the application as a relevant local authority under section 17 of the Act and therefore you are not required to take these comments into consideration for your referral decision.

Ministers

The Minister for Economic Growth considers the project could have an economic impact through increased supply of electricity, reducing operational costs for firms should an increase of electricity generation lead to lower electricity prices. The Minister notes that increased electricity supply could additionally address volatility in electricity prices and dampen price spikes in wholesale electricity markets. The Minister notes there is no economic assessment quantifying the project's benefits and no construction related activity as a part of the proposal.

The Minister considers the lowering of lake levels for normal operations and contingent water storage could, however, have wider implications on the security of energy supply at a national level and suggests further advice is sought from the Minister for Energy. The Minister considers the project may be assessed in terms of supporting climate change mitigation and reduction or removal of greenhouse gas emissions under section 22(2)(a)(vii) of the Act.

The Minister for Energy considers the project relates to the continued functioning of regionally or nationally significant infrastructure (section 22(2)(a)(iii)) in the form of large-scale energy storage and generation but notes management of hydro storage at Lake Hāwea has wider implications for energy security of supply at a national level.

The Minister for the Environment comments on the level of information provided to determine the significance of potential adverse environmental effects from the project. The Minister notes the applicant will be required to provide more detailed assessments at the substantive stage, however considers it more efficient if it could be identified as soon as possible whether there are likely to be significant adverse effects arising from the project because this would enable appropriate strategies to avoid, remedy or mitigate such effects to be considered prior to lodging the substantive application. The Minister notes you may use your discretion to specify information that is required to be provided with the substantive application under section 27(3)(b)(ii) including an assessment of the potential impacts when operating at lower lake levels of other users in the catchment and an assessment of effects on the Hunter River.

The Minister notes community interest in the project and recommends, should you decide to refer the project, requiring the Panel under section 27(3)(b)(iii) to invite the Guardians of Lake Hāwea, a community group that has previously submitted on these matters, to comment on the substantive application. The Minister considers this approach will reduce the risk of unanticipated significant matters being identified late in the process, and will support the smooth and efficient conduct of the Panel's deliberations and the process for the applicant.

² Section 35A of the Water Services Act 1991 relates to notices to warn users of domestic self-supply about contamination in water - [Water Services Act 2021 No 36 \(as at 27 August 2025\)](#), Public Act – New Zealand Legislation.

