

FTA#274: Application for listed project under the Fast-track Approvals Bill – Balmoral Water Storage Facility and Fish Screen 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: 1	Attachments: 1. Application documents for the Balmoral Water Storage Facility and Fish Screen Project
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Applicant	Sector	Region	Identified in a priority/strategy?
Amuri Irrigation Company Limited	Water Infrastructure	Canterbury	No

Ministry for the Environment contacts

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

Project location



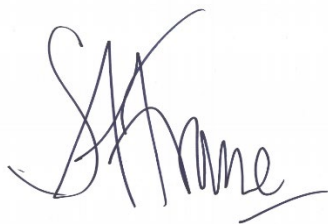
Key messages

1. The Balmoral Water Storage Facility and Fish Screen Project will construct a large dam to provide 10M m³ of water storage for the Amuri Irrigation Company Ltd's irrigation scheme, where they already hold resource consents to divert, take, store, use and discharge water to land in the Amuri Basin, north of the Hurunui River. The application will also address issues with the fish screen and bypass on the existing intake infrastructure.
2. The project will comprise:
 - a. Construction of a ring dam, with associated construction-phase water takes, dewatering of ground water, and discharges, and subsequent dam operation.
 - b. The installation of a fish screen structure within an artificial watercourse, and any

associated discharges.

- c. An additional diversion of 1.5 m³/s of water from the Hurunui River for operation of the upgraded fish screen and bypass.
3. The project will require resource consents under the Resource Management Act 1991 (RMA).
4. The project will occur on Balmoral Forest, private land owned by Ngāi Tahu Farming Ltd. The applicant has an easement for the intake, fish screen and canal, and have a signed agreement with the landowner to grant an easement in relation to the storage site. An easement from the Department of Conservation (DoC) across a marginal strip may also be required. DoC note they had issued an easement for two parts of the Hurunui River in 2022, but these were surrendered by the applicant in 2023 as they were not able to acquire consent for construction of the scheme.
5. We have undertaken an initial (Stage 1) analysis of the application, and this is provided in Table A.
6. We consider the applicant **has** provided sufficient information to consider the project for inclusion on Schedule 2A (although we note it could still be included on Schedule 2B based on the information provided).
7. The project does not trigger the ineligibility criteria in clause 18 of the Fast-track Approvals Bill (the Bill).
8. 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

A handwritten signature in blue ink, appearing to read 'S. Frame', with a long horizontal flourish extending to the right.

Stephanie Frame
Manager – 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			
<p>Schedule requested 2A</p> <p>Project Name Balmoral Water Storage Facility and Fish Screen Project</p> <p>Applicant Amuri Irrigation Company Limited</p> <p>Company director/s Nicola Susan Anderson David Andrew Croft Christopher Stephen Laurie Kenneth James McCone Kevin John O'Neill Adam James Williamson</p> <p>Location The Amuri Basin of the Hurunui River. The project site is 20 km west of Culverden, within Ngai Tahu owned Balmoral Forest adjacent to Tekoa Road.</p>	<p>To construct a large dam to provide 10M m³ of water storage for the Amuri Irrigation Company Ltd's irrigation scheme, where they already hold resource consents to divert, take, store, use and discharge water to land in the Amuri Basin, north of the Hurunui River. The application will also address issues with the fish screen and bypass on the existing intake infrastructure.</p> <p>The project will comprise:</p> <ul style="list-style-type: none"> • construction of a ring dam, with associated construction-phase water takes, dewatering of ground water, and discharges, and subsequent dam operation. • installation of a fish screen structure within an artificial watercourse, and 	<p>The applicant seeks approval under the:</p> <ul style="list-style-type: none"> • Resource Management Act 1991 <p>The Department of Conservation notes that approvals may also be required under the:</p> <ul style="list-style-type: none"> • Wildlife Act 1953 • Freshwater Fisheries Regulations 1983 • Conservation Act 1987 	<p>The applicant identifies the following parties as affected:</p> <ul style="list-style-type: none"> • Hurunui District Council • Canterbury Regional Council • Te Rūnanga o Ngāi Tahu • Ngāi Te Tuahuriri Rūnanga • Ngāti Kuri • Te Rūnanga o Kaikoura • Department of Conservation • Transpower • Fish and Game <p>The applicant has lodged consent applications with the district and regional council. The date of application is not provided, nor progress, other than no decisions have been made.</p> <p>Engagement with affected parties, mana whenua and the wider community has occurred and is ongoing.</p> <p>The fish screen has been discussed with</p>	No.	No.	No.	No.	<p>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.</p> <p>No.</p> <p>It is more appropriate to deal with the application under another Act.</p> <p>No.</p> <p>The project may have significant adverse effects on the environment.</p> <p>No.</p> <p>The Department of Conservation notes permissions will be required for any disturbance of habitat that may kill lizards and skinks. They also note at the southern end of the proposed dam site there is original pre-European soil structure that</p>	<p>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.</p> <p>Yes.</p> <p>The impact referring this project will have on the efficient operation of the fast-track process.</p> <p>Yes.</p> <p>Whether the application contains sufficient information to inform the referral decision.</p> <p>Yes.</p>	<p>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.</p> <p>No – Although the importance of water storage infrastructure and improving water use efficiency in north Canterbury are recognised in the Canterbury Water Management Strategy 2009.</p> <p>The project will deliver regionally or nationally significant infrastructure.</p> <p>Yes – the Canterbury Regional Policy Statement recognises irrigation infrastructure as regionally significant.</p> <p>The project will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment.</p> <p>No.</p> <p>The project will deliver significant economic benefits.</p> <p>Yes – Irrigation plays a pivotal role in ensuring a reliable and sustainable food supply chain. Irrigation has enabled conversion of land use in this drought-prone basin from predominantly a mix of sheep-beef and cropping to higher value dairy production, to become one of the country's most productive dairy areas.</p>

