

FTA#348: Application for listed project under the Fast-track Approvals Bill – Birchs Village Project for Schedule 2A

Date submitted to secretariat:	9 July 2024
Security level:	In-Confidence
To:	David TAPSELL, Chair – Fast-track Projects Advisory Group

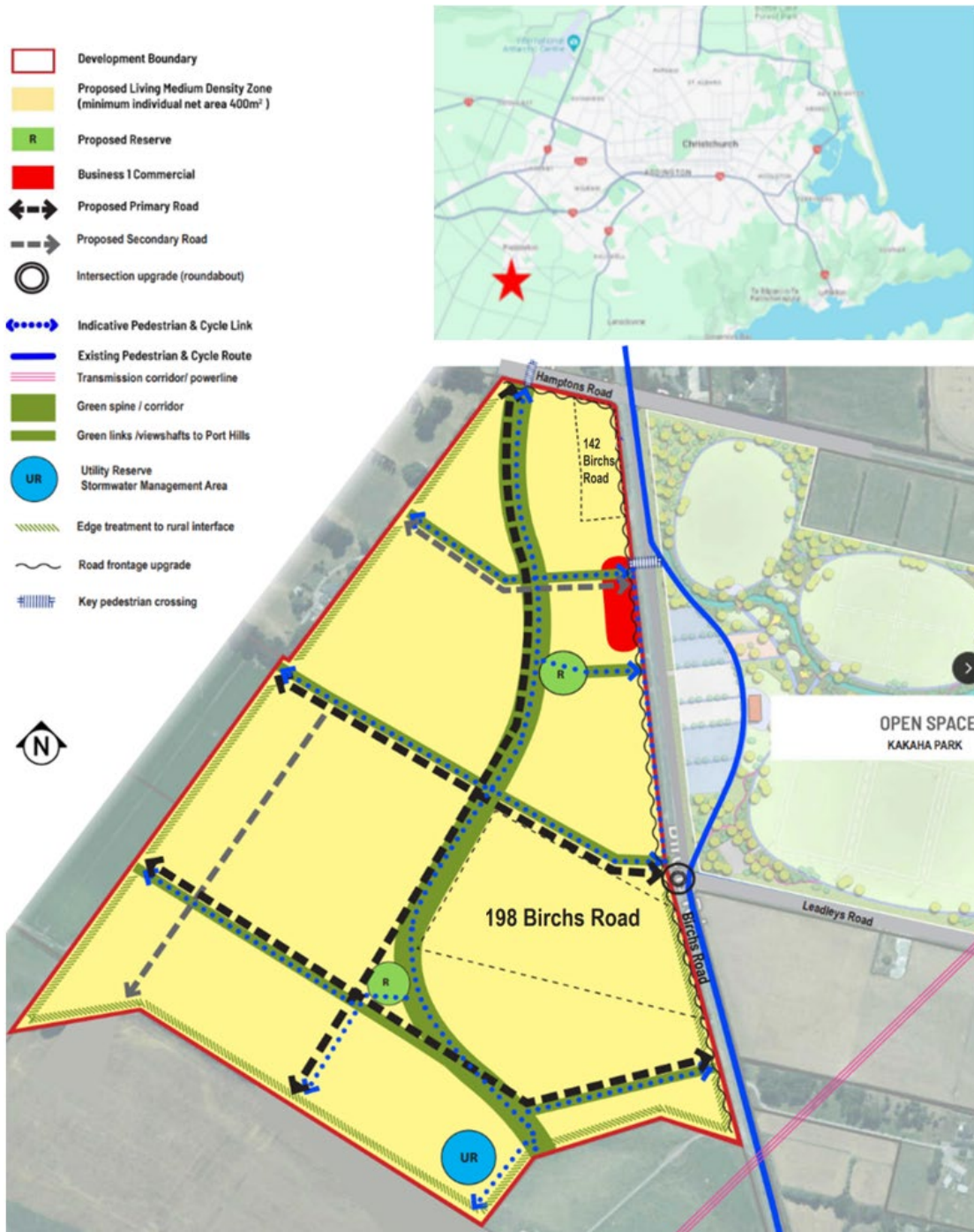
Number of attachments: #	Attachments: 1. Application documents for Birchs Village Project
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Applicant	Sector	Region	Identified in a priority/strategy?
Birchs Village Limited	Residential	Canterbury	No

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 Birchs Village project is to develop medium density residential development, with a commercial business area, on a 36.58 hectare greenfield site (currently comprised of rural residential blocks), directly south of the existing Prebbleton Township (which is southwest of Christchurch).
2. This application follows previous proposals to rezone the land for this development through

a private plan change request (which was declined in 2022), and a submission on the new Selwyn District Plan (which was rejected by the Council but is subject to an appeal at the Environment Court, with mediation due to occur in September 2024).