	The <u>Minister for Regional Development</u> considers the project's potential energy affordability benefits of increased national electricity supply could benefit regional communities and businesses but notes this has not been quantified in the application. The Minister considers the project to have potentially significant implications for New Zealand's energy system and recommends comments from the Minister for Energy be considered. Māori Groups A collective response was received on behalf of Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnaka o Ōtākou, Hokonui Rūnanga, Te Rūnaka o Awarua, Ōraka-Aparimu Rūnaka and Waihōpai Rūnaka, collectively <i>Kā Rūnaka</i>, who represent mana whenua of the Mata Au (Clutha River) and the Te Rūnanga o Ngāi Tahu. <u>Kā Rūnaka</u> notes ongoing consultation with the applicant regarding the application and remains neutral to referral. Kā Rūnaka considers considerable work is required to ensure any consent conditions and management agreements are robust to appropriately manage effects on Kā Rūnaka. Issues of interest/concern to Kā Rūnaka include: • recognition of statutory acknowledgement areas and Ancillary Claims Land³ in/around the project area • impacts on Nohoanga Entitlements which include enabling Ngāi Tahu Whānui to have access to waterways for temporary occupation and Mahika kai purposes, including in areas associated with the project site • impacts on values, Mahika kai, taonga species and ecology, including native fish communities and other terrestrial species including lizards and birds • impacts on the cultural landscape values associated more generally with the Mata-au (Clutha Lake) and the historical and enduring connections in that area, including as a trail providing direct access into lakes Wānaka, Hāwea and Whakatipu Waimāori • the need to continue to promote and prosper the relationship of Kā Rūnaka to the whenua and wider Mata-au, including social and economic considerations. <u>Te Ao Mārama Inc.</u> provides comments on behalf of Ngāi Tahu ki Murihiku, the kaitiaki rūnanga whose takiwā includes the project site. Te Ao Mārama Inc. notes the key Treaty Settlement principles that the project is required to recognise and confirms the ongoing consultation between Te Ao Mārama Inc. and the applicant. Te Ao Mārama Inc. confirms the project site is an area of deep connection and long association for Ngāi Tahu and Te Ao Mārama and the applicant continue to work together to understand the impacts of the project on cultural values and connections, including whether those impacts can be mitigated satisfactorily. Te Ao Mārama can therefore not currently express an overall view on the project and remains neutral on its referral. <u>Te Rūnanga o Ngāi Tahu (TRoNT)</u> is neutral on project referral. TRoNT notes: • it is the statutory recognised representative tribunal body of Ngāi Tahu Whānui as provided by the Te Rūnanga o Ngāi Tahu Act 1996 (TONT Act). Te Rūnanga notes that their comments are on behalf of over 80,000 registered iwi members. Te Rūnanga requests that appropriate consideration be given to the Treaty principles and provisions which relate to the project site • the project site is on Lake Hāwea Statutory Acknowledgement Area and includes important Ngāi Tahu sites, histories and traditions. Clutha River (Mata-au), Te Wairere (Lake Dunstan) and Kā Moana Haehae (Lake Roxburgh) are additional Statutory Acknowledgement Areas downstream which may also be affected by the project • Lake Hāwea is a significant area where utilisation of resources associated with the area are held by whānau and hapū and are regarded as taonga. Nohoanga Entitlements have also been recognized in settlements to enable Ngāi Tahu Whānui to temporarily occur land (camp) close to water ways for access for fishing and gathering. Three Nohoanga Entitlements are associated with Lake Hāwea, with least 6 further associated with rivers in the wider Clutha landscape, all of which may be affected by the project. Te Rūnanga notes that the project application has failed to note and consider the Settlement Nohoanga Entitlements, nor other parts of the Ngāi Tahu Claims Settlement Act 1998 (NTCSA) which will be affected by the project. • Schedule 97 of the NTCSA which lists taonga species relevant to the project site including 49 bird species, 54 plant species and 6 marine mammals. Te Rūnanga notes the application fails to specify how taonga species will be appropriately managed, nor have they been considered in the provided ecology report. Other persons or groups <u>Transpower New Zealand (Transpower)</u> supports project referral and considers the project relates to the continued functioning of regionally and nationally significant infrastructure (section 22(2)(a)(ii)), renewable electricity generation and supports climate change mitigation (section 22(2)(a)(vii)). Transpower does have concerns regarding the access to contingent storage which it has called 'complex'. Transpower notes that this contingent storage acts as the fuel of last resort in the system and any reduction of water availability for this contingent storage, as a result of project referral, could negatively impact national security of supply. Transpower notes that the proposal by the applicant to use an 8% ERC may not meet the intended purpose of the project and the trigger for an 8% ERC may need adjusting to account for contingent storage and any buffer. Further information from applicant, relevant local authorities, relevant administering agencies Further information request during consultation period from relevant local authority
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³ Ngāi Tahu Claims Settlement Act 1998 No 97 (as at 01 July 2022), Public Act 391 Vesting of lakeside sites – New Zealand Legislation – A letter from Chapman Tripp notes that this area (including Lake Hāwea) is allocated to Manuhāea Ahu Whenua Trust, noting that it is Māori Land.

