

FTAA–2505–1070: Application received for referral of the project under the Fast-track Approvals Act 2024 – Stage 2 decisions

Project Name: Kuratau Hydro-Electric Power Scheme

Date submitted:	17 October 2025	Tracking #: BRF–7016	
Security level:	In-Confidence	MfE priority:	Urgent

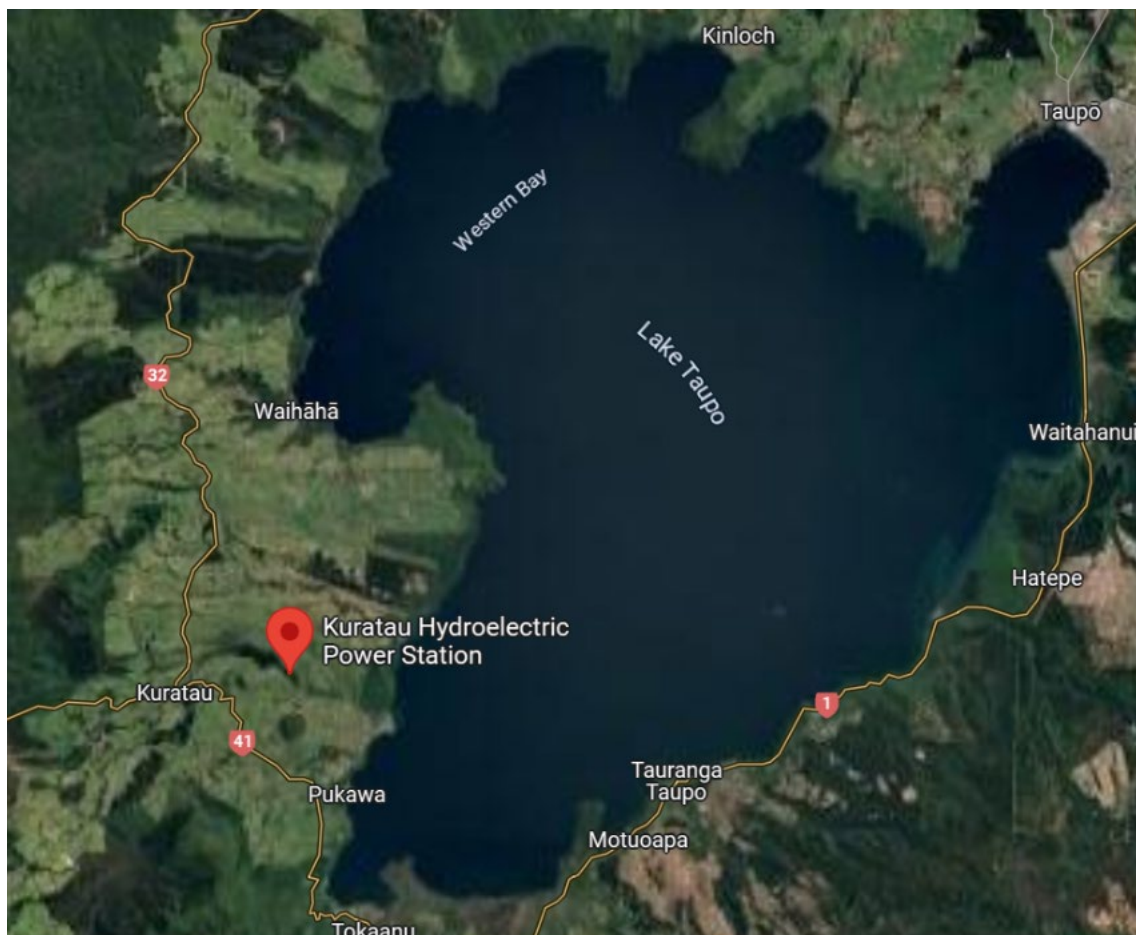
	Action sought:	Response by:
To Hon Chris Bishop, Minister for Infrastructure	Decision on recommendations	24 October 2025

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:	Appendices: 1. Statutory framework for making decisions 2. Application documents for Kuratau Hydro-Electric Power Scheme (refer File Exchange) 3. Stage 1 Briefing Note and decisions (refer File Exchange) 4. Section 18 Report on Treaty settlements and other obligations (refer File Exchange) 5. Comments received from all parties the Minister sought comments from (refer File Exchange) 6. Draft Notice of Decisions

