

13 JUNE 2025
MEMORANDUM

To Ministry for the Environment
From Holland Beckett on behalf of King Country Energy Ltd

Response to further information request for Kuratau HEPS referral application

1. We set out below the response from King Country Energy Ltd (**KCE**) to the request for information from the Ministry for the Environment in respect of the application for referral for Kuratau Hydro Electric Power Scheme (**Kuratau HEPS**).

A summary of the consultation you have undertaken with the parties in section 11 of the FTAA (particularly the relevant iwi groups and Waikato Regional Council) between June 2023 and lodgement of your application, including how that consultation has informed the project.

Waikato Regional Council

2. KCE has met with WRC over half a dozen times since lodging the application in June 2023 with our last meeting held in late February 2025. Since lodging that application, the Fast-track Approvals Bill was introduced and applicants could apply for projects to be listed in the subsequent Act. KCE applied for the Kuratau HEPS to be listed in the Fast-track Approvals Bill, which was not included in the final Act. Since that time, KCE has been awaiting the Fast-track Approvals Act (FTAA) to come into force to then apply for referral to use the fast-track process.
3. KCE and Manawa (as operator) have been encouraged by the relevant Government Ministers to use the fast-track process for all of its reconsents due to the significant efficiency and timeliness benefits provided by that process, and given the valuable role hydro-electricity plays in securing the renewable energy supply for New Zealand.
4. KCE advised WRC that it intends to use the fast-track process since lodging the application, however KCE has continued to engage with WRC through the RMA process as a commitment to work with WRC on issues for the consent, in anticipation of utilising the fast-track process. KCE chose not to withdraw from the RMA process with WRC in order to continue this engagement and has provided WRC with resources to undergo expert peer reviews and provide an initial s 92 request for information, which is summarized below.
5. WRC issued a s 92 request on ecology matters in March 2024. WRC made a further s 92 request in November 2024. That s 92 request sought further information on matters relating to ecology, hydrology, sediment, wetlands and consultation. KCE is funding the costs of WRC's s 92 request process.
6. KCE has also funded WRC to obtain provided expert peer reviews of the application on the issues of wetlands, fish passage, hydrology, aquatic ecology, sediment and geomorphology which were provided to KCE in December 2024. KCE is considering the issues raised in the peer reviews and will respond to the peer review recommendations in its substantive application, should the Kuratau HEPS be referred to the fast-track process.
7. While the project is simply seeking to consent the existing operations of the Kuratau HEPS on a 'like for like' basis, the consultation with WRC has informed the project by providing matters for consideration in relation to the management of ecological effects, hydrological operations, the

conveyance of sediment to Lake Taupo, and the protection of wetland values. These matters will be addressed, as appropriate, in the proposed consent conditions and management plans provided as part of the substantive application.

Relevant iwi groups

8. Between the lodgement of its application to WRC for the reconsenting of the Scheme (June 2023) and June 2025, KCE undertook the following engagement with Ngāti Tūwharetoa / Tūwharetoa Māori Trust Board (**TMTB**) Ngāti Manunui, Ngāti Parekaawa, Waihi Pukawa Land Trust and Waituhi Kuratau Land Trust:
 - (a) Presenting the application via powerpoint to iwi;
 - (b) A site visit to the Kuratau HEPS with hapū in June 2023;
 - (c) A Pūkawa marae visit and initial discussions regarding development of memoranda of understanding and cultural impact assessments in June 2023;
 - (d) Coordination of a “working group”, including attending a working group hui with all entities in June 2024, with the purpose of determining that the two hapū (Ngāti Manunui and Ngāti Parekaawa) would be developing cultural impact assessments and agreeing resourcing by KCE;
 - (e) Drafting of a memorandum of understanding and terms of reference documents between the working group and KCE and Manawa Energy Limited (late 2024);
 - (f) Attending working group hui and/or communicating with the relevant iwi grounds regarding drafting of the memoranda of understanding (December 2023, January 2024, March 2024, and May 2024); and
 - (g) Attendance by senior leaders (chief to chief) at a boat trip hikoi lead by tangata whenua of the rohe and significant sites in May 2024. This trip included members of hapū from around the rohe.
9. In May 2024, KCE advised the relevant iwi groups that it would use the FTAA to reconsent the Scheme.
10. While awaiting FTAA options, over the past year, KCE has continued to reach out and this has included four raNgātira te raNgātira hui with TMTB in late 2024 and early 2025.
11. More recently, in May 2025, the working group has set a schedule to finalise memoranda of understanding and continue with engagement on the upcoming substantive application and development of CIAs. KCE’s expectation is that these ongoing discussions will inform its substantive application for the reconsenting of the Scheme under the FTAA.