	Under section 17(1)(a) of the Act, <u>ORC</u> was asked to provide comment on the relationship between the existing consents held by the applicant to operate the Clutha Hydro Scheme, including those to dam Lake Hāwea, and the proposed new consents in addition to variations of current consent conditions, including why the proposed new consents may be required in addition to the variations. In its response, ORC notes that the applicant intends to vary a condition to its current consent to remove reference to the minimum lake levels and return period, in addition to seeking new consents to dam Lake Hāwea, which would relate to and provide for the proposed minimum lake levels only. The applicant intends the variation and the new consent to operate in conjunction with each other. ORC notes that the proposed variation would not succeed as a variation under section 127 of the RMA but in such a situation would normally expect the new consent to relate to the activity as a whole, rather than a single aspect of the activity. ORC would then anticipate an application to replace the existing resource consent to dam Lake Hāwea in its entirety. ORC therefore considers the approach by the applicant to be 'unorthodox', but is not aware of any principle that would make the approach unlawful. However, ORC notes that careful consideration would need to be given to the relationship between the varied consent and the new consent to ensure no conflict between specific conditions in either. Further information requests post-consultation period from relevant local authority and applicant Under section 20 of the Act we requested further information on your behalf from both the applicant and ORC. <u>ORC</u> clarified that the applicant is subject to a current consent condition which specifies that the Lake level may be lowered at a level lower than currently permitted (338 masl) as required to ensure dam safety or when the Electricity Commission determines that reserve generation capacity should generate electricity. However, ORC provided that another current condition does now allow provision for the Lake level to be dropped below 336 masl except for a 3-hour rolling average which would provide for some minor fluctuation. Regarding the emergency powers under section 330 of the RMA to access additional contingent storage, ORC considers this is available in principle to the applicant (as they meet the definition of a lifeline utility operator) however this would likely only be available when certain rare situations arise. ORC provided additional information that there are 50 Water Permits to take ground water or surface water in the project area which include a condition preventing water takes when the Lake drops below 338.2 masl. ORC advises that the applicant's proposed minimum operating level and proposed contingency levels would likely increase the frequency and duration of events in which these consent holders would likely be unable to utilise their Water Permits. <u>The applicant</u> noted that: • subsequent to submitting the referral application for the project, it has made considerable advancements in preparing a substantive application which has included further technical work aimed at assessing the impacts of the proposed activities. Modelling outcomes indicate that if the applicant were to lower the Lake to the proposed contingent storage of 330 masl, there exists a risk that the lake may not adequately refill by the subsequent winter which poses a potential risk to the operation of the CHS and, by extension, the stability of New Zealand's electricity market • ongoing engagement with local councils and community has highlighted concerns relating to potential dust and groundwater effects and the applicant now seeks to amend the description for the project to facilitate lowering the normal operating range of the Lake to 336 masl (no change from the original level sought) and lowering the Lake level during defined contingent storage events to 334 masl at 4% ERC with no proposal for changes to levels at 8% ERC (the original description sought levels down to 333 masl at 4% ERC and 334 masl at 8% ERC) • the applicant considers this change to the project description to be a reduction from (and not an expansion of) the project that was initially sought and therefore considers it within scope of the referral application • the applicant advises that this modification will result in a reduction of its potential effects while still contributing to the overall security of New Zealand's electrical supply, assist in mitigating foreshore erosion and provide a buffer for downstream flooding • prior to 2007 the previous lowest contingent storage level was 330 masl which guided the initial levels sought, however the applicant has always intended to explore the various level opportunities, and further modelling indicates that the incremental benefit of 6m of contingent storage is minimal. Regarding clarification on whether the applicant's proposal to access additional contingent storage during emergency or crisis situations could occur under the applicant's current consent conditions, including by way of powers available under section 330 of the RMA, the applicant provides that under its current consent conditions, the applicant cannot lower the level of Lake Hāwea below 336 masl at any time, including when contingent storage is required to generate electricity during times of stress as defined by the system operator. The applicant further clarifies that the emergency powers under section 330 of the RMA are only available in specific and limited circumstances and are overall not available to the applicant. Regarding clarification on why the applicant is seeking a variation under the Act to remove reference to the minimum lake levels and return period rather than lodging an application under the Act for a new resource consent to dam Lake Hāwea in its entirety, the applicant provides: • the project is not seeking to change the maximum allowable lake level or re-consent the entire existing dam consent which is valid until 2042, rather the project seeks to vary existing consent conditions only to enable access to an additional 2 metres of storage under normal operating conditions and 2 metres of contingent storage in limited circumstances (as per the requested project description amendment) • it does not consider it necessary or efficient to re-consent these activities as this would require re-evaluation of environmental effects for activities already authorised and fit for purpose. The applicant provides further clarification on how it intends to monitor and mitigate potentially significant adverse environmental effects on groundwater, including by further technical work and engagement. The applicant provides further clarification on how it anticipates the project will provide economic benefits regionally and nationally, including by reducing gas supply and increasing renewable generation, and reducing costs to consumers. We note that the applicant's request for further information responses are in relation to the applicant's proposed new scope and therefore do not consider it relevant to your referral decision.
The Minister must decline an application if the Minister is satisfied that the project involves an ineligible activity [section 21(3)(b)]	Based on the information in the application, we consider the project is eligible for referral because: • it would not occur on identified Māori land, Māori customary land or a Māori reservation as confirmed by the relevant records of title and consultation with iwi authorities • it would not occur in a customary marine title area or protected customary rights area as it is not in the coastal marine area • it is not an aquaculture activity or activity that is incompatible with aquaculture activities that would occur in an aquaculture settlement area and for which the applicant is not authorised to apply for a coastal permit because the project area is not in the coastal marine area • would not require an access arrangement which cannot be granted under the Crown Minerals Act (including s61(1A)) because it does not include an access arrangement, and it would not occur on Schedule 4 land • would not be prevented by section 165J,M, Q, ZC or ZDB of the RMA because the project area is not in the common marine and coastal area • would not occur on Schedule 4 land as confirmed by the records of title