Ministry for the Environment contacts

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

Project location



Key messages

1. This briefing seeks your decisions on the application from King Country Energy Limited (KCEL) to refer the Kuratau Hydro-Electric Power Scheme project (the project) under the Fast-track Approvals Act 2024 (the Act) to the fast-track approvals process for consideration by a panel.
2. A copy of the application is in Appendix 2. This is the second briefing on this application. The first (Stage 1) briefing (BRF-6361) with your initial decisions annotated is in Appendix 3.
3. The project is to renew all the consents required for the ongoing operation of the Kuratau Hydro-Electric Power Scheme (HEPS) approximately 36 km southwest of Taupō and approximately 2.5 km north-west of Kuratau Village. The Scheme has an installed generation capacity of 6 megaWatts and generates on average 28 gigaWatt-hours per year and currently generates renewable electricity by:
 - a. damming of the Kuratau River with an earth dam to form Lake Kuratau;
 - b. taking and using water from Lake Kuratau by means of the Kuratau intake structure for hydroelectric power generation purposes;

- c. discharging water from the Kuratau spillway to the Kuratau River;
 - d. discharging water and contaminants from the Kuratau Power Station intake canal to land; and
 - e. discharging water from the Kuratau power station turbines to the Kuratau River by means of a tailrace.
- 4. The project also includes the ongoing use, maintenance and operation of existing structures associated with the HEPS.
- 5. The project will require the proposed approvals:
 - a. resource consents under the Resource Management Act 1991.
- 6. We recommend you **accept** the referral application as the project meets the criteria set out in section 22 and we do not consider you can be satisfied it involves an ineligible activity.
- 7. We seek your decisions on this recommendation and on the proposed directions to the expert panel and notification of your decisions.

Assessment against statutory framework

- 8. 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 and when deciding on any further requirements or directions associated with referral of the project.
- 9. Before accepting the project, you must consider the application (in Appendix 2), the section 18 Treaty settlements report (in Appendix 4), any comments from invited parties (in Appendix 5) provided within the required time frame, and any document that requires your consideration under section 16 and comply with any procedural requirements under section 16.
- 10. Following that, you may accept the application if you are satisfied that it meets the criteria in section 22 of the Act and if there are no reasons meaning you must decline the application. Although the Tūwharetoa Māori Trust Board (TMTB) provided comments after the time frame you may consider them if you wish to do so. We provide our advice on these matters below.
- 11. We have considered if there are any reasons for declining the project and provide our advice on these matters below.

Section 18 Treaty settlements and other obligations report

- 12. The report identifies Tūwharetoa Māori Trust Board, Te Kotahitanga o Ngāti Tūwharetoa, Ngāti Hāua Iwi Trust/ Te Whiringa Kākaho o Ngāti Hāua, Raukawa Settlement Trust, and Te Kōpu ā Kānapanapa as relevant Treaty settlement entities, and Ngāti Manunui, Ngāti Parekaawa, Waihi Pukawa Land Trust, and Waituhi Kuratau Land Trust as other Māori groups with relevant interests in the application.
- 13. The report identifies the Raukawa Claims Settlement Act 2014, Ngāti Tūwharetoa Claims Settlement Act 2018, Ngāti Hāua deed of settlement, and 2007 Taupō Waters deed as relevant to the project area. The Raukawa and Ngāti Hāua Treaty settlements do not have any specific provisions that are pertinent to this application.

14. The Tūwharetoa Treaty settlement contains several arrangements concerning resource consent applications for activities in the Taupō catchment, which may need to be taken into consideration for the Kuratau Hydro Scheme application. These provisions chiefly relate to the functions of Te Kōpu ā Kānapanapa, a permanent joint committee of Waikato Regional Council and Taupō District Council, and the requirement for consent authorities to have particular regard to Te Kaupapa Kaitiaiki (Taupō Catchment Plan).
15. Under the 2007 Taupō Waters deed between Tūwharetoa Māori Trust Board and the Crown, the ownership of the bed of Lake Taupō and the bed of the Waikato River from Lake Taupō to Huka Falls and certain rivers and streams flowing into Lake Taupō, including parts of the Kuratau River, was vested in the Tūwharetoa Māori Trust Board as Māori freehold land. Tūwharetoa Māori Trust Board asserts that discharges from the power scheme into a section of the Kuratau riverbed over which the Board has legal title constitutes an “activity that would occur on identified Māori land” for which the Board’s agreement is statutorily required under the Act and has not been obtained. We provide further information on this in paragraphs 23-30.
16. The 2018 Joint Management Agreement (JMA) between Tūwharetoa Māori Trust Board and Waikato Regional Council provides for joint decision making on notified resource consent applications within Taupō Waters that require a hearing. The JMA also sets out requirements relating to identification and appointment of hearing commissioners to hearing panels.
17. In response to the invitation for Māori groups to comment under section 17(1)(d) of the Act, Tūwharetoa Māori Trust Board and the Māori Trustee for Waituhi Kuratau 1B1 Ahuwhenua Trust provided feedback on the application. Both parties oppose the referral, citing insufficient engagement, flawed processes and analysis, lack of detail on potential environmental and cultural effects, and insufficient consideration of Māori groups’ rights and interests. As noted above, Tūwharetoa Māori Trust Board considers the application is an ineligible activity in respect of their legal title over Taupō Waters and section 5(1)(a) of the Act.
18. The Minister for Māori Development and the Minister for Māori Crown Relations recommends that the Ministry for the Environment and the Minister for Infrastructure determine the applicant’s eligibility status, specifically in relation to Taupō Waters and the legal title, before any further progression of the application. The Minister also recommends consideration be given to whether this application should be progressed through the RMA, and if the application is referred to the Expert Panel, the applicant addresses the concerns of both the Tūwharetoa Māori Trust Board and Te Tumu Paeroa.
19. Despite the issues raised, the section 18 report does not consider it is more appropriate for the proposed approvals to be authorised under another Act or Acts.

