

FTA#107: Application for listed project under the Fast-track Approvals Bill – Bendigo-Ophir Gold Project for Schedule 2A

Date submitted to secretariat:	10 June 2024
Security level:	In-Confidence
To:	David TAPSELL, Chair – Fast-track Projects Advisory Group

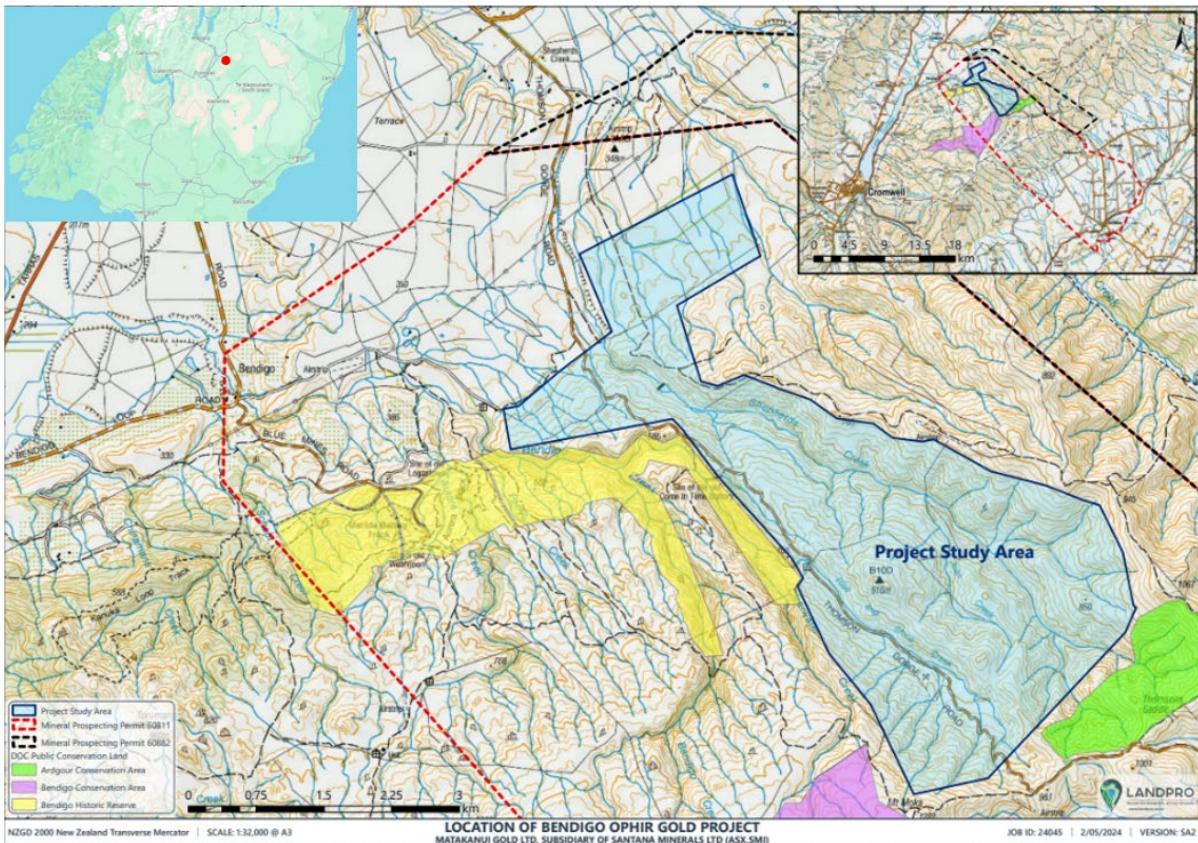
Number of attachments: #	Attachments: 1. Application documents for Bendigo-Ophir Gold Project
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Applicant	Sector	Region	Identified in a priority/strategy?
Matakanui Gold Limited (a wholly owned subsidiary of Santana Minerals Limited)	Mining	Otago	No

