

Attachment 2.6

The criteria for accepting a referral application is that the project is an infrastructure or development project that would have significant regional or national benefits.

Explain how referring the project to the fast-track approvals process: Would facilitate the project, including by enabling it to be processed in a more timely and cost-effective way than under normal processes; and

1. Access to the fast-track process enable the project to be processed in a more timely and cost-efficient way than under normal processes. In summary the existing planning regime is prohibitive and the applicants would not seek the approvals required for this nationally significant renewable electricity project. For example:
 - a. The project includes numerous components requiring multiple different approvals under the RMA, Conservation Act, Reserves Act, the Wildlife Act, and the Heritage New Zealand Pouhere Taonga Act
 - b. Under the RMA all aspects of the project will require a multitude of resource consents to be approved from both Otago Regional Council and Central Otago District Council, and as discussed in section 3.4.2 below the project includes at least one and subject to interpretation two prohibited activities that would prevent resource consent applications being considered.
 - c. In addition to the issue of prohibited activities, the multitude of resource consent applications could reasonably be expected to be publicly notified and attract some opposition and be subject to years of litigation.
 - d. As a private company, the applicant is not a Network Utility provider and does not have the opportunity under the RMA regime to apply for a Designation to approve the works required under the CODC District Plan
2. A plan change, to the CODC and ORC Water Plan would likely be required to facilitate the project, but this option is considered to be too time and cost prohibitive and would not be pursued by the applicants
3. The Applicant expects this project would take over 5 years to consent under normal Resource Management Act processes, assuming that was possible. The process steps would normally include a preliminary hearing at the Council level plus appeal to the Environment Court.
4. That 5 year period excludes the time taken by possible appeals on matters of law to the High Court and beyond. It excludes that because appeals on matters of law are also possible under the FTAA.
5. If this project was referred directly to the Environment Court, or called in by the Minister and directed to an EPA panel, it would still take longer than the FTAA process.

6. In addition to any of those RMA processes, separate processes would be necessary to obtain approvals for the proposed land exchange and/or concessions or approvals under the Conservation Act, the Wildlife Act, Freshwater Fisheries Regulations, the Heritage NZ Pouhere Taonga Act and, if needed, the Reserves Act. Depending upon the attitude of those agencies, this sometimes has to await the outcome of RMA processes.
7. The FTAA process is plainly more efficient and timely.
8. The Applicant also believes it is a moot point as to whether the land exchange proposed with the Crown would fall within the discretion of the Director General of Conservation under the Conservation Act given the narrow interpretation of that discretion by the Supreme Court in the Ruataniwha decision. The Applicant believes it would fit within that discretion, but accepts that it could be argued to the contrary by others through judicial review should that process route be used.
9. Additionally, the possible introduction of lagorasiphon into Lake Onslow from the Clutha could be seen as a prohibited activity if the decision maker thought efforts (and consent conditions) would not work to prevent it. This could be a legal impediment to consenting the project under normal RMA processes.
10. Even with the benefit of the prior work done by MBIE on the NZ Battery project, the Applicant knows its external legal and professional costs on the substantive FTAA application will total many millions of dollars. That is notwithstanding the decades of expertise that sits within the Applicant company that will be provided at no or very low cost.
11. In addition to the extra time taken by non-FTAA processes, the associated costs of normal RMA processes would be higher. Legal costs and professional witness costs would both be higher because of the lengthier process and the likelihood of a de novo appeal. Our estimate is they would double.
12. As the description of consultation with landowners has described in more detail, many of the landowners affected by the enlarged lake now want an answer either way as soon as they can. FTAA achieves that faster and more cost effectively than the alternative processes.
13. In terms of the Applicant's readiness to proceed, it will be continuing apace to prepare its substantive application even before it gets an answer to whether the application to enter fast-track is approved. We know this does not mean FTAA will be approved. We are doing this because we want to identify evidence gaps that require data collection over the coming summer.
14. The Applicant has already engaged leading consultants across environment, economics, planning, engineering, land negotiations and project management.