3. The project will comprise:
 - a. subdivision of the land into 527 allotments, with an average size of 650m² (15 households per hectare) consistent with an attached outline development plan
 - b. a commercial area along Birchs Road, opposite existing Kakaha Park
 - c. green spine / corridors, including pedestrian/cycle links.
4. The project will require resource consents under the Resource Management Act 1991 (RMA).
5. Of the 11 properties that make up the 36.58 hectare site, the applicant states:
 - a. it has contracts with owners for sale and purchase of seven properties
 - b. it is “working collaboratively” with two property owners who support the proposal
 - c. the owners of the two remaining properties (142 Birchs Road (5900m²) and 198 Birchs Road (4 hectares)) have not indicated they will develop collaboratively. These properties, within the overall site, are visible on the map above. The applicant states these properties have been designed to be carved from the development and the project can be developed in this way if required without affecting project viability.
6. We have undertaken an initial (Stage 1) analysis of the application, and this is provided in Table A.
7. 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).
8. The project does not trigger the ineligibility criteria in clause 18 of the Fast-track Approvals Bill (the Bill).
9. 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



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	Y	Y	Y	Y			
<p>Schedule requested</p> <p>2A</p> <p>Project Name</p> <p>Birchs Village</p> <p>Applicant</p> <p>Birchs Village Limited</p> <p>Company director/s</p> <p>Ryan Peter Geddes</p> <p>Location</p> <p>11 properties totalling 36.58 hectares, directly south of Prebbleton Township and west of Birchs Road in Canterbury (which is southwest of Christchurch)</p> <p>Land Status</p> <p>The applicant states:</p> <ul style="list-style-type: none"> it has contracts with owners of seven properties for sale and purchase 	<p>The project will comprise:</p> <ul style="list-style-type: none"> 527 allotments, with an average size of 650m² (15 households per hectare) consistent with an attached outline development plan a commercial area along Birchs Road, opposite existing Kakaha Park green spine / corridors, including pedestrian /cycle links. 	<p>The applicant seeks approval under the:</p> <ul style="list-style-type: none"> Resource Management Act 1991 	<p>The application refers to earlier consultation on its previous (2021) private plan change request to rezone the area for this development. That included a pre-application meeting with Selwyn District Council and provision of a copy of the plan change application to Mahaanui Kurataiao Limited (an advisory company servicing six local Rūnanga) when the plan change was lodged. The application notes that private plan change was a public process.</p> <p>No consultation is outlined with Environment Canterbury Regional Council.</p> <p>The applicant does not detail any consultation on this specific application to use the fast-track approvals process.</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>This is discussed further in the substantive Treaty analysis.</p> <p>It is more appropriate to deal with the application under another Act.</p> <p>Potentially – the applicant has appealed to the Environment Court against the Selwyn District Council's decision (which included an independent hearing panel process) to not accept the applicant's submission to rezone the land to enable this development. Mediation is scheduled for September 2024. You may wish to consider whether it would be more appropriate to continue that process through to resolution in advance of any subdivision application.</p> <p>The project may have significant adverse effects on the environment.</p> <p>Potentially – the project would involve loss of highly</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>Potentially – the applicant states that unless resource consents are fast tracked, the land will be unable to be developed for residential purposes until the Canterbury Regional Policy Statement is reviewed (which the applicant states is at least 5 years away), which would impact the applicant's commercial contracts for the development.</p> <p>It is unclear whether resolution of the applicant's Environment Court appeal on the district plan review (with mediation scheduled for September 2024) might result in this</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</p> <p>The project will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment.</p> <p>Yes – the application states the project would increase housing supply in Prebbleton by almost 50%, and notes the site's location opposite Kakaha Park, key transport routes, and walking distance to the town centre.</p> <p>The project will deliver significant economic benefits.</p> <p>Yes – the application outlines economic benefits including estimates of \$138 million GDP, 1,040 'FTE-years' employment, household wages and salaries of \$68 million.</p> <p>The project will support primary industries, including aquaculture.</p> <p>No</p> <p>The project will support development of natural resources, including minerals and petroleum.</p> <p>No</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.