	- would not occur on a national reserve as confirmed by the records of title - would not occur on a reserve held under the Reserves Act 1977 that is managed by or vested in someone other than the Crown or a local authority and that person has not consented in writing as confirmed by the records of title - is not a prohibited activity or decommissioning activity under the EEZA, 15B or 15C of the RMA as the project area is not in the coastal marine area or New Zealand's exclusive economic zone - is not for the purpose of an offshore renewable energy project because it will not occur offshore or involve renewable energy production. No comments raised by parties invited to comment have indicated that the project would be ineligible for referral.
The Minister must decline an application if the Minister considers they do not have adequate information to inform the decision [section 21(3)©]	We consider you have adequate information to inform your decision.
Relevant considerations and procedural requirements in Treaty settlement, Mana Whakahono ā Rohe, joint management agreement, or the Marine and Coast Area (Takutai Moana) Act 2011 or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 [section 16]	To comply fully with the procedural requirements of the deed of recognition for Lake Hāwea, you must also have particular regard to the views of TRoNT relating to its association with Lake Hāwea, as outlined in clause 2 of the deed of recognition, in considering any application for any rights for use of occupation (including any renewals) in relation to the statutory area.
Section 22 assessment criteria	
The project is an infrastructure or development project that would have significant regional or national benefits [section 22(1)(a)]	As noted above and detailed further below in Table A, we recommend you decline the referral application under section 21(4). However, we have assessed the project against the section 22 criteria for completeness and in case you do not agree with this recommendation. We note that the following analysis is based on the original application project description rather than the applicant's proposed new project description s 9(2)(h) The Minister may consider any of the following matters, or any other matters the Minister considers relevant. <i>The project has been identified as a priority project in a central or local government, or sector plan or strategy or a central government infrastructure priority list [s22(2)(a)(i)]</i> The applicant considers yes – noting the reduction target established by the Climate Change Response Act 2002 to reduce New Zealand's greenhouse gas emissions to net zero by 2050, and the Government's intention to address infrastructure deficit and energy shortage through a series of changes to National Direction, including amendments to the National Policy Statement for Renewable Electricity to strengthen the policy guidance that renewable energy is vital to New Zealand's prosperity. We note however that the project has not been specifically identified as a priority project in a central or local government, or sector plan or strategy or a central government infrastructure priority list and therefore advise that the project does not meet the criteria under section 22(2)(a)(i). <i>Will deliver new regionally or nationally significant infrastructure or enable the continued functioning of existing regionally or nationally significant infrastructure [s22(2)(a)(ii)]</i> The Clutha Hydra Scheme (CHS) is recognised as existing nationally significant infrastructure in the Otago Regional Policy Statement, currently generating approximately 10% of New Zealand's electricity. The applicant considers the project crucial to the future efficient and flexible operation of the CHS by maximising the contribution CHS provides to New Zealand electricity, through added electricity security during dry periods and increased firming of intermittent renewable energy projects. The applicant also notes the project utilises existing infrastructure which will see the anticipated national and regional benefits delivered with immediate effect upon the granting of consents. We recognise that the CHS is existing nationally significant infrastructure. However, we note that Lake Hāwea (the project location) forms only one part of the CHS. We note that the applicant's current consents to dam Lake Hāwea have been in place since 2007 and pathways exist under the RMA to allow the continued operation of Lake Hāwea as a part of the wider CHS scheme. <i>Will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment (within the meaning of policy 1 of the National Policy Statement on Urban Development 2020) [s22(2)(a)(iii)]</i> The applicant considers yes – noting the project would provide significant security to the electricity network which is critical to meeting the housing needs and to achieving a well-functioning urban environment. We note that the project does not include housing and is not located within an urban environment and therefore advise that the project does not meet the criteria under section 22(2)(a)(iii). <i>Will deliver significant economic benefits [s22(2)(a)(iv)]</i> The applicant considers the project will generate significant economic benefits including: - a positive impact on wholesale electricity prices which have risen in recent years (particularly during dry winter periods) with a future market predicting they will further increase due to an increase in the cost of fossil fuels. The applicant anticipates the project will result in less coal and gas being burned. - faster consumer cost savings due to the project's utilisation of existing infrastructure with no proposed construction, meaning the project benefits could be quickly realised after consents are granted as compared to the costs and time associated with developing new renewable electricity infrastructure. - increased system security through increased winter peaking capacity which may offset the need for thermal generation in New Zealand and allow the applicant a larger ability to adjust its generation capacity during critical times to backfill electricity space, therefore generating benefits to the economy.

