

1 May 2025

C/- Agent for the applicant

Mitchell Daysh Ltd

Stephen Daysh - s 9(2)(a)

Dear Stephen

Decision on compliance of the referral application for the Taheke 8C Hydroelectric Scheme project under section 14(2) of the Fast-track Approvals Act 2024

On 14 April 2025, you lodged an application for fast-track referral for the Taheke 8C Hydroelectric Scheme project with the Ministry for the Environment (MfE) under the Fast-track Approvals Act 2024 (the Act).

MfE is responsible for determining whether referral applications are compliant with section 14(2) of the Act. For an application to be compliant with section 14(2), the following criteria must be met:

- the application must comply with the requirements for referral applications in section 13 of the Act;
- MfE must consider that the project may be capable of satisfying the criteria in section 22 of the Act, and does not appear to involve an ineligible activity; and
- all fees and charges payable under regulations in respect of the application must have been paid.

MfE has determined that your application does not comply with the requirements in section 14(2) of the Act for the reasons outlined below.

1. The application appears to involve an ineligible activity, or has not provided sufficient information to demonstrate the project excludes an ineligible activity being:
 - a. Section 5(1)(a) – it may occur on identified Māori land and may not be agreed to in writing by all the owners of the land. The project area includes a Māori roadway (Instrument MLCO 8681075.1, Identifier 525699). The Record of Title states the roadway is “Identified as potentially Māori Freehold Land”. Further information is required to confirm whether this site is identified Māori land as defined under the Act, and if so, agreement in writing from the owner (as defined under the Act) would be required to confirm that the application excludes this ineligible activity. *To resolve this issue, any future application should confirm the status of the Māori roadway and obtain written agreement from all owners. It is noted that the application as lodged included written agreement from The Proprietors of Taheke No.8C and Adjoining Blocks Incorporated but did not include written agreement from the other registered owners of the Māori roadway.*

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- b. Section 5(1)(k) – it 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 that person has not consented in writing. The project area includes the “Scenic Reserve – Kaituna River” (being Sections 15 and 16 Block VI Rotoiti SD) which is a scenic reserve held under section 19(1)(a) of the Reserves Act 1977. The Lake Rotoiti Scenic Reserve Board (the Board) administers the scenic reserve by an appointment to control and manage under section 30(1) of the Reserves Act 1977. The application does not include agreement in writing from the Board who are responsible for managing the reserve. *To resolve this issue, any future application should include written agreement from the Board.*
2. The application does not include the following information to demonstrate compliance with section 13 of the Act:
- a. Section 13(4)(c) – requirement to demonstrate that the project does not involve any ineligible activities (other than activities that may be the subject of a determination under section 23 or 24). The application appears to involve the ineligible activities described under section 5(1)(a) and section 5(1)(k) as detailed above. *To resolve this issue, any future application should include the information detailed above or otherwise provide sufficient information to demonstrate that the project does not involve any ineligible activities.*
- b. Section 13(4)(o) – requirement to identify the parcels of Māori land within the project area. The full extent of the Māori land within the project area is unclear, due to the Māori roadway within the project area (Instrument MLCO 8681075.1, Identifier 525699). The Record of Title states the roadway is “Identified as potentially Māori Freehold Land”. *To resolve this issue, any future application should confirm/identify if this roadway is “identified Māori land” under the Act.*
- c. Section 13(4)(s) – requirement to describe the applicant’s legal interest in the land on which the project will occur, including a statement of how that affects the applicant’s ability to undertake the work. The applicant intends to use existing concession documents s 9(2)(b)(ii) granted by the Minister of Conservation in 2010, rather than seeking Reserves Act and Conservation Act approval under the Act. Originally issued to Bay of Plenty Energy Limited, now Nova Energy Limited, there is no confirmation from the Minister of Conservation or the Department of Conservation on the status or transferability of these documents. s 9(2)(b)(ii)
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s 9(2)(b)(ii)

- d. Section 13(4)(s) – requirement to describe the applicant’s legal interest in the land on which the project will occur, including a statement of how that affects the applicant’s ability to undertake the work. The application as lodged included historic Records of Title, rather than current Records of Title. *To resolve this issue, any future application should include all current Records of Title within the project area and identify any matters from those Records of Title that may affect the applicant’s ability to undertake the works.*
- e. Section 13(4)(t) – requirement to provide an outline of the types of consents, certificates, designations, concessions, and other legal authorisations (other than contractual authorisations or the proposed approvals) that the applicant considers are needed to authorise the project, including any that the applicant considers may be needed by someone other than the applicant. s 9(2)(b)(ii)

To resolve this issue, any future application should include an outline of the following approvals (if required) in accordance with s13(4)(t):

- *approval to cancel or vary the Māori roadway within the project area under the Māori Land Act 1993 / Te Ture Whenua Māori Act 1993*
- *connection approval or other approvals from Transpower or the local lines company*
- *separate approval for regulation 44 under the Freshwater Fisheries Regulations 1983*
- *any other necessary consents, certificates, designations, concessions, and legal authorisations to authorise the project.*

In accordance with section 14(5) of the Act, the referral application is deemed non-compliant, and the application must be returned to the applicant.

If you would like to discuss the reasons the application has been returned, please contact the fast-track referrals team at the following email address: referral@fasttrack.govt.nz. If you choose to lodge a new application for this project, it will be treated as a new application in accordance with section 14(6)(a) of the Act.

Cost recovery

Under Regulation 5 of the Fast-track Approvals (Cost Recovery) Regulations 2025 you are liable for actual and reasonable costs incurred in processing your application. If the actual and reasonable costs are less than the application fee paid, then the Environmental Protection Authority (EPA) may issue you with a refund. Alternatively, if the actual and reasonable costs exceed the application fee, then the EPA may seek further fees from you. The EPA will provide you with information to advise you on this and can be contacted through the email address or phone number below.

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Under Regulation 7, the EPA has discretion in whole or in part, for waiver or a refund of the levy. Further guidance is provided on the Fast-track website under '[Fees, charges and cost recovery](#)'. This discretion includes, amongst other things, if you intend to submit a new application for substantially the same project as a previous application. I recommend you contact the EPA to discuss any potential waiver prior to submitting a new application.

If you have any queries about this letter or need assistance, please email contact@fasttrack.govt.nz or phone 0800 FASTRK (0800 327 875).

Yours sincerely

A handwritten signature in black ink, appearing to be 'Ilana Miller', with a stylized, flowing script.

Ilana Miller

General Manager, Delivery and Operations