<ul style="list-style-type: none"> it is “working collaboratively” with two property owners who support the proposal two property owners (142 Birchs Road (5900m2) and 198 Birchs Road (4 hectares)) have not indicated they will develop collaboratively. The applicant states the project can be developed with those properties carved out (if necessary) without affecting overall project viability. 								<p>productive land (class 1 and 2 soils), and the applicant states that the key challenge for this development relates to the National Policy Statement for Highly Productive Land. The applicant states that due to the current use for residential lifestyle living the land is already fragmented and no longer being used for production activities and will not in the future (noting the site is not able to obtain water to support rural production activity).</p> <p>The applicant has a poor compliance history under the relevant legislation.</p> <p>No</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 – nothing in the application indicates the project would be prohibited under the RMA.</p>	<p>development being enabled sooner than a fast-track process would allow.</p> <p>The impact referring this project will have on the efficient operation of the fast-track process.</p> <p>Yes – the application notes a significant level of information associated with the project has already been prepared and tested through previous hearing processes.</p> <p>Whether the application contains sufficient information to inform the referral decision.</p> <p>Yes – we consider the application provides sufficient detail to consider this for inclusion on Schedule 2A.</p>	<p>The project will support climate change mitigation, including the reduction or removal of greenhouse gas emissions.</p> <p>Potentially – the application notes its location opposite Kahaka Park and along key transport routes that provide public transport, cycleway, and walking options. The application states the project would be ideal for passive house construction, solar panels, and energy efficient homes. The application does not provide any quantitative assessment of emissions reduction from this development.</p> <p>The project will support adaptation, resilience, and recovery from natural hazards.</p> <p>Potentially – the application states the site is not within an “at risk” location but notes its location within the Plains Flood Management Overlay of the Partially Operative Selwyn District Plan “as is the majority of the Selwyn District”.</p> <p>The project will address significant environmental issues.</p> <p>No – the application considers the project is a better use of land and reduces need for water that would otherwise be needed in the rural zone (though it also notes use of water for rural activities is prohibited in this ‘red zone’ under the Canterbury Land and Water Regional Plan). No other significant environmental issues are identified.</p> <p>The project is consistent with local or regional planning documents, including spatial strategies.</p> <p>Potentially – we note there are ongoing appeals associated with the project in relation to the Selwyn District Plan process. The applicant considers the project meets minimum criteria from the Greater Christchurch Spatial Plan, and that it is “generally consistent with the local and regional policy documents, where applicable”.</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 c18(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.</p>
<p>Affected Māori group/s</p>	<p>The applicant has identified the following [group/groups] with interests in the project area:</p>

	<ul style="list-style-type: none"> • Ngāi Tahu • Mahaanui Kurataiao Limited <p><u>Ngāi Tahu</u></p> <p>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 1997.1</p> <p><u>Mahaanui Kurataiao Limited</u></p> <p>Mahaanui Kurataiao is a resource and environmental management advisory company that represents the six papatipu runaka of Te Tai o Mahaanui including Ngāi Tūāhuriri Rūnanga, Te Hapū o Ngāti Wheke (Rāpaki) Rūnanga, Te Rūnanga o Koukourārata, Ōnuku Rūnanga, Wairewa Rūnanga and Te Taumutu Rūnanga.</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 does not provide any details of any consultation with these groups in relation to this specific project but notes that a copy of the original plan change application was submitted to Mahaanui Kurataiao in 2021. The applicant does not state whether any feedback was provided at that point.</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 Rūnanga o Ngāi Tahu Freshwater Policy • 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." • Te Whakatau Kaupapa - a Resource Management Strategy for Canterbury / Te Whakatau Kaupapa Ngāi Tahu Resource Management Strategy for the Canterbury Region <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.</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 (which is not proposed for this project), 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> <p><u>Other matters</u></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 is not 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 medium impact. This is due to the nature and range of interests present in the project area and the lack of information concerning consultation with the relevant affected groups.</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.
Has the Ministry for the Environment undertaken engagement?	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.
Additional comments/context	N/A

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.