- increased availability of flexible renewable electricity generation which could enable development of more intermittent renewable generation systems such as solar and wind which supports “turbo charging” the development of renewable generation in New Zealand. The applicant cites Transpower’s Winter 2024 outlook paper “more flexible supply and demand-side resources are needed in the market to meet the energy and capacity challenge for a reliable and efficient electricity system that supports increased electrification and decarbonisation of the economy”, which is also addressed in the 2025 Transpower SOSFIP Review Issues Paper.

We note that the application did not include any economic assessment supporting the project’s claimed economic benefits, as also noted in comments received from the Minister for Economic Growth. A further information request under section 17 of the Act was sent to the applicant regarding this matter. The applicant responded by clarifying the economic benefits of the project, however an independent supporting technical assessment was not provided.

Regarding the proposed increased flexibility in responding to critical low electricity periods, we note that comments received and the application documents provide that emergency contingent storage has not required access in over 40 years, therefore the proposed economic savings from utilising lower lake levels during these events are unlikely to be realised in a timely fashion. We note comments from QLDC which highlight that lower lake levels may increase costs to ratepayers in order to maintain recreational functions of the Lake. We note comments from QLDC regarding the effects of the project on local tourism, which could negatively impact the economy of the region.

Will support primary industries, including aquaculture [s22(2)(a)(v)]

The applicant considers the commercial viability of New Zealand’s primary industries is underpinned by having an affordable, reliable and efficient supply of electricity. The applicant considers the project may have a positive impact on wholesale electricity prices which supports primary industries in decarbonising efforts to transition to electricity generation.

We note that in the lack of supporting evidence of the applicant’s claims, that it remains uncertain whether the project will support primary industries and we do not advise that you refer the project on the basis of it meeting section 22(2)(a)(v) criteria.

Will support development of natural resources, including minerals and petroleum [s22(2)(a)(vi)]

The applicant considers yes – the CHS utilises water as a natural resource to generate electricity and the project will enable the use of this natural resource in a more efficient and reliable way to meet the electricity needs of New Zealanders. The application also notes that both the primary and extractive sector relies on electricity for its processing and day to day operations – the potentials of which cannot be unlocked without affordable, reliable and efficient supply of electricity.

Will support climate change mitigation, including the reduction or removal of greenhouse gas emissions [s22(2)(a)(vii)]

The applicant considers yes – the project will significantly support climate change mitigation and the reduction of greenhouse gas emissions because the project will increase the potential electricity generation capacity of the CHS and therefore the supply of renewable electricity to the National Grid. The application states that lowering the normal operating level of the Lake to 336 masl will result in a 23% increase in the electricity storage, sufficient to power 10,000 homes for one year. This amount of electricity saves approximately 68,000 tCO₂e compared to coal fired generation.