Written comments received

20. Comments were received from Waikato Regional Council (WRC), four Ministers, two Māori groups and Transpower New Zealand Limited (Transpower). The key points of relevance to your decisions are summarised in Table A.
21. The key points from the comments are:
 - a. WRC considered the project would have significant regional benefits and noted that the applicant was mistaken in identifying the project as a controlled activity, it will require resource consent as a discretionary activity

- b. The Minister for Energy considered the project could enable the continued functioning of regionally significant infrastructure
- c. Transpower supported project referral as it relates to renewable electricity generation and will support climate change mitigation
- d. The Minister for Economic Growth, Minister of Climate Change and Minister for Regional Development neither supported nor opposed project referral
- e. The comments from Māori groups are discussed in paragraph 15 above
- f. The Minister for the Environment did not comment on the application.

Further information provided by applicant, relevant local authorities, relevant administering agencies

- 22. Under delegated powers, officials sought further information from the applicant on the location of the discharge from the power station, and the applicant provided maps confirming it is contained entirely within the extent of KCEL-owned land (refer page 14).

Reasons to decline

- 23. The statutory framework in Appendix 1 sets out the situations where you must decline the application for referral under section 21(3). Section 21(3)(b) requires the Minister to decline if they are satisfied that the project involves an ineligible activity.
- 24. We note that the comments from TMTB state that the project is ineligible as it includes an activity on Māori land without the written approval of the landowner (the discharge from the power station into the Kuratau River).
- 25. In response to TMTB's comments we have confirmed with the applicant that the power station will discharge to an artificial spillway located on KCEL land. We therefore consider it is unlikely the project includes an ineligible activity under section 5.
- 26. We do not consider you must decline this application under section 21(3)(b).
- 27. Under section 21(4) you may also decline the application for any other reason. The Act gives some guidance on matters you could consider when deciding whether to decline an application and these are set out in Appendix 1.
- 28. We have considered the matters above and this is discussed in Table A, and we do not consider you should decline the project for any of these reasons.

Legal advice [legally privileged]

- 29. s 9(2)(h)

[Redacted text block]

- 30. s 9(2)(h)

[Redacted text block]

Reasons to accept

31. The statutory framework in Appendix 1 sets out the reasons you can accept a project for referral
32. Our assessment of these matters is summarised in Table A. We consider the project meets the requirements of section 22, as it:
 - a. Is an infrastructure or development project because it involves the operation of renewable electricity infrastructure
 - b. It would have significant regional or national benefits because it:
 - i. will enable the continued functioning of existing regionally or nationally significant infrastructure
 - ii. will support climate change mitigation, including the reduction or removal of greenhouse gas emissions
 - iii. will support climate change adaptation, reduce risks arising from natural hazards, or support recovery from events caused by natural hazards:
 - c. 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 because the FTAA process precludes public notification and some rights of appeal, and the timeframes are shorter than standard RMA processes
 - d. Is unlikely to materially affect the efficient operation of the fast-track approvals process because an application could be lodged quickly upon referral and the project is in line with other applications that expert panel members would ordinarily consider.
33. If you disagree, you must decline the referral application under section 21(3)(a) of the Act.

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

34. We have identified procedural requirements which we consider are relevant to the panel's consideration of a substantive application for this project in respect of the Ngāti Tūwharetoa Claims Settlement Act 2018 (NTWCSA) and the Tūwharetoa Māori Trust Board and Waikato Regional Council Joint Management Agreement 2018 (JMA). These requirements relate to notification of the application, the appointment of hearing commissioners, joint decision making, and consideration of Te Kaupapa Kaitiaki (Taupō Catchment Plan).
35. Should you decide to accept this referral application, we propose in accordance with section 16 of the Act that you:
 - a. direct the panel to invite comments from Te Kōpu ā Kānapanapa (the permanent joint committee of Waikato Regional Council and Taupō District Council for the Taupō Catchment) on any substantive application under section 53 of the Act. (NTWCSA s186(1))
 - b. direct the panel convener to consider how they will comply with the hearing commissioner provisions in Ngāti Tūwharetoa Claims Settlement Act 2018 when

convening a panel for any substantive application lodged for this project. (NTWCSA s186(2))

- c. direct the panel to consider how it may have particular regard to Te Kaupapa Kaitiaki (Taupō Catchment Plan) in its decision-making. (NTWCSA s182(2))
- d. direct the panel to consider how it will comply with the procedural requirements regarding joint decision making and the composition of panels in the Tūwharetoa Māori Trust Board and Waikato Regional Council JMA in relation to the Upper Waikato River and Taupō Waters. (JMA Part 3, clauses 22.1, 24.6, and 24.7)
- e. direct the panel to give notice to the Tūwharetoa Māori Trust Board of the application (which may be fulfilled by an invitation to comment under section 53 of the Act). (s49 Ngāti Tūwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010).