Ministry for the Environment contacts

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

Project location



Key messages

1. The Bendigo-Ophir Gold project is to establish and operate an open pit and underground gold mine on Bendigo and Ardgour Stations in Central Otago, with project completion and remediation expected in 2065 (depending on further successful exploration and technical studies). The applicant has undertaken drilling and evaluation under its existing exploration permit under the Crown Minerals Act 1991.
2. The project will comprise:
 - a. open pit mining initially, and underground mining later as operations advance
 - b. exploration drilling
 - c. engineered landforms of sterile, waste rock and tailings storage facilities
 - d. processing facilities and water treatment facilities
 - e. access to electricity transmission infrastructure
 - f. earthworks and vegetation clearance, including for access tracks
 - g. an initial 10-year mine life, with further development contingent on outcomes of future exploration and technical studies over that time
 - h. rehabilitation and closure, expected in 2065 (depending on future exploration and technical studies).
3. The project will require resource consents under the Resource Management Act 1991

(RMA); a land access agreement under the Reserves Act 1977 (RA), archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014, and wildlife permits under the Wildlife Act 1953. The project also requires other approvals not covered by the Fast-track Approvals Bill as introduced, namely a mining permit under the Crown Minerals Act 1991, land purchase approval under the Overseas Investment Act 2005, and local road stoppage under the Local Government Act 1974.

4. The applicant has land access agreements with the owners of Bendigo and Ardour Stations which comprise the subject site. The applicant requires a land access agreement with Department of Conservation under the RA, which we expect would form part of any subsequent full application for fast-track approval. The applicant holds an exploration permit, but still requires a mining permit from New Zealand Petroleum and Minerals to have the allocation right to mine this resource.
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). This is on the basis that the applicant has stated its intention to complete its assessment of environmental effects by September 2024, in advance of lodging its application for fast-track approval in the December 2024 quarter.
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