Will support climate change adaptation, reduce risks arising from natural hazards, or support recovery from events caused by natural hazards [s22(2)(a)(viii)]

The applicant considers yes – increasing the resilience of the electricity network is critical in the recovery from events caused by natural hazards. The application also notes that by enabling a larger operating range in the Lake, the project will improve the ability of the Lake to manage flooding risks caused by high inflows.

Will address significant environmental issues [s22(2)(a)(ix)]

The applicant considers yes – as climate change is a significant environmental issue which the project addresses.

We note that any analysis of the project addressing significant environmental issues will need to be taken in the context of the potentially significant adverse effects which may arise as a result of the project.

Is consistent with local or regional planning documents, including spatial strategies [s22(2)(a)(x)]

The applicant considers yes – the project seeks consents pursuant to the Otago Regional Council planning instruments. The Otago Regional Policy Statements (operative and proposed) and the Regional Plan: Water for Otago all recognise the value and importance of renewable electricity generation at a local, regional and national level.

The application includes an assessment of the project against the relevant planning documents, including the Queenstown Lakes District Plan (Operative 2008) and other Queenstown Lakes District Council Strategies and Plans, concluding that the project is consistent with outcomes sought under all relevant documents.

We note that comments received from QLDC indicate that the project may be inconsistent with the Queenstown Lakes Spatial Plan.

Any other matters that may be relevant [s22(b)]

We particularly note the comments from ORC that the variation proposed as part of the project would not succeed as a variation under the RMA and would instead need to be considered as an entirely new application. This is consistent with comments made by the applicant. We do not consider it is clear that a change to conditions which could not be processed as a s127 variation under the RMA could be processed as a s127 variation under the FTAA. This presents the risk that if an expert panel also determined that they were not empowered to process the variation component of the project then, even if they were able to grant the balance of the project, the project could not be implemented due the ongoing restriction of the unvaried conditions of the existing resource consent.

In light of this we consider that there is some ambiguity as to whether the project could actually achieve the significant regional and national benefits identified above, since it may not be able to include the variations required to enable it. If you agree, you must decline the application under section 21(3)(a) as you are not satisfied the project would have significant regional or national benefits.