Clarification of whether or not the project includes identified Māori land, noting that record of title WN54C/377 is identified as potentially Māori freehold land.

12. We consider that Record of Title WN54C/377 (legal description Part Pukawa B Block and Part Pukawa B Block) (the **Subject Land**) is not identified Māori land.
13. The Subject Land previously formed part of Record of Title WN304/125. Record of Title WN304/125 notes that by Proclamation 580240 (under the Public Works Act 1928) parts of Pukawa B Block are taken for water-power purposes to vest in the King Country Electric Power Board from 9 December 1963.

14. Proclamation 580240 notes the creation of title WN54C/337 (being the Subject Land) to be vested in King County Electric Power Board. Power boards were disestablished under the Energy Companies Act 1992, and the electricity undertaking held by the King Country Electricity Board (which includes the assets used for or in connection with the electricity undertaking – i.e. land and infrastructure) was transferred to King Country Energy Limited on 30 June 1993 (King Country Energy Limited is the 100% shareholder of KCE Generation Limited).¹
15. We have reviewed Pātaka Whenua (previously Māori Land Online). It does not record the Subject Land as being Māori Freehold Land.
16. Pātaka Whenua does note the existence of Pukawa B Block. The mapping on Pātaka Whenua includes the Subject Land as part of Pukawa B Block, however based on our review is incorrect.
17. The Pukawa B Block is also known on Pātaka Whenua under an alternative name being “Part Pukawa B and Lot 1, Lot 2, Lot 3 Deposited Plan 381108 and Pukawa 3C1, 3D3, 3D4 and Lot 1 Deposited Plan 27810 and 57025”. This block is comprised of the following records of titles:
 - WN454/51
 - WN454/50
 - WN32B/602
 - WN32B/601
 - WN302/235
 - 325110
 - 325109
 - 325108
18. None of the above Records of Title relate to the Subject Land.
19. As noted above, the mapping on Pātaka Whenua includes the Subject Land as part of Pukawa B Block (Image 1 below). However, consistent with our view above that the Pātaka Whenua mapping appears incorrect, the mapping on LINZ show a distinction between the Subject Land (Image 2 below) and the land comprised in RT 325108 (Image 3 below). The mapping on LINZ is consistent with the title diagrams for the Subject Land and RT 325108.



Image 1 – Pukawa B Block on Pātaka Whenua

¹ Sections 2 and 47(1)(a) Energy Companies Act 1992 and cl 3, Energy Companies (King Country Energy Limited) Vesting Order 1993.