Ray Salter
Principal Analyst – 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	Y	N	N	N			
<p>Schedule requested 2A</p> <p>Project Name Bendigo-Ophir Gold project</p> <p>Applicant Matakanui Gold Limited (a wholly owned subsidiary of Santana Minerals Limited)</p> <p>Company director/s Frederick James Leslie Bunting Peter Gerard Cook Damian Spring</p> <p>Location On, and around, privately owned Bendigo and Ardour Stations in Central Otago (within the Dunstan Mountains) approximately 20 km north of Cromwell.</p> <p>The applicant has clarified that the mining operation is confined to the 'Project Study Area' shown in blue on the map, with the exception of infrastructure to the site (e.g. road access, power and freshwater supply).</p> <p>Public conservation land is adjacent but not directly affected by the project area.</p> <p>Land Status</p>	<p>The project will comprise:</p> <ul style="list-style-type: none"> open pit mining initially, with underground mining later as operations advance exploration drilling engineered landforms of sterile, waste rock and tailings storage facilities processing facilities and water treatment facilities access to electricity transmission infrastructure earthworks and vegetation clearance, including for access tracks rehabilitation and closure, expected in 2065 depending on future exploration and technical studies 	<p>The applicant seeks approval under the:</p> <ul style="list-style-type: none"> Resource Management Act 1991 Wildlife Act 1953 Reserves Act 1977 Heritage New Zealand Pouhere Taonga Act 2014 <p>The application notes that approvals would also be needed under the following legislation, which is out of scope of the Fast-track Approvals Bill as introduced:</p> <ul style="list-style-type: none"> Mining permit under the Crown Minerals Act 1991 Overseas Investment Act 2005 Local Government Act 1974 	<p>The application notes that consultation is ongoing.</p> <p>The applicant has engaged with mana whenua (Aukaha, Te Rūnanga o Ōtākou, Te Rūnanga o Moeraki), the Central Otago District Council, Otago Regional Council, Department of Conservation, Service Groups (Rotary, Central Otago Wine Growers Association, Business South), Recreation groups (Omarama four-wheel drive club) and several residents of Bendigo Loop Road over the last year.</p> <p>Through this consultation, the applicant states it has acknowledged concerns, and where appropriate scoped in additional work for effects assessment and project design.</p> <p>Consultation is ongoing.</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>Unclear – the project is located in the area covered by the Ngai Tahu Claims Settlement Act. While it does not appear that the project is inconsistent with the settlement, there are settlement obligations under the Reserves Act and Conservation Act which may be relevant to the project (see the Treaty analysis below).</p> <p>You may wish to seek information from DOC on this application.</p> <p>It is more appropriate to deal with the application under another Act.</p> <p>No – nothing in the application indicates it would be more appropriate to deal with under another Act.</p> <p>The project may have significant adverse effects on the environment.</p> <p>Maybe – the site is on an area of outstanding</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 – the application expects the process to be more timely than a standard process under the RMA, and that the project will benefit from the 'one stop shop' process for approvals under different legislation.</p> <p>The impact referring this project will have on the efficient operation of the fast-track process.</p> <p>No – the applicant states it intends to finalize its AEE, before lodging its full application in the December 2024 quarter. On that basis, we do not consider there to be any negative impact on efficient</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</p> <p>The project will deliver regionally or nationally significant infrastructure.</p> <p>No – the application states the project could increase resilience to the local electricity distribution network.</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 – the applicant estimates the project would generate § 9(2)(b)(ii) of revenue and § 9(2)(b)(ii) in tax and royalties over the initial 10 years, with further development subject to feasibility study. The applicant estimates the project will generate up to 150 jobs during construction and 200 jobs during the mining operation and expects the vast majority of these roles to be filled locally.</p> <p>The project will support primary industries, including aquaculture.</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>The applicant states it has separate land access agreements with the owners of Bendigo Station (Bendigo Station Limited) and Adgour Station (Bruce Duncan Stuart Jolly, and Linda Marie Jolly). The titles attached to the application include notices of access rights pursuant to section 83 of the Crown Minerals Act 1991.</p> <p>The applicant notes it requires a land access agreement with Department of Conservation (DoC) under the Reserves Act 1977 regarding the conservation covenant shown on that title.</p> <p>The applicant holds an exploration permit under the Crown Minerals Act over the subject site. It would however require a mining permit under the Crown Minerals Act 1991 (CMA) to undertake the project, which would grant the applicant exclusive right to mine for gold within the subject site.</p>			<p>The application notes the project involves access to electricity transmission infrastructure, but does not include any reference to Transpower.</p> <p>The applicant clarified its reference to Clutha District Council as affected was an error and requested that reference be replaced with Central Otago District Council.</p>					<p>natural landscape under the district plan, and adjacent to areas of public conservation land. The applicant considers the project can be undertaken without material impact on the values, qualities and characteristics of this area.</p> <p>Some streams and creeks will need to be diverted. There will be some loss of terrestrial ecology/habitat.</p> <p>The applicant is continuing to prepare technical documents for an assessment of environmental effects (AEE), covering the above, and other effects (including noise, dust/air quality, water, heritage, recreational, dam safety and social-economic effects). The applicant expects to complete this by September 2024.</p> <p>The applicant has a poor compliance history under the relevant legislation.</p> <p>No – the application states that neither Matakanui Gold Limited, nor its parent company Santana Minerals Limited, have been subject to any compliance or enforcement action.</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>operation on the fast-track process.</p> <p>Whether the application contains sufficient information to inform the referral decision.</p> <p>Yes – as noted above, the applicant is preparing an AEE which it expects to complete by September 2024.</p> <p>Although, 2A listing means the applicant could lodge an application as soon as the Bill passes, the applicant has stated it intends to lodge its full application in December 2024 (i.e. after completion of its AEE).</p>	<p>Yes – mining is included in the definition of primary production under the National Planning Standards.</p> <p>The project will support development of natural resources, including minerals and petroleum.</p> <p>Yes – the project is a gold mining operation. The applicant also states other explorers are encouraged by this new discovery, and that exploration activity in the region has increased.</p> <p>The project will support climate change mitigation, including the reduction or removal of greenhouse gas emissions.</p> <p>No</p> <p>The project will support adaptation, resilience, and recovery from natural hazards.</p> <p>No</p> <p>The project will address significant environmental issues.</p> <p>No</p> <p>The project is consistent with local or regional planning documents, including spatial strategies.</p> <p>Yes – the applicant considers the project will be consistent with the Central Otago District Plan (particularly the rural zoning and managing landscape effects within the outstanding natural landscape), and the Otago Regional Policy Statement (including considering locational and function needs of mineral extraction activities and applying the effects management hierarchy within sensitive environments).</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>This project does not appear to be ineligible according to the information provided in the application.</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"> • The five papatipu rūnanga of Ngāi Tahu (represented by Aukaha): <ul style="list-style-type: none"> ○ Te Rūnanga o Waihao ○ Te Rūnanga o Moeraki ○ Kati Huirapa Rūnaka ki Puketeraki ○ Te Rūnanga o Ōtakou ○ Hokonui Rūnanga <p><u>Ngai 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 dated 21 November 1997.² Te Rūnanga o Waihao, Te Rūnanga o Moeraki, Kati Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtakou and Hokonui Rūnanga are papatipu rūnanga of Ngāi Tahu for the area.³</p> <p><u>Aukaha</u> Aukaha is an organisation that liaises with Te Runanga o Ngai Tahu and engages on their behalf with the local authorities in relation to RMA matters. Aukaha is owned by and represents Te Rūnanga o Moeraki, Kati Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtakou, Hokonui Rūnanga, and Te Rūnanga o Waihao. 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 Aukaha, Te Rūnanga o Ōtakou and Te Rūnanga o Moeraki, acknowledged stakeholder concerns and that consultation is ongoing. The application does not provide any further details on the nature of the engagement, or that it has consulted with the other papatipu runaka identified.</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.</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 • Kai Tahu Ki Otago's Natural Resource 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. The applicant states that there are no statutory acknowledgement areas relevant to the project. 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. The applicant states that the closest statutory acknowledgement areas are Mata-au (Clutha River) and Te Wairere (Lake Dunstan) but these are not within the project site.</p>