Referring the project to the fast-track approvals process [section 22(1)(b)]	<i>Would facilitate the project, including by enabling it to be processed in a more timely and cost-effective way than under normal processes [s22(1)(b)(i)]</i> The applicant considers yes, because in its experience, the consenting of projects related to waterways and water storage triggers wide public interest which can result in lengthy and challenging processes. The applicant considers this project would likely trigger public notification and result in a hearing process and/or an appeal to the Environment Court which adds costs and time, and anticipates the Fast-track process could significantly reduce the consent processing timeframe by an estimated two years. We note that the applicant only requires consents/variations under the RMA which could reduce processing speed under the Fast-track process and given the already high level of public interest in the project, it could reasonably be concluded that the project would likely be subject to notifications and appeals under normal processing. It is unclear whether the sought variations would also not be permitted under the RMA as confirmed by the applicant and ORC. Therefore it is likely that referring the project would facilitate it, including by enabling it to be processed in a more timely and cost-efficient way than under normal processes. <i>Is unlikely to materially affect the efficient operation of the fast-track approvals process [s22(1)(b)(ii)]</i> The applicant notes that it has commissioned the technical assessments required to support the application under the Act, meaning the effects of the project are largely known and can be appropriately managed. The applicant intends any substantive application to be of a high standard and presented with professionalism and a high-level of experience, and considers the Fast-track process to have 'plenty of scope' with only a limited number of projects presently in the system. We note that comments have highlighted the potential complexities surrounding the project which an expert panel would be required to consider, including hydrology and groundwater technicalities, which could add considerable time and costs to the substantive phase and therefore affect the efficient operation of the Fast-track approvals process. We also note that referring the application without certainty that the proposed variations are permitted by the Act could materially affect the efficient operation of the Fast-track approvals process.
Reasons to decline	
Minister <u>must</u> decline [section 22(1)(b)]	Minister may decline [section 21(4) and 21(5)(a-h)]
<i>The Minister <u>must</u> decline a referral application if:</i> <i>The application may not be accepted under subsection 1 (meets referral criteria)</i> As outlined above, we consider that the application may meet the referral criteria under section 22(1)(a) but consider you can not be satisfied that this is the case. We therefore consider you <u>must</u> decline the application. <i>The Minister is satisfied the project involves an ineligible activity</i> As detailed above, we consider that the project does not involve an ineligible activity under section 5 of the Act. <i>The Minister considers that they do not have adequate information to inform the decision under this section</i> We consider that you have adequate information to inform your decision. If you agree the project may affect the efficient operation of the fast-track approvals process you <u>must</u> decline the application under this section.	<i>The Minister <u>may</u> decline a referral application for any other reason, whether or not it meets the criteria in section 22.</i> <i>Reasons to decline a referral application under subsection 4 include, without limitation:</i> <i>The project would be inconsistent with a Treaty settlement, Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, Marine and Coastal Area (Takutai Moana) Act 2011, a Mana Whakahono ā Rohe, or a joint management agreement</i> The section 18 report has not identified that the project would be inconsistent with these documents. <i>It would be more appropriate to deal with the matters that would be authorised by the proposed approvals under another Act or Acts</i> In our stage 1 briefing on this application (BRF-6466) we advised you that our initial analysis determined the proposed variations would be permitted under the Act. Sections 42(4) and 42(6) of the Act provides that a substantive application may seek a change or cancellation of a resource consent condition that would otherwise be applied for under the RMA, only if the substantive application also seeks an approval for new consents under the RMA, and the change or cancellation of the condition is material to the implementation or delivery of the project. The applicant considers these tests to be met. After further analysis and requests for further information under section 20, we are not able to confidentially conclude that the proposed variations would indeed be permitted under the Act at such a time that the applicant would submit a substantive application for the project, as it is not clear that the proposed new consents would be considered necessary in addition to the variations. As the referral application relates to increasing the operating levels of Lake Hāwea subject to an existing consent, the proposal appears on face value to be only variations to existing consent conditions. Without certainty on this matter, we consider there may be risk to the efficient operation of the Fast-track process and therefore consider that this is a matter which should be more appropriately considered under the RMA where processes exist relating to proposed changes to existing consent conditions. We note that this application has garnered significant community interest, media interest and has been the subject of multiple correspondence requests and requests under the Official Information Act 1982. Given that the potential for significant adverse environmental effects is likely to be, in the majority, localised to the local community of Hāwea, we consider that in order to preserve the integrity of the Fast-track process the project would be better processed under the RMA, where those affected may have the opportunity for input through notification processes. In addition, and as detailed further above and below, the project may have significant adverse effects on the environment. This is a complicated matter which an expert panel would likely require considerable time to resolve. To preserve the intended timeliness and cost-efficiency of the Fast-track process, we consider the potential for significant environmental effects associated with the project would be better assessed under the RMA. We recommend that you decline the project under section 21(5)(b). <i>The project may have significant adverse effects on the environment</i> You may decline the project under section 21(5)(c) where it may have significant adverse effects on the environment. The applicant sees approval to drop the normal minimum operating level of Lake Hāwea by two metres and acknowledges the adverse environmental effects this may have. These effects have been detailed in the summary of comments received. They may be significant and include (but are not limited to): • effects on other consent holders - there are 50 water permits to take ground water or surface water from around Lake Hāwea where some, if not all, include a condition preventing the taking of water when the level of the Lake falls below 338.2 masl. Lowering the minimum normal operating level to 336 masl will likely increase the frequency and duration of events during which other consent holders would be able to use their water permits (confirmed by ORC) • effects on surface water hydrology and groundwater of the Hāwea River – the proposed lake levels could cut off the Hāwea Irrigation Company's water take, affecting irrigation water supply • effects on the Hāwea aquifer (supported by 2023 modelling) which underpins community and private water supplies, and which may be disconnected from the Lake with the proposed levels. This includes effects on persons with legal obligations to provide clean and safe drinking water. Subsequently, effects on the local township of Hāwea who rely on the provision of clean and safe drinking water • effects on the Hāwea aquifer which supports regionally significant wetlands, including Campbells Reserve Pond Margins and Butterfield Wetlands • effects on the community water supply bores, with the lower lake levels potentially rendering some existing bores inoperable or not financially feasible to maintain