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.

<p>Land Status</p> <p>The Balmoral Forest is private land owned by Ngāi Tahu Farming Ltd. The applicant has an easement for the intake, fish screen and canal, and have a signed agreement with the landowner to grant an easement in relation to the storage site.</p> <p>The Department of Conservation note they had issued an easement for two parts of the Hurunui River in 2022, but these were surrendered by the applicant in 2023 as they were not able to acquire consent for construction of the scheme.</p>	<p>any associated discharges.</p> <ul style="list-style-type: none"> diversion of an additional 1.5 m³/s of water from the Hurunui River for operation of the upgraded fish screen and bypass. 		<p>Fish and Game, Department of Conservation and the regional council.</p> <p>The Department of Conservation had given initial approval for this application but withdrew it as the applicant widened the project scope to include an out-of-river hydroelectric power scheme, which they had not assessed.</p> <p>The storage facility is classed as a large dam, posing a potential risk to Transpower assets. Consultation has occurred and is ongoing.</p> <p>The applicant also sought feedback from:</p> <ul style="list-style-type: none"> Jet Boating NZ Canterbury Jet Boat Association Two kayaking clubs. <p>No concerns have been raised by these recreational users.</p>					<p>contains flora and surface alluvial substrate associated with Kanuka ecosystems that are now rare in the Amuri Basin. Regenerating Kanuka and Tauhini are present.</p> <p>The applicant has a poor compliance history under the relevant legislation.</p> <p>No – Although the regional council has previously issued a formal warning and identified various points of non-compliance relating to the fish screen and bypass channel. Remedial action was taken, and this project intends to address issues with the fish screen.</p> <p>The project involves an activity that would occur on land that the Minister for Treaty of Waitangi Negotiations considers necessary 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>	<p>North Canterbury had the highest average herd production of milk solids in 2022/23 in NZ.</p> <p>The project will support primary industries, including aquaculture.</p> <p>Yes.</p> <p>The project will support development of natural resources, including minerals and petroleum.</p> <p>Yes.</p> <p>The project will support climate change mitigation, including the reduction or removal of greenhouse gas emissions.</p> <p>Yes – Water storage is a response to changes in water availability and reliability.</p> <p>The project will support adaptation, resilience, and recovery from natural hazards.</p> <p>Yes – Water storage is a response to changes in water availability and reliability (drought).</p> <p>The project will address significant environmental issues.</p> <p>Yes – Water use, and its availability and reliability is a recognised as a significant issue in Canterbury, and storage is recognised as mitigation that will help achieve catchment targets and outcomes. Stored water will also be used to increase environmental flows in the Hurunui River.</p> <p>The project is consistent with local or regional planning documents, including spatial strategies.</p> <p>Yes – On the basis that the potential adverse effects of the project on the surrounding environment are able to be appropriately managed, the project will be consistent with the local and regional planning documents.</p>
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PSGE Settlement Priorities and Māori Development assessment –

This table provides an overview. In the time available, it has not been possible to undertake a detailed review of all Treaty settlement and related matters, or to engage with the relevant PSGE, iwi or Māori groups in relation to the potential impacts of the project. If the project does progress through the fast-track process, it will be important this more detailed and comprehensive analysis and engagement is undertaken (there are some mechanisms in the proposed legislation, such as the clause 13 report (which will apply to Schedule 2 Part B (but not Part A) applications) and the requirements to invite comment from these groups, which are intended to address these matters).