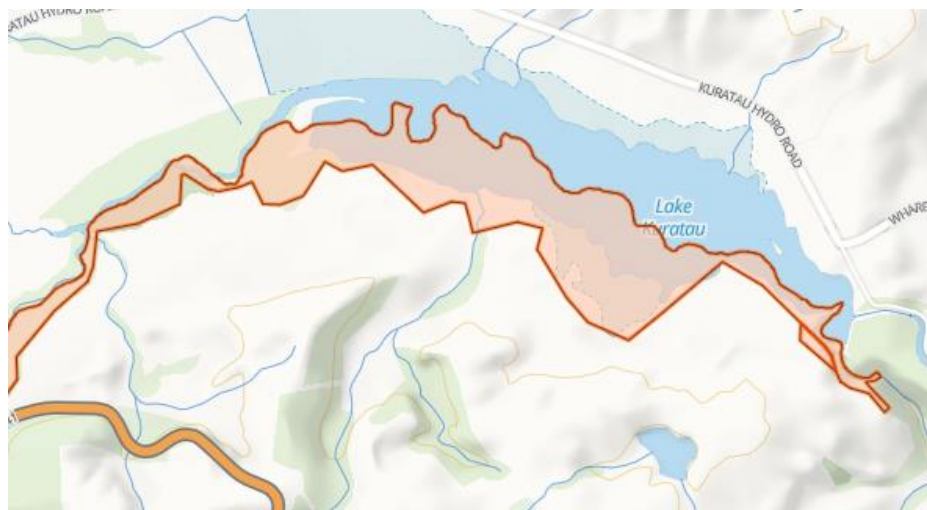


Image 2 – LINZ mapping for the Subject Land

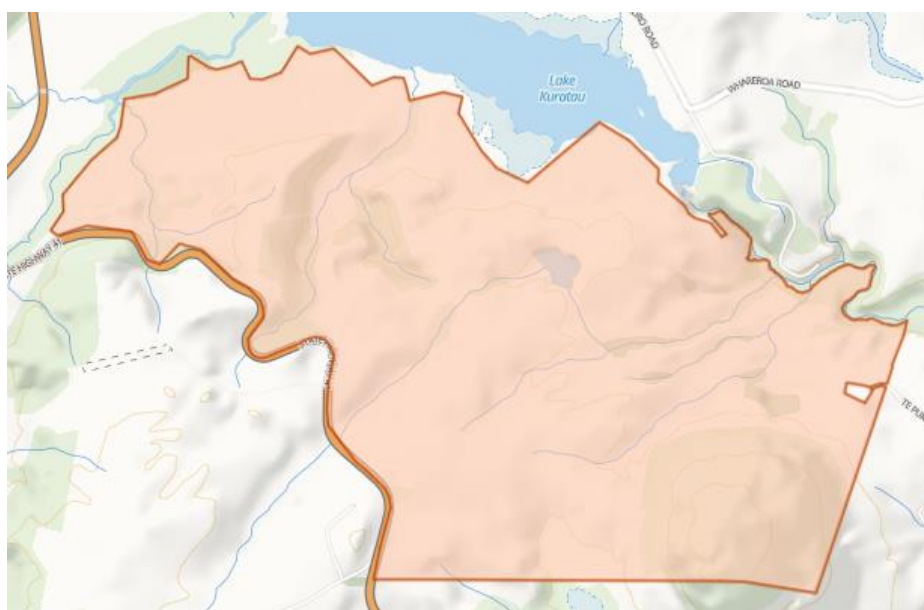


Image 3 – LINZ mapping for RT 325108

20. Overall, it is our assessment that the Subject Land is not identified Māori land. The Subject Land is not treated as Māori Freehold Land by the Māori Land Court and has not been treated as such since it was acquired by KCE.
21. We also note that KCE Generation Ltd is the legal owner of the Subject Land and therefore can agree in writing to all activities being undertaken on that land as the subsidiary of KCE.
22. For completeness, we confirm that lake and river beds for the Subject Land are not identified Māori land.
23. Parts of the Kuratau River bed are vested in TMTB by virtue of a Deed dated 10 September 2007 (**2007 Deed**). The 2007 Deed provides for the vesting of three “blocks” of lake and river beds in TMTB, collectively known as “Taupō Waters”. The Kuratau River and Lake Kuratau are located in the third block