Conclusions

- 36. We consider the project meets the section 22 criteria and you could accept the application under section 21 of the FTAA and refer the project to a panel.
- 37. We consider that if you decide to refer the project, you should specify under section 27 of the Act the following requirements that should apply to the project:
 - a. two years from the date of issue of the Notice of Decision as the deadline for lodging the substantive application
 - b. The Chief Executive of Transpower New Zealand Limited as a person from whom a panel must invite comments from in addition to those specified in section 53.

Next steps

- 38. MfE must give notice of your decisions on the referral application, and the reasons for them, to the applicant(s) and anyone invited to comment under section 17 and publish the notice on the Fast Track website.
- 39. In your notice of decisions you must direct a panel to comply with any requirements identified in section 16. The following directions are required:
 - a. the relevant requirements in the Tūwharetoa settlement relating to notification of applications pertaining to the Taupō Catchment, the appointment of hearing commissioners, and consideration of Te Kaupapa Kaitiaki (as set out in paragraphs 45, 47 and 49 of the section 18 report); and
 - b. the relevant requirements in the JMA between TMTB and Waikato Regional Council relating to notification of applications, provisions for joint decision-making, and appointing hearing commissioners (as set out in paragraphs 73 and 74 of the section 18 report).
- 40. If you decide to refer the project, MfE must also give notice of your decision to:
 - a. the panel convener
 - b. any additional iwi authorities or Treaty settlement entities that you consider have an interest in the matter other than those invited to comment under section 17
 - c. the Environmental Protection Authority (EPA)
 - d. the relevant administering agencies

41. You must also provide all of the information you received that relates to this application to the EPA and the panel convener, including:
 - a. the referral application
 - b. any comments received under section 17
 - c. the report obtained under section 18
 - d. if a report was obtained under section 19, that report.
42. We will undertake this action on your behalf.
43. We have attached a notice of decisions letter to the applicant(s) based on our recommendations (refer Appendix 6) and we will provide it to all relevant parties. We will provide you with an amended letter if required.
44. Our recommendations for your decisions follow.

Recommendations

45. 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 King Country 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 Kuratau Hydro-Electric Power Scheme Project (project) meets the referral criteria in section 22 of the FTAA.

Noted

- b. **Agree** that before making a decision on the application for project referral under section 21(1) of the FTAA you have considered:
- i. the application in Appendix 2
 - ii. the report obtained under section 18 in Appendix 4
 - iii. 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** that the following documents under section 16 of the FTAA:
- i. Ngāti Tūwharetoa Claims Settlement Act 2018
 - ii. 2007 Taupō Waters Deed
 - iii. The 2018 Joint Management Agreement (JMA) between Tūwharetoa Māori Trust Board and Waikato Regional Council

Noted

- d. **Note** that the documents referred to at (c) above provide for the consideration of:
- i. arrangements concerning resource consent applications for activities in the Taupō catchment, which may need to be taken into consideration for the Kuratau Hydro Scheme application
 - ii. joint decision making on notified resource consent applications within Taupō Waters that require a hearing and requirements relating to identification and appointment of hearing commissioners to hearing panels.

Noted

- e. **Agree** you are satisfied the project will meet the referral criteria in section 22 of the FTAA as:
- i. it is a development/infrastructure project as it would enable continued renewable electricity generation that would have significant regional or national benefits because
 - ii. It would enable the continued functioning of existing regionally or nationally significant infrastructure, being a hydro-electric power scheme

- iii. It will support climate change mitigation, including the reduction or removal of greenhouse gas emissions, through renewable electricity generation
- iv. will support climate change adaptation, reduce risks arising from natural hazards, or support recovery from events caused by natural hazards by enabling the continued operation of a lifeline utility
- v. it would facilitate the project, including by enabling it to be processed in a more timely and cost-effective way than under normal processes as the fast-track process prohibits public notification and limits rights of appeal to matters of law
- vi. it is unlikely to materially affect the efficient operation of the fast-track approvals process as the project is not novel in the New Zealand context or significantly different to those that expert panel members would consider under the RMA

Yes / No

- f. **Agree** there is no reason the project must be declined under section 21(3)

Yes / No

- g. **Agree** to accept the referral application under section 21(1) and refer all the project to a panel under section 26(2)