Advice on Māori development and PSGE settlement priorities includes information relating to:

- where projects align explicitly with PSGE or iwi strategic objectives/vision/other strategic documents.
- 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;
- 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.

<p>Ineligible projects - based on the considerations at cl18(a–e) of the Fast Track Approvals Bill (version as at introduction)</p>	<p>The project does not appear to be ineligible according to the information provided in the application. The applicant has stated that the project is not ineligible, however we note that the project is located on land owned by Ngāi Tahu Farming Limited (and that there is agreement with Ngāi Tahu Farming Limited).</p>
<p>Affected Māori group/s</p>	<p>The applicant has identified the following groups with interests in the project area:</p> <ul style="list-style-type: none"> • Te Rūnanga o Ngāi Tahu • Te Ngāi Tūāhuriri Rūnanga • Te Rūnanga o Kaikōura <p><u>Ngāi Tahu</u> Information from Te Kāhui Māngai confirms the proposed project location as being within the area of interest for Ngāi Tahu in the Deed of Settlement signed 21 November 1997.² Te Ngāi Tūāhuriri Rūnanga and Te Rūnanga o Kaikōura are papatipu runaka of Ngāi Tahu for the area.</p> <p>We have not identified any additional groups beyond those identified by the applicant.</p>
<p>Has the applicant consulted with those Māori groups?</p>	<p>The applicant states that it has engaged with Ngāti Kuri, Ngāi Tūāhuriri and Ngāi Tahu Farming and sets out a number of consultation steps undertaken. The applicant states it has met with those groups at various times from 2022, including in relation to the proposal and cultural values. A Memorandum of Understanding between the applicants and Ngāi Tūāhuriri and Ngāi Tahu Farming was signed in August 2021 which anticipated this proposal. The applicant states that it advised those groups of its intention to apply under fast-track, and that no feedback was received at time of making the application.</p>
<p>Impact/s of the project on Māori development and PSGE settlement priorities and related matters</p>	<p><u>Impacts on PSGE settlement priorities and Māori development</u></p> <p>There is no information in the application to suggest that this application is made by or on behalf of a Māori organisation, or that the project will have a direct benefit in terms of Māori development (however, the landowner of the project site is Ngāi Tahu Farming Limited).</p> <p>In the time available, we have identified the following relevant plans and documents:</p> <ul style="list-style-type: none"> • Te Runanga o Ngāi Tahu Freshwater Policy • Te Whakatau Kaupapa Ngāi Tahu Resource Management Strategy for the Canterbury Region • The Mahaanui Iwi Management Plan • Te Rūnanga o Kaikōura Environmental Management Plan • Ngāi Tahu 2025, which states the aspiration is that "Te Rūnanga o Ngāi Tahu fully participates in the decision-making processes of resource management agencies." <p>It is not possible to confirm from those documents that the project does or does not align with the strategic priorities of those iwi or Māori groups.</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>Ngāi Tahu Claims Settlement Act 1998</p> <p><i>Statutory acknowledgements</i></p> <p>This Treaty settlement contains a number of statutory acknowledgements. It is not clear from the application whether a statutory acknowledgement covers or is adjacent to the project site or is directly impacted by the proposed project. There is a statutory acknowledgement in relation to Hurunui River that may be relevant (the applicant has identified that this is approximately 1.2km south of the project site).</p> <p>If the project activity is within or adjacent to, or directly affects, the area of the statutory acknowledgement, the following text applies. 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). For a Schedule 2 Part B listing, Ministers will have to exercise their 'referral discretion' including considering the Treaty settlement impacts through that process, and they will have the benefit of the clause 13 report. The expert panel will also be required to invite comment from the PSGE on the application (again, 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>Iwi Environment Management plans</u></p> <p>Note the comments above in relation to iwi management plans.</p>

² TKM | Iwi | Ngāi Tahu | Te Kahui Māngai

	<p>Other matters</p> <p>In the time available, officials have not identified any other impacts for the Marine and Coastal Area (Takutai Moana) Act 2011 (noting the project area does not appear to be in the common marine and coastal area), groups yet-to-settle their historical claims, Joint Management Agreements outside of settlement or Mana Whakahono ā Rohe.</p>
<p>Is the project considered low, medium or high impact (based on assessment criteria above)</p>	<p>From the information available we consider this project is likely to be of low-medium impact. This is due to the nature and range of interests present in the project area and the agreement reached with Ngāi Tahu.</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>
<p>Has the Ministry for the Environment undertaken engagement?</p>	<p>Officials consider engagement would be beneficial given the nature and range of interests present in the project area but were unable to undertake this in the time available.</p>
<p>Additional comments/context</p>	<p>N/A</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.