15. It has already reached out to agencies, councils and iwi on environmental offsets/compensation.
16. It expects to be ready to engage with the FTAA process and to promptly file the substantive application should it gain approval to utilise fast-track.
17. The Applicant's objective is to construct this project. In terms of the effect of normal RMA process times on physical construction, Benmore took 6 years to construct from 1958 to December 1964 when filling of the lake began. The construction of the Clyde dam took longer – from 1982 to 1992, in part because of inadequate engineering and seismic investigations earlier in that project.
18. This project has had very thorough investigations. It also has the benefit of improvements in construction technologies including for both tunnels and dams. Even so, it will take years to reach completion. We estimate 4 to 5 years to build, preceded by 1 year to finalise the engineering design, 9 months for financing, 9 months for contracting, and 9 months for construction permits. Parts of this can and will be done in parallel. Our estimate is that this totals between 6 and 7 years after consenting. To allow for setbacks we have estimated a total of 10 years to build including consenting.
19. If normal consenting timeframes added 4 extra years, this project could not be completed until after the commonly anticipated retirement date for Huntly. That would be a poor outcome for New Zealand.
20. The Applicant submits that it has the skills, motivation and resources to be an exemplar of how fast-track can work for the betterment of New Zealand.

Is unlikely to materially affect the efficient operation of the fast-track approvals process

21. In addition to the above, the Applicant is ready to proceed professionally, quickly and efficiently. The Applicant hopes this is evident from this application generally.
22. The Applicant is debt free and has received substantial offers of additional capital, in addition to the monetary resources of the shareholders of its holding company. The Applicant's intention is to fund all stages of this Project up until construction entirely from shareholder funds with no debt.
23. We have considered other published applications to use fast-track, and the High Court judicial review decisions on project scope and the threshold test for regional or national significance.
24. The Applicant's board members bring two hundred years of collective relevant expertise:

Keith Turner - Chaiman

25. Dr Keith Turner PhD, CNZM has been a leader of the New Zealand electricity system for decades, as was recognised by the Royal Honour recently bestowed upon him. He was born in Rotorua. He completed a Bachelor of Engineering and a Master of Engineering at the University of Canterbury, followed by a PhD in electrical engineering in 1980. He is a Distinguished Fellow of the Engineering New Zealand. Keith began his career in the Electricity industry in NZED. He has decades of experience in electricity system planning, design and project delivery. He has delivered some of New Zealand's largest infrastructure projects including large hydro, wind and transmission projects. He was the Chief Operating Officer of the then Electricity Corporation until Contact Energy separation in 1996. From 1998 to 2008 he was CEO of Meridian Energy Limited. His other roles have included chairman of Transpower Limited. He has been chairman or director of Fisher & Paykell, Spark Infrastructure, Auckland International Airport, and a number of Australian electricity industry companies. He served as a founding member of NZ's interim Climate Change Commission. Keith is a very practical person who has built his own yacht and homes. Keith has been an advisor to many governments and remains committed to delivering secure, clean and affordable electricity. He believes this pumped hydro scheme is key. Hence, Keith is Chairperson of Clutha Pumped Hydro Consortium Limited.

John Hardie

26. John Hardie LL.M is a barrister and mediator. He was born and raised in Dunedin and lives in Christchurch. He was educated at Otago Boys High School and the University of Otago. He is a senior member of the Christchurch Bar with specialist expertise in civil litigation and planning law. He has decades long experience in all aspects of planning and environmental law including for applicants, objectors, and as leading counsel for Councils. He has been a ministerial appointee under the RMA. He was a panel member and chair determining planning applications under the original fast track law, the COVID-19 (Fast Track Consenting) Act 2020. In addition to his Court work, John has decades of experience as a successful mediator assisting to resolve disputes throughout New Zealand. John has been a driving force behind the creation and operation of the bespoke organisation and processes needed to resolve many complex unresolved insurance claims following the Canterbury earthquakes.

Ken Smales

27. Ken Smales, was born in Dunedin and now lives in Tasman. He started as a cadet in the New Zealand Electricity Department and has decades of hydro experience including the construction and commissioning of the last 3 machines at the Manapouri Power Station, design experience in Wellington Head Office before returning to construction projects on the Waitaki scheme. He commissioned the Upper Waitaki Power Project at Tekapo B and Ohau A/B/C. He was then Group Manager Southern managing the Waitaki then Northern managing the Waikato Hydro Chain for NZED and Electricorp. Then as Generation Director for Meridian NZ Ltd he

managed the Manapouri second Tunnel Project to completion and commissioning. As General Manager Renewable Generation at Meridian he managed the build of numerous Wind Farms in NZ, Australia and Scott Base. Ken has for some years run his own consultancy company bringing various large irrigation and power projects to successful completion, including Central Plains Water Scheme and most recently the Waimea Dam.

