

FTA#135: Application for listed project under the Fast-track Approvals Bill – Huntly Wastewater Treatment Plant Upgrade 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 Huntly Wastewater Treatment Plant Upgrade Project
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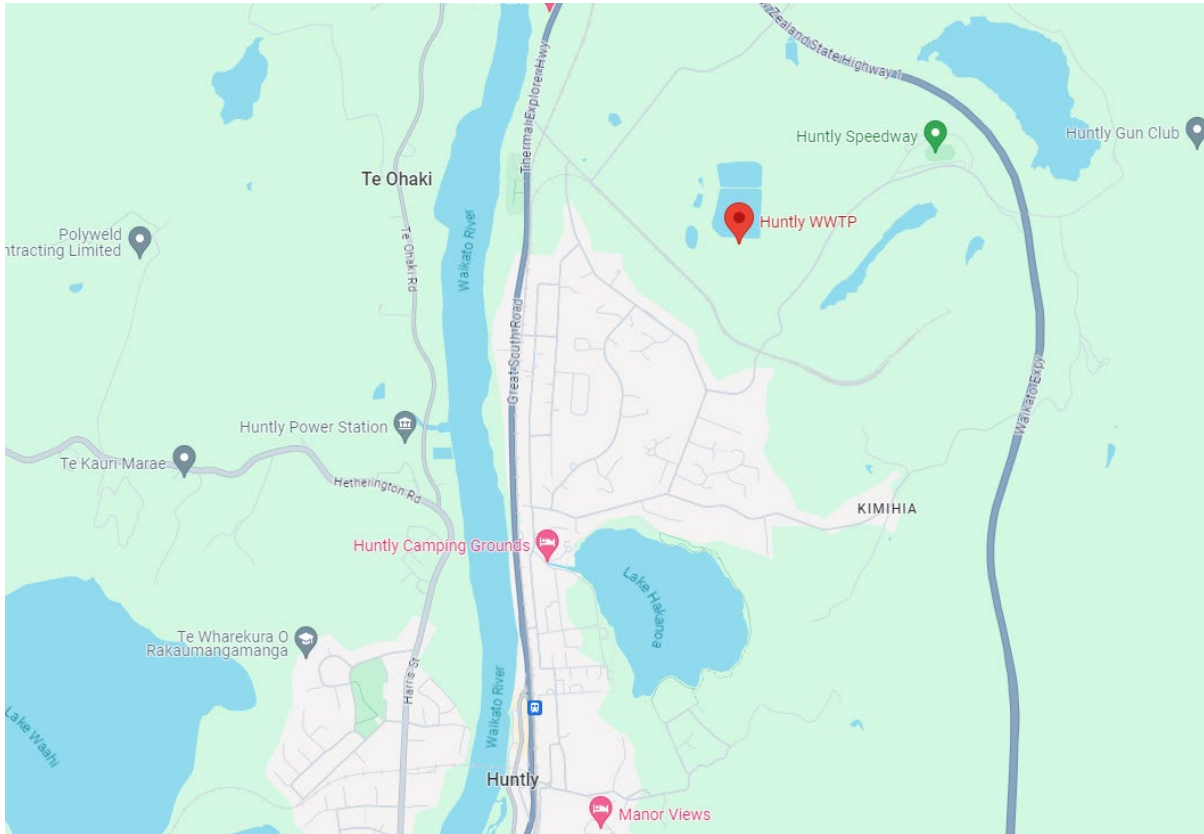
Applicant	Sector	Region	Identified in a priority/strategy?
Waikato District Council	Infrastructure	Waikato	Yes

Ministry for the Environment contacts

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

Project location

Applicant did not provide a map. The below is provided by the Ministry based on their understanding of the project.



Key messages

1. The Huntly Wastewater Treatment Plant Upgrade project is to upgrade to the Huntly Wastewater Treatment Plant, to support its continued operation and compliance.
2. The project will comprise:
 - a. Upgrading oxidation pond
 - b. Install new membrane bioreactor plant
 - c. Discharge into Waikato River
 - d. Install solids processing facility.
3. The project will require resource consents under the Resource Management Act 1991 (RMA).
4. Project site is on council-owned land. Waikato District Council and Waikato-Tainui have a joint management agreement to co-manage the Waikato River which the plants discharges into it. Waikato-Tainui have been engaged in consultation on the proposed project but their views have not been detailed.
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 not** 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). Per clause 16, an applicant must include a statement explaining how their consultation with relevant iwi has informed the project. Waikato-Tainui co-manage the Waikato River with Waikato District Council and attend committee meetings where this project would have been discussed, however no further information has been provided about their views on the proposal.

