Appendix 5 – Ineligible Activity Assessment

1. Ineligible Activity Assessment

Table 1 below provides an updated ineligible activity assessment as defined by the FTAA.

Table No. 1 – Ineligible Activity Assessment

FTAA Section 5 Assessment		
Section	**Description**	**Assessment**
5(1)(a)	an activity that— (i) would occur on identified Māori land; and (ii) has not been agreed to in writing by the owners of the land or been subject to a determination under section 23:	Not applicable. The site is not identified as Māori Land.
5(1)(b)	an activity that— (i) would occur in a customary marine title area; and (ii) has not been agreed to in writing by the customary marine title group:	Not applicable. The site is not located within, subject to, or affected by any customary marine tittle applications, orders, planning documents prepared by a customary marine title group or a protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011. Further, the site is not located near the coast.
5(1)(c)	an activity that— (i) would occur in a protected customary rights area; and (ii) would have a more than minor adverse effect on the exercise of the protected customary right; and (iii) has not been agreed to in writing by the protected customary rights group:	Not applicable, for similar reasons identified above.
5(1)(d)	an activity that would occur on either of the following classes of land: (i) Māori customary land: (ii) land set apart as a Māori reservation as defined in section 4 of Te Ture Whenua Maori Act 1993:	Not applicable. The site is not identified as being Māori customary land or set apart as Maori reserve.
5(1)(e)	an aquaculture activity or an activity that is incompatible with aquaculture activities— (i) that would occur within an aquaculture settlement area declared under section 12 of the Maori Commercial Aquaculture Claims Settlement Act 2004 or an area reserved under another	Not applicable.



FTAA Section 5 Assessment		
Section	**Description**	**Assessment**
	Treaty settlement for the aquaculture activities of a particular group; and (ii) for which the applicant who is proposed to hold an approval described in section 42(4)(a) (resource consent) is not authorised to apply for a coastal permit under the Resource Management Act 1991:	
5(1)(f)	an activity— (i) that would require an access arrangement under section 61 or 61B of the Crown Minerals Act 1991; and (ii) that— (A) Could not be granted an access arrangement because of section 61(1A) of that Act; or (B) would occur in an area for which a permit cannot be granted under that Act:	Not applicable.
5(1)(g)	an activity that would be prevented under section 165J, 165M, 165Q, 165ZC, or 165ZDB of the Resource Management Act 1991:	Not applicable. No coastal permits are sought.
5(1)(h)	an activity (other than an activity that would require an access arrangement under the Crown Minerals Act 1991) that— (i) would occur on land that is listed in Schedule 4; and (ii) has not been subject to a determination under section 24:	Not applicable.
5(1)(i)	an activity that— (i) would occur on a national reserve held under the Reserves Act 1977; and (ii) requires approval under that Act; and (iii) has not been subject to a determination under section 24:	Not applicable. No national reserves are present or potentially affected.
5(1)(j)	an activity that— (i) would occur on a reserve held under the Reserves Act	Not applicable.

Table No. 1 – Ineligible Activity Assessment

FTAA Section 5 Assessment		
Section	**Description**	**Assessment**
	1977 that is vested in someone other than the Crown or a local authority; and (ii) has not been agreed to in writing by the person or persons in whom the reserve is vested:	
5(1)(k)	an activity that— (i) would occur on a reserve held under the Reserves Act 1977 that is managed by someone other than the Department of Conservation or a local authority; and (ii) has not been agreed to in writing by the person or persons responsible for managing it:	Not applicable.
5(1)(l)	an activity that is— (i) a prohibited activity under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 or regulations made under that Act; or (ii) an activity that is described in section 15B of the Resource Management Act 1991 and is a prohibited activity under that Act or regulations made under it; or (iii) an activity that is prohibited by section 15C of the Resource Management Act 1991:	Not applicable. The project/site is not located within the Exclusive Economic Zone. The project is not a prohibited activity under s15B or s15C as these sections relate to the discharge of harmful substances from ships or offshore installation in the coastal marine area, or the discharge of radioactive waste or other radioactive matter into the coastal marine area.
5(1)(m)	a decommissioning-related activity (which is an activity described in section 38(3) or 38C(1) of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012):	Not applicable.
5(1)(n)	an ORE infrastructure activity as defined in section 4 of the Offshore Renewable Energy Act 2026 (whether under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 or the Resource Management Act 1991) unless the applicant is the holder of a current feasibility permit or commercial	Not applicable.



FTAA Section 5 Assessment		
Section	**Description**	**Assessment**
	permit under the Offshore Renewable Energy Act 2026 in respect of the ORE generation infrastructure activities that comprise all or part of the development.	
5(2)	The agreement referred to in subsection (1)(a), (b), (j), or (k) is not required for an activity that is prospecting, exploration, mining, or mining operations of Crown-owned minerals undertaken below the surface of any land or area referred to in that subsection (the land) if the activity— (a) will not or is not likely to cause any damage to the surface of the land or any loss or damage to the owner or occupier of the land; and (b) will not or is not likely to cause any damage to the surface of the land or any loss or damage to the owner or occupier of the land; and (c) will not or is not likely to have any prejudicial effect in respect of any possible future use of the surface of the land.	Not applicable.
5(3)	A person whose agreement is required under subsection (1)(j) or (k)— (a) must not unreasonably withhold their agreement; and (b) in deciding whether to give their agreement, must take into account the purpose of this Act and any relevant matters under the Reserves Act 1977.	Not applicable.
5(4)	For the purposes of subsection (3)(b), if a provision of the Reserves Act 1977 would require the person to withhold their agreement, the person must take into account that the provision would normally require them to withhold their agreement, but must not treat the provision as requiring them to do so.	Not applicable.
5(5)	The agreement referred to in subsection (1)(k) is not required if—	Not applicable.

Table No. 1 – Ineligible Activity Assessment

FTAA Section 5 Assessment		
Section	**Description**	**Assessment**
	(a) the reserve on which the activity is to occur is proposed to be the subject of a land exchange; and (b) the reserve is a Crown-owned reserve; and (c) the person or persons responsible for managing the reserve are not in place because of a Treaty settlement.	
5(6)	In subsection (2), exploration, mining, mining operations, and prospecting have the meanings given to those terms in section 2(1) of the Crown Minerals Act 1991.	Not applicable.

