

FTA#367: Application for listed project under the Fast-track Approvals Bill – ImpactMarine - Sustainable and Climate-Resilient Aquaculture on Land in the Bay of Plenty Project for Schedule 2A

Date submitted to secretariat:	27 June 2024
Security level:	In-Confidence
To:	David TAPSELL, Chair – Fast-track Projects Advisory Group

Number of attachments: #	Attachments: 1. Application documents for ImpactMarine- Sustainable and Climate-Resilient Aquaculture on Land in the Bay of Plenty Project 2. Agency feedback (MPI)
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Applicant	Sector	Region	Identified in a priority/strategy?
ImpactMarine (Te Huata) Ltd	Aquaculture	Bay of Plenty	Yes

Ministry for the Environment contacts

Position	Name	Mobile	1 st contact
Principal Authors	Ben Bunting, Anna Galvin		
Manager	Stephanie Frame	s 9(2)(a)	✓
Director	Ilana Miller	s 9(2)(a)	

Project location



Key messages

1. The ImpactMarine- Sustainable and Climate-Resilient Aquaculture on Land in the Bay of Plenty Project is to construct and operate a salmon farm and processing facility on 10 hectares of freehold Māori land at 49a Kōpe Road, Whakatāne, Bay of Plenty Region.
2. The project will comprise:
 - a. Land-based recirculatory aquaculture system salmon farm
 - b. Hatchery, smolt and grow out facilities and buildings
 - c. Processing plant and buildings
 - d. Waste pipework and pump infrastructure,
 - e. Water intake and pump infrastructure (to connect to the Whakatāne River)
 - f. Saltwater and freshwater tanks
 - g. Vehicle access/egress and internal roads.
3. The project will require resource consents under the Resource Management Act 1991 (RMA) including water take and discharge consents, and land use consents for earthworks and buildings/structures. Coastal permits may be required subject to design noting the proximity of the project to the estuary of the Whakatāne River.
4. The applicant advises the project site has been previously impacted by flooding and inundation.
5. The Ministry for Primary industries (MPI) advises that this is an application for a land-based fish farm and if approved through FTA Bill will subsequently require a fish farm license issued by MPI under the Freshwater Fish Farming Regulations 1983.
6. s 9(2)(b)(ii)

7. The project site is freehold Māori land. The applicant has provided a letter of support from the chair of the landowner trust. The applicant advises it intends to enter into a lease agreement with the landowner trust.
8. The applicant has also sought listing for FTA139 - ImpactMarine Sustainable and Climate-Resilient Aquaculture on Land in Southland.
9. The applicant advises that the project also has links with FTA applications from Te Huata seeking marine farming space in the eastern Bay of Plenty (refer FTA 27 and FTA 247). Neither of those applications specify an intent to farm salmon. Note the Te Huata applicant is one of the directors of ImpactMarine (Te Huata) Ltd – the applicant for this project.
10. We have undertaken an initial (Stage 1) analysis of the application, and this is provided in Table A.
11. We consider the applicant **has not** provided sufficient information to consider the project for inclusion on Schedule 2A on the basis that consultation with affected parties to date is limited and has occurred only with the relevant councils (although we note it could still be included on Schedule 2B based on the information provided).
12. The project does not trigger the ineligibility criteria in clause 18 of the Fast-track Approvals Bill (the Bill).
13. Advice on PSGE development priorities and Māori development is provided in Table A. Table A also includes the relevant PSGEs or Māori groups and the settlement mechanisms, that will/may be impacted by the project and whether the project is low, medium or high impact on Treaty settlement/s and other relevant arrangements. Appendix 1 provides further detail on how this advice should be considered and our approach to analysis.

Signature



Ray Salter
Principal – Listed Projects

Table A: Stage 1 initial assessment of project eligibility and Treaty settlement assessment and advice¹