David Parker

28. Hon David Parker BCom LLB is an experienced lawyer, politician and entrepreneur. He was born in Roxburgh, raised Dunedin and educated at OBHS and University of Otago. LLB, BCom (Acctg). His first full-time job was at Wrightson NMA. He was a co-founder of the Dunedin Community Law Centre and a managing partner of Anderson Lloyd, Lawyers. He cofounded with late Howard Paterson and Dr Max Shepherd A2 Milk, BLIS Technologies. He has been the founder of various other companies. He was the first CEO of A2 Milk, including for the first two capital rounds, until being elected to Parliament. From 2002 to May 2025 he was an MP after he was elected, to his surprise and others, to the then Otago seat. Minister in the Clark and Ardern governments as Attorney General (twice), Minister of Energy, Climate Change, Trade, Revenue, Economic Development, Associate Finance, Environment, Fisheries, State Services, Transport and Land Information. David returned to the private sector in May this year. His lifelong interest in good environmental outcomes, energy policy and prosperous but fair economic outcomes is why he is involved.

29. Our external consultants and advisors include:

- a. Mr David Stock, Commercial Solicitor, Christchurch.
- b. Mr Pearse Smyth, instructing Solicitor for Barrister.
- c. Alanya Limmer KC, Barrister, Christchurch
- d. Ben Farrell, Planner, Principal, Cue Environmental, Queenstown
- e. Bonisch Consultants, Surveyors, Invercargill and Te Anau
- f. ICL Chartered Accountants Limited, Alexandra
- g. DamWatch Engineering, Specialist Dam and Hydro engineers, Wellington
- h. Dr Greg Ryder, our Chief Environmental Consultant, Principal, Ryder Consulting, with specialist expertise in river flow, hydro effects, and freshwater ecology including fresh water flora and fauna.
- i. Mr Peter Wilson, Economist, Principal of Cloverleaf Economics, and former principal economist at NZIER.
- j. Paul Morgan, expert on fish screening structures, Dunedin
- k. Zane Moss, freshwater ecologist and salmonid expert, Southland

30. The Applicant has the subject matter expertise and monetary resources needed to efficiently deal with the substantive application including with the panel and the EPA.
31. Overall the impact of referring this project on the efficient operation of the fast-track process is on its own unlikely to be significant. The applicants are sufficiently informed (including by the millions of dollars invested by the previous government on the project feasibility), resourced and motivated to ensure that all relevant consenting information and documentation, as well as ongoing consultation initiatives, will be sufficient prior to lodging any substantive application.

S38 Priority Request

32. The Applicant is requesting that the Minister determine the project is a priority project under section 38 of the FTAA.

Is the project consistent with local or regional planning documents, including spatial strategies, and if so, how?

33. The project will be both consistent and inconsistent with the relevant planning documents (being the Otago Regional Policy Statement, the Otago Regional Water Plan, and the Central Otago District Plan), as discussed below:

Proposed Otago Regional Policy Statement 2021 (Proposed RPS)

34. The CPH is anticipated to be both consistent and inconsistent with outcomes sought to be achieved by the RPS, for example the CPH cannot maintain existing physical/ecological and human values associated with Lake Onslow, its margins or the affected rural land that will be inundated by raising the lake levels. However, the CPH will be generally consistent with the numerous provisions in the RPS relating to the Clutha River (which is identified as an Outstanding Waterbody under the RPS) and that recognise and provide for nationally significant infrastructure proposals. Importantly, the Proposed Otago Regional Policy Statement 2021 provides a reasonably clear policy framework for new renewable electricity generation activities in such a way that attempts to particularise (implement) all higher order Resource Management Act directives including Part 2 and the relevant national directions.
35. The benefits of the proposal are recognised and provided for in the RPS, for example through Objective EIT-INF-O4 (Effective, efficient, safe and resilient infrastructure, nationally significant infrastructure and regionally significant infrastructure enables the people and communities to provide for their social and cultural well-being, their health and safety, and supports sustainable economic development and growth in the region, while adverse effects are managed), including:
- Providing effective, efficient, safe and resilient nationally significant infrastructure