	• effects on freshwater ecology including on macrophyte communities, at-risk littoral birds, indigenous and sports fish and bryophyte communities. Further effects on taonga species and Nohoanga users. • effects on air quality, including dust, silt mobilisation and sedimentation. Subsequently, potential effects on respiratory health of the local community • effects on the local economy, including on ratepayers and the tourism industry • effects on property values and businesses • effects on recreational use and outstanding natural landscapes, visual amenity and public foreshore reserves • effects on the national security of supply of electricity. <i>The applicant(s) has a poor compliance history under a specified Act that relates to any of the proposed approvals</i> Nothing in the application or comments received from invited parties would indicate that the applicant has a poor compliance history under the RMA. <i>The project area includes land that the Minister for Treaty of Waitangi Negotiations considers necessary for Treaty settlement purposes</i> N/A. <i>The project includes an activity that is a prohibited activity under the Resource Management Act 1991</i> The applicant and relevant local authorities have not identified the project includes a prohibited activity under the RMA. <i>A substantive application for the project would have one or more competing applications.</i> The comments from QLDC and ORC state neither Council has record of any competing applications. <i>In relation to any proposed approval of the kind described in section 42(4)(a) (resource consents), there are one or more existing resource consents of the kind referred to in section 30(3)(a)</i> The comments received from WLDC and ORC did not identify any resource consents of the kind referred to in section 30(3)(a). <i>Any other matter</i> As detailed previously, we asked the applicant on your behalf to provide further information to clarify a number of matters under a section 20 request. This request was sent on 12 September 2025, after the 20-working day consultation period under section 17 was complete. This request for further information, and the applicant's response, are included at Appendix 6. The applicant's initial referral application sought new consents and changes to existing consent conditions to enable lowering the normal operating level of Lake Hāwea to 336 masl, and lowering the level of the Lake during defined contingent storage events, when there is a risk of shortage of electricity supply, to 333 masl at 4% electricity risk curve (ERC) and 330 masl at 8% ERC. In the response to your request for further information under section 20, the applicant proposed amending the description for the project to enable the normal operating range of the Lake to be 346-336 masl and the abnormal operating range to be 334-336 masl. The applicant advised that the proposed amendments stem from further technical work and modelling, and feedback from local authorities and community groups, some of which was received prior to lodgement. The applicant considers this change to the project description to be a reduction from (and not an expansion of) the project that was initially sought and therefore considers it within scope of the referral application. s 9(2)(h) s 9(2)(h) s 9(2)(h)
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s 9(2)(h)

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	We recommend you decline the referral application.

Statutory framework summary

1. You are the sole decision maker for referral applications. If you accept a referral application then the whole or part of the project will be referred to the fast-track approvals process.
2. If a Treaty settlement, the Marine and Coastal Area (Takutai Moana) Act 2011, the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, a Man Whakahono ā Rohe or a joint management agreement provides for consideration of any document or procedural requirements, you must, where relevant:
 - a. Give the document the same or equivalent effect through this process as it would have under any specified Act; and
 - b. Comply with any applicable procedural requirements.
3. You must decline a referral application if:
 - a. you are satisfied the project does not meet the referral criteria in s22
 - b. you are satisfied the project involves an ineligible activity (s5)
 - c. you consider you do not have adequate information to inform your decision.
4. You may decline an application for any other reason, including those set out in s21(5) and even if the application meets the s22 referral criteria.
5. You can decline an application before or after inviting comments under s 17(1). However, if comments have been sought and provided within the required time frame, you must consider them, along with the referral application, before deciding to decline the application.
6. If you do not decline a referral application at this initial stage you must copy the application to, and invite written comments from:
 - a. the relevant local authorities,
 - b. the Minister for the Environment and relevant portfolio Ministers
 - c. the relevant administering agencies
 - d. the Māori groups identified by the responsible agency
 - e. the owners of Māori land in the project area:
 - f. you may provide the application to and invite comments from any other person.
7. You can request further information from an applicant, any relevant local authority or any relevant administering agency at any time before you decide to decline or accept a referral application (see section 20 of the Act).
8. However, if further information has been sought and provided within the required time frame you must consider it, along with the referral application, before deciding to decline the application.