² TKM | Iwi | Ngāi Tahu | Te Kahui Māngai

³ Papatipu Rūnanga | Te Rūnanga o Ngāi Tahu (ngaitahu.iwi.nz)

	<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. The Environment Court must also have regard to a statutory acknowledgement in considering appeals on applications for archaeological authorities within the project area under the Heritage New Zealand Pouhere Taonga Act 2014.</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><i>Wildlife Act 1953</i></p> <p>The Settlement Act includes obligations in relation to the Wildlife Act 1953. This application involves wildlife permits which may be relevant to those settlement obligations (depending on the detail of the application made).</p> <p><i>Conservation Act 1987 and conservation redress</i></p> <p>The Settlement Act includes obligations in relation to the Conservation Act 1987. This application seeks concessions which may be relevant to those settlement obligations (depending on the detail of the application made). The Department of Conservation have advised that the project area is in the conservation protocol area.</p> <p><i>Reserves Act 1977</i></p> <p>The Settlement Act includes obligations in relation to the Reserves Act 1977. This application seeks approvals under the Reserves Act which may be relevant to those settlement obligations (depending on the detail of the application made).</p> <p><i>Crown Minerals Act 1991</i></p> <p>The Settlement Act or deed addressed above may include obligations in relation to the Crown Minerals Act 1991. This application seeks Crown Minerals Act 1991 approvals and which may be relevant to those settlement obligations (depending on the detail of the application made). There may also be settlement implications in relation to any Crown Minerals Act 1991 access or other statutory decisions made by the Minister or Director-General of Conservation (which may have been agreed through conservation relationship or other redress).</p> <p>Iwi Environmental Management Plans</p> <p>Note the comments above in relation to iwi management plans.</p> <p><u>Other matters</u></p> <p>There have been no joint management agreements, mana whakahono ā rohe or Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 considerations identified, or unsettled claims identified in the project area. In the time available, officials have not identified any other relevant matters.</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 medium impact. This is due to the nature and range of interests present in the project area.</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.