- Ensuring the health and wellbeing of Otago’s communities and economy is supported by renewable energy generation within the region that is safe, secure and resilient;
- Supporting the overall reduction in New Zealand’s greenhouse gas emissions and achieving the national target for emissions reduction;
- Increasing the generation capacity of renewable electricity generation activities in Otago, and substantially contributing to meeting New Zealand’s national target for renewable electricity generation;

36. Policies EIT-INF-P13, EIT-INF-P14, and EIT-EN-P5 provide clear directives for managing the adverse effects of renewable electricity generation activities, including having particular regard to the practical constraints associated with REG, having regard to the extent and magnitude of adverse effects on the environment and the degree to which unavoidable adverse effects can be remedied or mitigated, or more than minor residual adverse effects are offset or compensated for. The CPH will need to engage with this approach with the unavoidable adverse effects anticipated to be offset or compensated to varying extents. The substantive application will include specific consideration of such approaches that will need to be informed by further detailed design, technical assessment and consultation with key stakeholders including affected parties.

37. Rights and interests including fundamental relationships between Ngāi Tahu and the affected resources is recognised and provided for in the RPS. The consortium / applicant proposing the CPH acknowledges this and is engaging with Papatipu Rūnaka accordingly.

Operative Otago Regional Policy Statement 2019 (Operative RPS)

38. The Operative RPS has been, or shortly will be, completely replaced by the Proposed RPS (it is understood outstanding appeals on the Proposed RPS have been resolved). Accordingly, little weight has been given to the Operative RPS for the purposes of this assessment.

Regional Plan: Water for Otago (updated August 2025)

39. The Regional Water Plan seeks to maintain and enhance natural and human use values of lakes and rivers, enhance spiritual and cultural beliefs, protect the natural character and maintain amenity values, as well as providing for the sustainable use and development of Otago’s waterbodies. The Regional Water Plan recognises the abundance of freshwater available as a resource in the Clutha River and for example does not provide minimum annual flow requirements. The CPH is anticipated to be both consistent and inconsistent with outcomes sought to be achieved by Otago Regional Water Plan, for example the CPH cannot maintain existing physical/ecological and human values associated with Lake Onslow, its margins or

the affected waterbodies (and land) that will be inundated by raising the lake levels. The CPH also risks introducing material from pest plants including Lagarosiphon into Lake Onslow.

Operative Central Otago District Plan (updated July 2025)

40. It is understood the CODC District Plan is yet to give effect to the Otago Regional Policy Statement directives that set out how the positive and adverse effects of nationally significant projects like the CPH should be provided for or reconciled at the district plan level. Approvals will be required under RMA for numerous land use and subdivision consents under various provisions of the CODC District Plan. Under this plan, the application site is located on landholdings with the underlying zoning of “Rural Resource Area”, with multiple “overlays”, including in relation to: Heritage Buildings; High Voltage Lines; Landscape Management Area; Outstanding Natural Landscape; Significant Amenity Landscape; and Significant Natural Landscape. Upon a preliminary review of the district plan objectives, policies and methods (including rules) it is anticipated that the CPH will be both consistent and inconsistent with key provisions of the district plan. For example, the CPH should be consistent with the plans provisions relating to the sustainable management of infrastructure and providing for the needs of the districts people and communities, but the CPH will likely conflict with policy directives relating to the protection of existing conservation, heritage, recreation (including access) and landscape values.

Spatial Strategies

41. No spatial strategies have been identified as being relevant to the location or provision of new hydroelectric generation projects in Central Otago.

42. The Teviot Valley Spatial Plan prepared by CODC (2024) focuses on urban growth matters, providing *“a blueprint for the next 30 years, showing what our towns could look like and how infrastructure, housing and productive land use fit together. It is a vision for the future, offering guidance to the private and public sector, including direction for infrastructure investment and Council’s future planning”*.

43. The Spatial Plan does record that community engagement highlighted the following in relation to the NZ Battery Project (Lake Onslow): (i) Some community feedback that, if the project goes ahead, money should be spent on damage to roads during the Phase 1 Onslow project, and not elsewhere; (ii) some concern about the strip of private land that surrounds Lake Onslow where huts are being built with no clear ownership or planning consideration; and (iii) Interest in reinstating the fisherman’s reserve that used to exist at Lake Onslow.