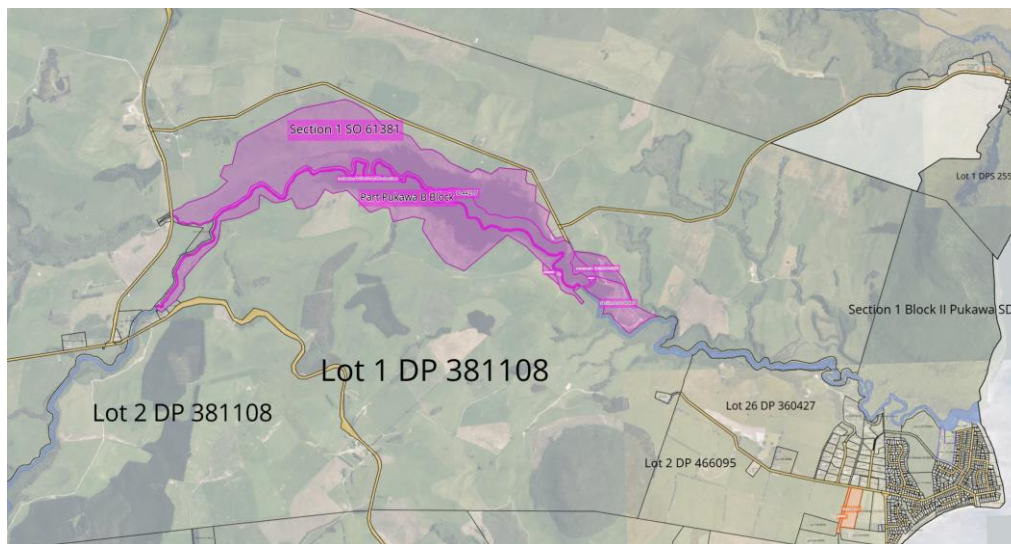
named “Te Hokinga mai o te papa o ngā awa ki te Poari hei Kaitiaki o ngā hapū o Ngāti Tūwharetoa Block” (comprised in Record of Title 339795) (**Third Block**).²

24. Schedule 2 of the 2007 Deed encloses a Māori Land Court Order, dated 14 April 2003 (**MLC Order**), which sets out that the bed of the Kuratau River is to vest in TMTB:³

*... those portions of the beds of the Waihora, Waihaha, Whanganui, Whareroa, **Kuratau**, Poutu, Waimarino, Tauranga-Taupo, Waipahi, Waiotaka, Hinemaiaia and Waitahanui Rivers or Streams, and their tributaries falling within the boundaries of the lands comprised in SO Plans 61281 – 61289 (South Auckland Registry) and SO Plans 38164 – 38177 (Wellington Land District).*

[emphasis added]

25. The MLC Order also provided a schedule of land (separated into categories under each relating to individual rivers and streams) that is excluded from the vesting of the Third Block in TMTB. It also provided that all general land as at 11 September 1926 and bridges, culverts, supports, footings, and structures belonging to the Crown on or over any river or streams were excluded. These areas of lake and river bed remained vested in the Crown.
26. The Scheme’s components fall within the area highlighted in pink in the image below. The beds of Lake Kuratau and Kuratau River in the pink area are vested in the Crown.



River and Lake bed excluded from TMTB vesting

27. Relevantly, the following parcels comprised in record of title WN54C/377 (being the Subject Land) on the below map are excluded from the vesting of the Third Block in TMTB under the MLC order:
- (a) Part Pukawa B SO Plan 24713 – This land block is comprised in record of title WN54C/377 and is owned by KCE Generation Limited (highlighted in orange in the image below); and
 - (b) Part Pukawa B 25494 – This land block is comprised in Record of Title WN54C/377 is owned by KCE Generation Limited (highlighted in green in the image below);
28. These are the only two land parcels that form the Subject Land.

² A200100050806 Order Amending a Record of the Court, Māori Land Court (14 April 2003).

³ Ibid.



Geographical location of WN54C/377 – the Subject Land

29. Therefore, the river and lake beds comprised in the Subject Land (WN54C/377) are excluded from the Third Block and have not been vested in TMTB, and thus remain in Crown ownership.

Additional information on how referring the project would enable it to be processed in a more timely manner than under normal processes, given that the project is expected to be a controlled activity.