Yes / No

- h. **Agree** to specify King Country Energy Limited is authorised to lodge a substantive application for the project

Yes / No

- i. **Agree** to direct a panel to comply with the following matters under section 16:

- i. the relevant requirements in the Tūwharetoa settlement relating to notification of applications pertaining to the Taupō Catchment, the appointment of hearing commissioners, and consideration of Te Kaupapa Kaitiaki (as set out in paragraphs 44, 46 and 48 of the section 18 report); and
- ii. the relevant requirements in the JMA between Tūwharetoa Māori Trust Board and Waikato Regional Council relating to notification of applications, provisions for joint decision-making, and appointing hearing commissioners (as set out in paragraphs 72 and 73 of the Section 18 report)

Yes / No

- j. **Agree** to specify under section 27(3)(b) of the FTAA:

- i. The deadline for lodging the application is two years from the date of the notice of decision
- ii. The following persons or groups from whom a panel must invite comments in addition to those specified in section 53:
 - (1) Chief Executive of Transpower New Zealand Limited
 - (2) Te Kōpu ā Kānapanapa

Yes / No

- k. **Agree** that MfE will provide your notice of decisions to:

- i. Anyone invited to comment on the application including local authorities and relevant Māori groups

- ii. the panel convener
- iii. The Environmental Protection Authority (EPA)
- iv. The following relevant administering agencies:
 - (1) Ministry for the Environment

Yes / No

Signatures

A handwritten signature in black ink, consisting of a large, stylized 'I' followed by a horizontal stroke that tapers to a point.

Ilana Miller
General Manager, Delivery and Operations

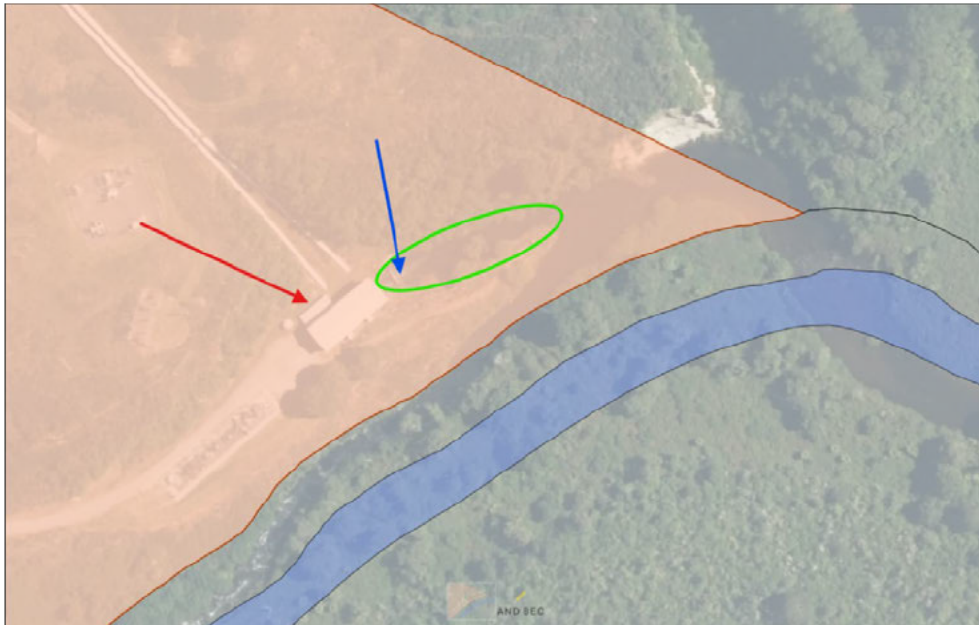
Hon Chris Bishop
Minister for Infrastructure

Date:

Table A: Stage 2 analysis

Recommendation	Refer project		
Project details	Project Name	Applicant	Project Location
	Kuratau Hydro Electric Power Scheme project	King Country Energy Limited c/- Holland Beckett The applicant is a legal company and eligible to apply for a resource consent.	In the Kuratau River catchment approximately 36km southwest of Taupō and approximately 2.5km north-west of Kuratau Village.
Project description	The project is to renew the consents for the Kuratau Hydro-Electric Power Scheme (HEPS) approximately 36 km southwest of Taupō and approximately 2.5 km north-west of Kuratau Village. The Scheme has an installed generation capacity of 6 megaWatts and generates on average 28 gigaWatt-hours per year and currently generates renewable electricity by: a. damming of the Kuratau River with an earth dam to form Lake Kuratau; b. discharging water from the Kuratau spillway to the Kuratau River; c. taking and using water and discharging contaminants from the canal to land; and d. discharging water from the Kuratau power station turbines to the Kuratau River by means of a tailrace. The project will require resource consents under the Resource Management Act 1991.		
Minister invites comments / requests information	Comments from invited parties		
	<i>Local authorities</i> Waikato Regional Council (WRC) confirmed there are no competing applications or existing consents to which RMA sections 124C(1)(c) or 165ZI apply. WRC considered that because the project meets the definition of regionally significant infrastructure in the Waikato Regional Policy Statement (RPS), the project is of regional significance and agreed with the positive benefits from this project as listed by the applicant in the application including the renewable energy production for the region, and a recreation environment for the community in the form of Lake Kuratau. WRC noted they consider the project to be a discretionary activity under the Waikato Regional Plan (WRP), rather than a controlled activity as the applicant states. WRC considered the key issues with the project are the effects from the intake structure; flow regimes downstream of the hydro scheme and down the dewatered reach of the Kuratau River; aquatic ecology effects; sedimentation and erosion effects; and effects on wetlands. WRC identified various reports that they consider would ordinarily be required for this project under the RMA, and considered relevant stakeholders include the Department of Conservation, Fish and Game New Zealand, landowners bordering Lake Kuratau and Kuratau River downstream of the dam, Omori Kuratau Charitable Trust, and any other person and group who the applicant considers might have an interest in Lake Kuratau and the Kuratau River. We note an expert panel is required to invite owners and occupiers of adjacent land, which should capture some of the parties identified above, and can otherwise determine which groups are appropriate to invite. <i>Ministers</i> Minister for Economic Growth The Minister for Economic Growth noted the continued operation of the scheme would allow use of existing infrastructure to support regional energy resilience and avoid costly capital investments from building a new power station. The Minister stated that although the application included limited economic data, the scheme supports local businesses and contributes approximately \$1 million and four full-time equivalent (FTE) annually to the local economy. The primary economic benefit of the project is maintaining stable energy that supports local businesses in the Waikato. This is important for regional growth and aligns with initiatives supporting a growing economy. Minister for Energy/Minister of Climate Change The Minister for Energy and Minister of Climate Change provided combined comments and considered the project will support climate change mitigation and adaptation and that this factor should be taken into account in your consideration of whether the project is an infrastructure or development project that would have significant regional or national benefits. The Ministers also noted that while this is a relatively small project in comparison to New Zealand's larger hydro schemes, smaller hydro schemes collectively contribute to the target of doubling renewable electricity generation (in this case, by reconsenting existing generation infrastructure) and supporting regional security of supply. Hydro generation with storage (such as with this project) also provides more annual generation than more intermittent sources such as solar and wind. The Ministers consider this project could relate to the continued functioning of regionally significant infrastructure, as per s22(2)(a)(ii) of the FTAA. Minister for Regional Development		

	The Minister for Regional Development considered that by contributing to the region's renewable energy mix, the project helps improve the region's general economic resilience (e.g. by reducing reliance on fossil fuels which can be exposed to supply chain shocks), and by supplying electricity directly, contributes to the region's economic potential and prosperity. The Minister noted the project's output is relatively modest, enough to power roughly 4,100 homes, and so it is likely to be considered much less economically significant than other schemes in the region and across New Zealand. The Minister for the Environment responded with no comment on the application. <i>Māori Groups</i> <u>Tūwharetoa Māori Trust Board</u> The Tūwharetoa Māori Trust Board (TMTB) opposed project referral and considered the application ineligible pursuant to section 5(1)(a) of the FTAA. The bed of the Kuratau River, as with the beds of all of water bodies, rivers and streams comprising Taupō Waters, are vested in the Trust Board as Māori freehold land under Te Ture Whenua Māori Act 1993. TMTB noted the application states that the HEPS generates electricity by "discharge of water from the Kuratau spillway to the Kuratau River" and "the discharge of water from the Kuratau power station turbines to the Kuratau River by means of a tailrace" Section 5(1)(a) of the FTAA states that "ineligible activity means ... an activity that would occur on identified Māori land; and has not been agreed to in writing by the owners of the land." TMTB considers on this basis the discharge constitutes an "activity that would occur on identified Māori land" for which the Trust Board's agreement is statutorily required and has not been obtained. Notwithstanding the position that the project is ineligible, TMTB also opposed project referral on the basis that it would be more appropriate to deal with the matters that would be authorised by the proposed approvals under the RMA. This is because, as a controlled activity the project must be granted (subject to conditions) under the RMA. TMTB also considered the application does not contain sufficient information on the anticipated and known adverse effects of the project on the environment, and notes that the expedited nature of the fast-track process presents significant challenges to providing meaningful input that would enable decision makers to fully understand the actual and potential effects. We clarified with the applicant where the discharge point will be from the power scheme, and the applicant confirmed it would occur on KCEL land. We therefore do not consider the project to include an ineligible activity. We also note WRC considered the project to be a discretionary activity, rather than a controlled activity, and therefore TMTB's view that the project could be processed quickly under the RMA is likely to be inaccurate. <u>Te Tumu Paeroa</u> Te Tumu Paeroa (TTP) opposed project referral and considered the consultation process to date has lacked sufficient integrity and transparency. The keys issues raised by TTP are: • There has been no prior direct engagement from KCEL with the Waituhi Kuratau 1B1 Ahuwhenua Trust regarding any application for reconsult, even though Waituhi Kuratau 1B1 is a neighbour closely located to the Kuratau HEPS within the Kuratau catchment • The application does not contain sufficient information on the anticipated and known adverse effects of the project on the environment. This is inconsistent with section 13 of the FTAA. • The application does not include sufficient detail of the impacts that the project will have on cultural and customary rights and interests in the catchment area. We consider the applicant met their obligations for consultation under section 13, and the adverse effects of the project can be most effectively tested by an expert panel with the benefit of a full assessment of environmental effects. <i>Other persons or groups</i> Transpower New Zealand Limited (Transpower) considers the project will have no additional impacts on the National Grid and supports the project as it relates to renewable electricity generation and will support climate mitigation (section 22(2)(a)(vii) of the Act). The project will also deliver new regionally or nationally significant infrastructure (section 22(2)(a)(ii) of the Act
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. Despite TMTB considering this would be the case, we have confirmed with the applicant that the discharge from the project would <u>not</u> occur over the bed of the Kuratau River owned or managed by TMTB • it would not occur in a customary marine title area or protected customary rights area as it is not in the common marine and coastal 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 as it is not in the common marine and coastal 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 • would not be prevented by section 165J,M, Q, ZC or ZDB of the RMA as it 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 record of title