Project details	Project description	Approvals sought	Consultation undertaken	Does the project trigger the ineligibility criteria [clause 18]?				Discretionary ground to decline [clause 21(2)]	Eligibility [clause 17]	
				Treaty settlement land, Māori customary land, customary marine title, customary rights, aquaculture settlement area, or prevented by RMA clauses [clauses 18(a-e, g)]	Access arrangement under CMA where a permit can't be granted, or is listed in items 1-11, 14 [clauses 18(f,h)]	Activity on a national reserve under Reserves Act which requires approval under that Act [clause 18(i)]	Prohibited activity under EEZA or regulations under that Act, decommissioning-related activities, offshore renewable energy progressing ahead of permitting legislation [clause 18(j-l)]		Is the project eligible [clause 17(2)]	Would the project have significant regional or national benefits [clause 17(3)]
High level summary			Y	N	N	N	N			
Schedule requested 2A Project Name ImpactMarine: Sustainable and Climate-Resilient Aquaculture on Land in the Bay of Plenty Applicant ImpactMarine (Te Huata) Limited Company director/s Aaron McCALLION Tekou Rikirangi GAGE Marcus John CLEMITSON Location 49a Keepa Road Whakatāne 3191 Land Status The project site is freehold Māori land. The applicant has provided a letter of support from the landowner trust. The applicant advises it intends to enter into a	The ImpactMarine-Sustainable and Climate-Resilient Aquaculture on Land in the Bay of Plenty Project is to construct and operate a salmon farm and processing facility on 10 hectares of freehold Māori land at 49a Keepa Road, Whakatāne, Bay of Plenty Region. The project will comprise: Land-based recirculatory aquaculture system salmon farm Hatchery, smolt and grow out facilities and buildings Processing plant and buildings Waste pipework and pump infrastructure, Water intake and pump infrastructure (to connect to the Whakatane River)	The applicant seeks approval under the: <ul style="list-style-type: none"> • Resource Management Act 1991 • Freshwater Fisheries Regulations 1983 	The applicant advises it has conducted pre-application meetings with Whakatane District Council and Bay of Plenty regional Council, and notes commitment to engaging with Māori and the wider community.	No – while the project site is freehold Māori land, the applicant has provided a letter of support from the landowner trust.	No	No	No	The project, or any part of it, is inconsistent with a relevant Treaty settlement, the NHNP Act, the Marine and Coastal Area (Takutai Moana) Act 2011, a Mana Whakahono ā Rohe, or a joint management agreement. No It is more appropriate to deal with the application under another Act. No – but it could be dealt with under the RMA The project may have significant adverse effects on the environment. Yes – no details are provided but the applicant advises it intends to undertake an AEE. The applicant has a poor compliance history under the relevant legislation. No The project involves an activity that would occur on land that the Minister for Treaty of Waitangi Negotiations considers necessary	Whether access to the fast-track process will enable the project to be processed in a more timely and cost-efficient way than under normal processes. Yes - applicant advises that it will streamline the usual RMA processes. The impact referring this project will have on the efficient operation of the fast-track process. Yes - Low/moderate impact Whether the application contains sufficient information to inform the referral decision. No – we consider the applicant has not provided sufficient information to consider the project for inclusion on Schedule 2A on the basis that consultation with affected parties to date is limited and has occurred only with the relevant councils (although we note it could still be	The project has been identified as a priority project in a central government, local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy) or central government infrastructure priority list. Yes – the NZ Government's Aquaculture Strategy Investment Roadmap (2023) identifies additional capacity or new salmon hatcheries to provide enough suitable smolt for open ocean salmon farms as a priority. The project will deliver regionally or nationally significant infrastructure. Yes – the applicant claims the project will deliver nationally significant infrastructure. The project will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment. No The project will deliver significant economic benefits. Yes – the applicant advises 'yes' but has not provided further detail specific to the project. The applicant notes the project will have a lifespan of at least 50 years so will provide ongoing employment opportunities. The project will support primary industries, including aquaculture. Yes – this is an aquaculture project. The project will support development of natural resources, including minerals and petroleum.

¹ **Disclaimer:** Given time and scope constraints, the initial assessment is solely based on information provided by applicants. There may be additional relevant information which has not been provided to MfE.