30. The controlled activity status does not deliver a more efficient consenting process, as demonstrated by the Government's introduction of the FTAA which specifically aims to enable and encourage the renewable energy sector to use fast-track pathways for reconsenting. The majority of all hydro schemes in NZ are controlled activity status.
31. There are currently three hydro reconsent applications that were listed in FTAA, all of which are classified as controlled activity status. Genesis' Tekapo Hydro reconsent has lodged its substantive application and is now within the panel convenor phase. Manawa's own Wheao and Kaimai hydro reconsents were also listed under the FTAA in late 2024, and Manawa will lodge the substantive application for Kaimai within the next month. Both of these applications are also controlled activities.
32. This highlights that controlled activity status alone does not ensure an efficient consenting process, which is why the Government introduced the FTAA — to provide a more streamlined and effective pathway for the reconsenting of renewable energy infrastructure.
33. KCE considers that the fast-track process will ensure the project can be processed in a significantly more timely manner than under the RMA and that the controlled activity status does not result in a more efficient consenting process. The reasons for this are set out below.

Extensive matters of control

34. For the controlled activity rule, the matters over which WRC has reserved control are extensive and require comprehensive supporting technical reports to address 18 separate environmental issues.⁴

⁴ The matters of control in Rule 3.6.4.10 are:

- Measures to provide for the passage of fish, both upstream and downstream, including whether passage is appropriate or necessary.
- Upstream and downstream water levels, residual flows and water quality.
- Screening of intake and diversion structures.
- Intake velocities.
- Measures to manage erosion effects (including destabilisation of bed and banks of river).

KCE/Manawa's experience with the re consenting of other hydro-schemes over the last five years is that controlled activity status still results in numerous s 92 requests from consent authorities, additional processing time due to the need for consent authorities to obtain external peer review and advice, and complex and lengthy hearings which adds further time and cost to the process.

35. While the controlled activity status provides certainty that the application will be granted, it does not guarantee that operations can continue to generate the levels of energy the scheme was designed for 70 years ago, nor that the scheme will remain economically viable or that the consent process will be more efficient.
36. A controlled activity consent can still result in onerous or impractical conditions that ultimately reduce generation capacity. In contrast, the Fast Track process offers a more timely and efficient pathway, with clear statutory timeframes and greater assurance that consent conditions will not undermine the viability of this important renewable energy infrastructure. The New Zealand Government's own data shows that, on average, consenting for renewable energy projects—whether controlled or otherwise—takes between 2 and 5 years.

No operational changes are proposed for the Kuratau HEPS

37. No changes are sought for the Kuratau HEPS. There are not expected to be any change in environmental effects to those which are already occurring. However, the Kuratau HEPS will be publicly notified under the RMA and require a substantive hearing. Given there are no changes to the Kuratau HEPS, the RMA process is costly, onerous and significantly lengthy to re consent the same activity due to the public notification and hearing process requirements under the RMA, and subsequent appeal rights. The fast-track process reduces the timeframe to achieve a decision on the application, which is appropriate for the continuation of an existing activity, such as the Kuratau HEPS.

Appeals for controlled activities

38. Parties may still lodge appeals to the Environment Court in respect of conditions for a controlled activity, and these appeals often relate to hydrological, fish passage, ecological, erosion and cultural matters. As the consent conditions govern the key activities of a hydro-electric power scheme (i.e. operational matters, rates of flow, take and discharge, river and lake levels, ecological responses etc), hearings on conditions can require the same level of substantive evidence as new consents.