	- is not a prohibited activity or decommissioning activity under the EEZA, 15B or 15C of the RMA as it does not involve these activities. - is not for the purpose of an offshore renewable energy project as it is not in the common marine and coastal area The comments from TMTB considered that the project would be ineligible for referral as it would occur over the bed of the Kuratau River which is identified Māori land. We have confirmed with the applicant whether any of the project would occur over the relevant stretches of the Kuratau River, and they have confirmed the power station and discharge location would occur on KCEL land (identified in orange on the image below, with the blue arrow noting the discharge location). The relevant section of the river (shaded blue) is owned by TMTB, however the applicant's map shows the discharge location as adjacent to, and not on, the riverbed itself. We therefore do not consider the project includes an ineligible activity. 
The Minister must decline an application if the Minister considers they do not have adequate information to inform the decision [section 21(3)(c)]	We consider you have sufficient information to inform your decision. While parties have raised concerns the application does not include sufficient information on adverse effects, we consider the information provided is sufficient. We note you are not required to decline an application based on adverse effects, and consider it is more appropriate for the degree of adverse effects to be tested by an expert panel with the benefit of a full substantive application and assessment of environmental effects.
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]	We have identified procedural requirements which we consider are relevant to the panel's consideration of a substantive application for this project in respect of the Ngāti Tūwharetoa Claims Settlement Act 2018 (NTWCSA) and the Tūwharetoa Māori Trust Board and Waikato Regional Council Joint Management Agreement 2018 (JMA). These requirements relate to notification of the application, the appointment of hearing commissioners, joint decision making, and consideration of Te Kaupapa Kaitiaki (Taupō Catchment Plan). Should you decide to accept this referral application, we propose in accordance with section 16 of the Act that you: - direct the panel to invite comments from Te Kōpu ā Kānapanapa (the permanent joint committee of Waikato Regional Council and Taupō District Council for the Taupō Catchment) on any substantive application under section 53 of the Act. (NTWCSA s186(1)) - direct the panel convener to consider how they will comply with the hearing commissioner provisions in Ngāti Tūwharetoa Claims Settlement Act 2018 when convening a panel for any substantive application lodged for this project. (NTWCSA s186(2)) - direct the panel to consider how it may have particular regard to Te Kaupapa Kaitiaki (Taupō Catchment Plan) in its decision-making. (NTWCSA s182(2)) - direct the panel to consider how it will comply with the procedural requirements regarding joint decision making and the composition of panels in the Tūwharetoa Māori Trust Board and Waikato Regional Council JMA in relation to the Upper Waikato River and Taupō Waters. (JMA Part 3, clauses 22.1, 24.6, and 24.7) - direct the panel to give notice to the Tūwharetoa Māori Trust Board of the application (which may be fulfilled by an invitation to comment under section 53 of the Act). (s49 Ngāti Tūwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010).
Section 22 assessment criteria	
The project is an infrastructure or development project that would have significant regional or national benefits [section 22(1)(a)]	The Minister may consider any of the following matters, or any other matters the Minister considers relevant. <i>Assess the factors that are relevant to the application. How is the factor relevant and is it being met by the project?</i> <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> While the project itself has not been specifically identified as a priority project, the National policy document Electrify NZ notes that re-consenting for existing generation assets has become unnecessarily difficult. The applicant considers referring this re-consenting project for fast-tracking would be consistent with that policy.