lease agreement with the landowner trust.	Saltwater and freshwater tanks Vehicle access/egress and internal roads.							<p>for Treaty settlement purposes.</p> <p>No</p> <p>The project includes an activity that is a prohibited activity under the RMA.</p> <p>No</p>	included on Schedule 2B based on the information provided).	<p>No</p> <p>The project will support climate change mitigation, including the reduction or removal of greenhouse gas emissions.</p> <p>Yes – the applicant advises that the new facility, including use of recirculated water, will reduce emissions compared to conventional methods.</p> <p>The project will support adaptation, resilience, and recovery from natural hazards.</p> <p>Yes – the applicant advises that the project can operate as a closed system thereby enhancing resilience and recovery if affected by natural hazards.</p> <p>The project will address significant environmental issues.</p> <p>No – however, the applicant advises that use of recirculated water can better protect water quality and is more energy efficient than conventional methods.</p> <p>The project is consistent with local or regional planning documents, including spatial strategies.</p> <p>Yes – consistent with the Whakatāne District Plan and Bay of Plenty Regional Plan (including Regional Coastal Plan).</p>
<p>PSGE Settlement Priorities and Māori Development assessment –</p> <p><i>Note - given the time and scope constraints of this advice, some assumptions have been made and engagement has only been undertaken in limited circumstances. Given this, the advice may not be comprehensive and is not intended to reflect the views of relevant Post Settlement Governance Entities or other groups (unless specifically noted). In limited circumstances where engagement has been able to occur, it has most likely not been comprehensive due to the timeframes available.</i></p> <p><i>Advice on Māori development and PSGE settlement priorities includes information relating to:</i></p> <ul style="list-style-type: none"> <i>where projects align explicitly with PSGE or iwi strategic objectives/vision/other strategic documents.</i> <i>where projects contribute towards addressing historical or systemic inequities faced by Māori. This would be undertaken through an equity assessment; and/or are being led by or in partnership with a Māori entity or business;</i> <p><i>to relevant provisions in Treaty settlements, Joint Management Agreements outside of settlement; Mana Whakahono ā Rohe; Iwi Environment Management plans; implications for groups yet to settle their historical Treaty of Waitangi claims; and implications arising under the Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.</i></p>										
Ineligible projects - based on the considerations at cl18(a–e) of the Fast Track Approvals Bill (version as at introduction)		The project does not appear to be ineligible according to the information provided in the application. While the project site is freehold Māori land, the applicant has provided a letter of support from the chair of the landowner trust.								
Affected Māori group/s		The applicant has identified Ngāti Awa, Te Whānau-ā-Apanui, and Whakatōhea as having interests in the area through their Treaty settlements. Information from Te Kāhui Māngai confirms the proposed project location as being within the area of interest for Ngāti Awa as provided in the 2003 Ngāti Awa Deed of Settlement: AOI-Ngāti Awa. From the information provided, it appears as if the project site is outside the area of interest for Whakatōhea detailed in the Deed of Settlement signed on 27 May December 2023: Whakatōhea AOI . The project site also appears to be outside the area of interest for Te Whānau ā Apanui as detailed in the Deed of Settlement initialled on 26 September 2023: Te-Whanau-a-Apanui deed of settlement .								
Has the applicant consulted with those Māori groups?		Unclear – from the information provided it is not clear who the applicant has engaged with and to what extent. The application states, “Partnering with Te Huata Finfish, our Māori partner, has been instrumental. Te Huata Finfish has initiated a comprehensive program of consultations with various Māori stakeholders. These consultations aim to ensure that Māori perspectives, concerns, and aspirations are deeply integrated into our project planning process”. However, details of this partnership, or the consultation undertaken, have not been provided.								
Impact/s of the project on Māori development and PSGE settlement priorities and related matters		<u>Impacts on PSGE settlement priorities and Māori development</u>								