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- Measures to identify and manage the risk of dam failure.
 - Stability of the land bordering the dam.
 - Measures to manage discharges to water from the use or alteration of the dam structure.
 - Measures to avoid, remedy or mitigate any adverse effect on areas of significant indigenous vegetation and/or significant habitats of indigenous fauna, significant natural features, significant geothermal features and natural character, excluding effects on Significant Geothermal Features of the operation of the Waikato River system for hydroelectric Generation as authorised by resource consents commencing 12 April 2006.
 - Measures to avoid, remedy or mitigate any effects on other uses of the river or stream.
 - The quantity or flow rate of water released from the dam.
 - Volume and rate of any take or diversion.
 - Techniques for ensuring the safe passage of flood water.
 - Effects on any waahi tapu or other taonga from the activity.
 - Effects on the relationship of tangata whenua and their culture and traditions with the site and any waahi tapu or other taonga affected by the activity.
 - Effects on the ability of tangata whenua to exercise their kaitiaki role in respect of any waahi tapu or other taonga by the activity.
 - Measures to avoid, remedy or mitigate adverse effects of the operation on downstream sediment transport processes.
 - Measures to avoid, remedy or mitigate adverse effect on downstream infrastructure.

39. KCE/Manawa's experience is that appeals to the Environment Court on conditions are as costly and extensive as appeals on the decision to grant consent as a discretionary activity. An Environment Court appeal for a complex matter such as a hydro-electric power scheme can require lengthy hearing times, which also requires additional resources from the Court system and difficulties finding available Court hearing time in a timely manner.
40. For example, Manawa's Matahina Hydro-electric Power Station was a controlled activity to re-consent its operations. The application was lodged in 2009 and consent was ultimately granted in 2014 following an Environment Court appeal on the consent conditions. Resolving the matter required four Environment Court mediations over a lengthy period, which added time and cost to the process.
41. The issue of term is also a live issue for a controlled activity, meaning parties can seek a shorter term than sought by KCE (being 35 years). This can also be a matter for an appeal to the Environment Court. The Kuratau HEPS is an inter-generational asset that requires constant investment and maintenance appropriate with long-life assets. A shorter-term consent puts this investment at risk.
42. The statutory timeframes under the fast-track process will both ensure a more prompt decision due to the timeframes on the expert consenting panel, but also removes the ability to appeal to the Environment Court, which is a significantly timely process.

Details of the activities the project will entail (particularly clarification of what that the re-consenting allows for in terms of water take/discharge volumes and rates)

43. The Scheme currently operates under a number of resource consents held by KCE. Under this referral application, KCE is seeking to re-consent the Scheme and does not propose any changes to the way in which the Scheme operates or its parameters.
44. Whilst there are various monitoring and other generic conditions that relate to the operation of the Scheme as a whole, the key conditions that set the Scheme's parameters are included in the table at Annexure One.

Yours faithfully

HOLLAND BECKETT



Vanessa Hamm / Bridget Bailey

Partner / Associate

s 9(2)(a)

s 9(2)(a)

Annexure One

Consent	Conditions
To dam the Kuratau River with an earth dam to form Lake Kuratau for hydro-electric power generation purposes.	1. No alternation to the dam height (16m). 2. Levels of Lake Kuratau will be maintained between RL 442.46 m and RL 445.08 m. 3. Maximum discharge from the power station tailrace shall be 16 m³/s.
To discharge water from the Kuratau spillway structure to the Kuratau River.	1. Discharge to the Kuratau River below the spillway when water level in Lake Kuratau exceeds RL 445.08 m.
To take and use the available water from Lake Kuratau by means of the Kuratau intake structure for hydroelectric power generation purposes.	1. Ensure the intake velocity at the canal intake structure coarse screen does not exceed 1.86 m/s. 2. Ensure the intake velocity at the penstock intake fine screen does not exceed 1.3 m/s.
To discharge water and contaminants from the Kuratau Power Station intake canal to land.	1. The maximum rate of discharge from the canal shall not exceed 10 l/s.
To discharge water from Kuratau Power Station turbines to Kuratau River by means of a tailrace.	1. The maximum discharge from the power station tail race shall be 16 m³/s. 2. Ensure a flow of at least 1 m³/s is provided in the downstream Kuratau River (below the Kuratau Power Station) when the Kuratau Power Station is not operating.