	Since the project is not specifically referred to, we do not consider you should use this as a basis for referral. <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 applicant considers the project is regionally significant infrastructure as it supplies approximately 59-63% of electricity directly to the Waikato Region during morning and evening peaks. Reconsenting will enable the continued functioning of this important source of renewable energy. WRC confirmed they consider the project is regionally significant infrastructure. We consider you could refer the project on this basis. <i>Will deliver significant economic benefits [s22(2)(a)(iv)]</i> The applicant considers the project will have significant economic benefits, noting that the benefits identified by the applicant relate primarily to reducing their own costs. Comments from the Ministers for Economic Growth and Regional Development were ambiguous on whether the economic benefits of the project would be significant at a regional scale. We do not consider you have sufficient evidence to use this as a basis for referral. <i>Will support climate change mitigation, including the reduction or removal of greenhouse gas emissions [s22(2)(a)(vii)]</i> The applicant states the ongoing operation of the Kuratau HEPS contributes towards decarbonising New Zealand's economy. It will also contribute to achieving the 90% renewable energy target by 2025 set out in the National Policy Statement for Renewable Electricity Generation and the aspiration to achieve 100% renewable energy by 2030. The Minister of Climate Change considered the project would support climate change mitigation. We consider you could refer the project on this basis. <i>Will support climate change adaptation, reduce risks arising from natural hazards, or support recovery from events caused by natural hazards [s22(2)(a)(viii)]</i> As a generator of electricity, the applicant is recognised as a lifeline utility under the Civil Defence Emergency Management Act 2002 (Schedule 1, Part B). Lifeline utilities play a vital role in recovery from natural hazards, and have statutory duties such as the need to ensure the ability to function to the fullest possible extent, even though this may be at a reduced level, during and after an emergency. While no parties commented on this particular aspect, the applicant is a lifeline utility and we consider this could form part of your basis for referral. <i>Will address significant environmental issues [s22(2)(a)(ix)]</i> Although the project has not been assessed as causing any 'significant environmental issues', it is noted that the Scheme has significance as a generator of renewable electricity, supporting the reduction of greenhouse gas emissions. We do not consider you have sufficient evidence to use this as a basis for referral. <i>Is consistent with local or regional planning documents, including spatial strategies [s22(2)(a)(x)]</i> The applicant considers the project is consistent with the Waikato Regional Policy Statement, Waikato Regional Plan, and Ngati Tuwharetoa Environmental Iwi Management Plan. This is disputed by TMTB, and we do not consider you should use this as a basis for referral.
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 that due to the likelihood of public notification and appeals to the Environment Court, the project will be processed significantly more quickly under the Act than under standard RMA processes. We consider this is a reasonable assessment, particularly in light of the comments from WRC that the project would be a discretionary activity rather than controlled as the applicant suggested. <i>Is unlikely to materially affect the efficient operation of the fast-track approvals process [s22(1)(b)(ii)]</i> The applicant considers a substantive application could be lodged in short order. We also note that the project is not outside the scope of what expert panels would be expected to consider under standard RMA processes.
Reasons to decline	
Minister <u>must</u> decline [section 21(3)]	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> We consider the application meets the referral criteria <i>The Minister is satisfied the project involves an ineligible activity</i> As discussed above, despite concerns raised by TMTB, we consider the project does not include an ineligible activity. <i>The Minister considers that they do not have adequate information to inform the decision under this section</i> As discussed above, we consider you have sufficient information to inform your referral decision. We <u>do not</u> consider that you must 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 project is not inconsistent with any of these agreements <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> TMTB considered it would be more appropriate for this project to be dealt with under the RMA, as it involves a controlled activity which would be straightforward to consent under the existing regime. We consider based on WRC's comments that the project in fact includes a discretionary activity, TMTB's concerns are not grounds to decline the project. <i>The project may have significant adverse effects on the environment</i> While TMTB and TTP raised concerns the application does not include detailed information on adverse environmental effects, we consider an expert panel is best placed to consider the adverse environmental effects of the project with the benefit of a full substantive application including assessment of environmental effects. <i>The applicant(s) has a poor compliance history under a specified Act that relates to any of the proposed approvals</i> The applicant has not been the subject of any compliance or enforcement action that we are aware of. <i>The project area includes land that the Minister for Treaty of Waitangi Negotiations considers necessary for Treaty settlement purposes</i> The project site is privately held land and not available for Treaty settlement redress <i>The project includes an activity that is a prohibited activity under the Resource Management Act 1991</i> The project does not include any prohibited activities under the RMA <i>A substantive application for the project would have one or more competing applications.</i> No comments received indicated there would be competing applications for the project. <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> Comments from WRC did not identify any consents of these kinds. We do not recommend you decline the application.
---	--

Appendix 1 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.