	<p>There is no information in the application to suggest that the project will have a direct benefit in terms of Māori development; however, the application states the project is in partnership with a Māori entity called Te Huata Finfish. The application does not provide details on this partnership. The application also states that “the project’s social and cultural implications are significant, with Māori landowners and local communities benefiting directly from foreign direct investment and job growth.”</p> <p>In the time available, we have identified the following relevant plans and documents:</p> <ul style="list-style-type: none"> • 2020 Ngāti Awa Environmental Plan <p>It is not possible to confirm from this document that the project does or does not align with the strategic priorities of Ngāti Awa.</p> <p>A full analysis of the plan would need to be undertaken in conjunction with the relevant iwi before any firm conclusions can be reached. That is a matter to be considered in more detail in subsequent stages if this progresses through the fast-track processes.</p> <p><u>Impact on Treaty settlements and other relevant arrangements</u></p> <p>Ngāti Awa Claims Settlement Act 2004</p> <p><i>Statutory Acknowledgement over the Whakatāne River</i></p> <p>There is a Statutory Acknowledgement over the Whakatāne River provided for under the Ngāti Awa Claims Settlement Act 2004. The project site is near the Whakatāne River. Generally, a statutory acknowledgement by the Crown of a 'statement of association' between the iwi and an identified area. A council must have regard to the statutory acknowledgement when deciding whether the iwi is an 'affected person' for the purposes of notification decisions under the Resource Management Act 1991 (the RMA). The same applies to the Environment Court when considering participation in hearings under s274 of the RMA. A council must send summaries of applications for resource consents to the iwi. The PSGE (or any member of the iwi) may, as evidence of the association with a statutory area, cite the statutory acknowledgement in submissions that are made to a consent authority, the Environment Court or the Environmental Protection Authority.</p> <p>An impact of listing this project under Schedule 2 Part A is that the Ministers will not have to exercise their 'referral discretion' including considering the Treaty settlement impacts through that process, nor will they have the benefit of the clause 13 report. There is a requirement on the expert panel to invite comment from the PSGE on the application (noting this is an automatic right to participate, which is currently discretionary under the statutory acknowledgement).</p> <p>Listing this project, and the fast-track process generally, will not provide equivalent weight to the statutory acknowledgement, which may limit the influence of the iwi compared to the usual consenting regime. For example, under the RMA process, if a PSGE is notified due to the statutory acknowledgement, the PSGE has the right to make a submission, attend a hearing, appeal to the Environment Court, and appeal to the High Court and higher courts. The fast-track process does not provide exactly the same rights to the PSGE (particularly the potential right to make a submission and then participate in a hearing and de novo appeal), but as noted above there are some other enhanced rights of participation.</p> <p><u>Implications for groups yet to settle their historical Treaty of Waitangi claims</u></p> <p>While we have not identified any other groups with interests in the area (based on the area of interest maps for Whakatōhea and Te Whānau ā Apanui above), there may be other groups that are still working through their Treaty settlement processes. If so, it will be important that these interests are considered in more detail if the project progresses through the fast-track process, but in the time available there are no further impacts noted.</p> <p>Other matters</p> <p>In the time available, officials have not identified any other impacts for Treaty settlements, the Marine and Coastal Area (Takutai Moana) Act 2011 (noting that the project is not located in the coastal and marine area), groups yet-to-settle their historical claims, Joint Management Agreements outside of settlement or Mana Whakahono ā Rohe.</p>
Is the project considered low, medium or high impact (based on assessment criteria above)	<p>From the information available we consider this project is likely to be medium impact. This is due to the potential effect of listing on the statutory acknowledgement over the Whakatāne River, and lack of evidence provided on engagement with affected groups e.g. Ngāti Awa. From the information provided, detailed analysis of the project’s potential impacts on Māori development (e.g. through partnership with the Māori entity Te Huata Finfish) has not been possible.</p> <p>An impact of listing this project under Schedule 2 Part A is that the Ministers will not have to exercise their 'referral discretion' including considering the Treaty settlement impacts through that process, nor will they have the benefit of the clause 13 report. For Part A projects, there is a requirement on the expert panel to invite comment from the PSGE on the application.</p>
Has the Ministry for the Environment undertaken engagement?	<p>Officials consider engagement would be beneficial to determine Ngāti Awa’s position on the project and to determine whether it aligns with their priorities and aspirations but were unable to undertake this in the time available.</p>
Additional comments/context	<p>See the attached advice from MPI on potential impacts on aquaculture and fisheries settlement considerations.</p>

Appendix One: Approach and considerations for Treaty settlement advice on listed project applications advice in Table A

1. Ministers have advised the Advisory Group should receive advice from officials on “Māori development and PSGE settlement priorities” relevant to each application. Note this differs from section 13 requirements of the current Fast Track Consenting Bill that ‘Ministers must consider Treaty settlements and other obligations report’ as these reports will not be in existence at the time, although matters identified in section 13 (2)(a)-(j) will be considered as part of official's analysis.
2. We have interpreted “Māori development” and “PSGE priorities” to mean primarily projects that:
 - a. align explicitly with PSGE or iwi strategic objectives/vision/other strategic documents; and/or
 - b. contribute towards addressing historical or systemic inequities faced by Māori. This would be undertaken through an equity assessment; and/or
 - c. the project is being led by or in partnership with a Māori entity or business.
3. Given the time constraints and limited engagement this advice cannot be considered as comprehensive and does not intend to reflect their views and should not be read as such.
4. Engagement with PSGEs and other relevant groups has been considered based on potential high-risk factors including, but not limited to, if:
 - a. a project will take place on or effect any taonga or areas of significance that are protected by Treaty settlement arrangements.
 - b. a project will have a substantive and/or ongoing environment impact on any taonga or areas of significance.
 - c. a project will include a consenting arrangement that will require a significant take, or be ongoing for an extended period, in relation to a taonga or area of significance, or in regions where PSGEs have specific planning mechanisms in place.
 - d. PSGEs or other Māori entities have previously strongly contested the project or a similar type of project, particularly where court action has been taken.
 - e. The project is clearly in conflict with or undermines PSGE priorities.
 - f. Engagement would be required to maintain and uphold the Te Tiriti Crown relationship.
5. In limited circumstances where engagement occurs, it has been brief. Where engagement has been undertaken it is reflected in our analysis but should not be taken to mean that our Treaty Partners endorse our advice.