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	N	N	N	N			
<p>Schedule requested 2A</p> <p>Project Name Huntly Wastewater Treatment Plant Upgrade</p> <p>Applicant Waikato District Council</p> <p>Location Huntly Wastewater Treatment Plant, McVie Road, Huntly.</p> <p>Land Status Project site is on council-owned land. Discharge into Waikato River, co-managed by the council and Waikato-Tainui.</p>	<p>The project is to upgrade to the Huntly Wastewater Treatment Plant, to support its continued operation and compliance.</p> <p>The project will comprise: Upgrading oxidation pond Install new membrane bioreactor plant Discharge into Waikato River Install solids processing facility.</p>	<p>The applicant seeks approval under the:</p> <ul style="list-style-type: none"> Resource Management Act 1991 	<p>Applicant states mana whenua and other key stakeholders have informed the project. However it is unclear how they have informed the project.</p> <p>Affected parties include</p> <ul style="list-style-type: none"> Waikato-Tainui Waikato River Authority Waikato District Council and Huntly Community Board Residents and property owners in Huntly, and ratepayers of Waikato District 	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 – geotechnical considerations due to historic mining in Huntly to be mitigated during construction.</p> <p>The applicant has a poor compliance history under the relevant legislation.</p> <p>Not answered</p> <p>The project involves an activity that would occur on land that the Minister for Treaty of Waitangi Negotiations</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>Applicant states they are ready to work promptly.</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>Yes – Waikato District Council's 2021-31 Long Term Plan & in Council's Draft Enhanced Annual Plan for 2024/25</p> <p>The project will deliver regionally or nationally significant infrastructure.</p> <p>Yes – applicant states this is a regionally significant project within the Future Proof Sub-Region.</p> <p>The project will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment.</p> <p>Yes – essential infrastructure for increasing housing supply and contributing to a well-functioning urban environment.</p> <p>The project will deliver significant economic benefits.</p> <p>Yes – applicant states indirect benefits as the project will enable a \$1.2 billion estate development.</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> <p>The project will support climate change mitigation, including the reduction or removal of greenhouse gas emissions.</p> <p>Yes – applicant states solar upgrade and biochar solid stream upgrade will reduce emissions and will have a net carbon negative process.</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>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>The project will support adaptation, resilience, and recovery from natural hazards.</p> <p>Yes – applicant states wastewater treatment infrastructure designed to be more resilient to severe weather and earthquakes.</p> <p>The project will address significant environmental issues.</p> <p>Yes – applicant states improvements to water quality in the Waikato River by giving effect to Tu Ture Whaimana</p> <p>The project is consistent with local or regional planning documents, including spatial strategies.</p> <p>Yes – Waikato District Council's 2021-31 Long Term Plan</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.</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"> • Waikato-Tainui • Waikato Raupatu River Trust • Waikato River Authority <p><u>Waikato-Tainui</u></p> <p>Waikato-Tainui is an iwi whose area of interest includes the proposed project site, based on the Area of Interest agreed between Waikato-Tainui and the Crown in the Deed of Settlement signed 22 May 1995.¹ In addition, the Waikato River settlement arrangements also include the proposed project site, based on the SO Plan agreed between Waikato-Tainui and the Crown in the Deed of Settlement signed 17 December 2009.</p> <p><u>Waikato River Authority</u></p> <p>The Waikato River Authority was established as a statutory body under the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.</p> <p>In addition to the groups identified by the applicants, there are also outstanding Waikato-Tainui claims.</p> <p><u>Waikato-Tainui remaining claims</u></p> <p>Waikato-Tainui are yet to settle their remaining historical Treaty of Waitangi claims and so the area of interest is not confirmed. There is a proposed area of interest included in the Terms of Negotiation signed 14 December 2020 and the proposed project location is within this area.³ Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.</p>
<p>Has the applicant consulted with those Māori groups?</p>	<p>The applicant has states that:</p> <ul style="list-style-type: none"> • The Waikato District Council and Waikato-Tainui have a joint management agreement (JMA), and a joint committee is responsible for implementing schedules of the JMA. The Joint Committee receives updates on capital works, such as the Huntly WWTP which is a standard recurring agenda meeting. • Watercare Waikato is contracted to deliver all water services within the Waikato District. Representatives of Waikato-Tainui are on the independent Waters Governance Board. • The Waikato River Authority is aware of existing consents and the Waikato District Council's plans to upgrade. <p>No further detail is provided by the applicant on Waikato-Tainui or the Waikato River Authority's views on the proposed project.</p>

Impact/s of the project on Māori development and PSGE settlement priorities and related matters

Impacts on PSGE settlement priorities and Māori development

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.

In the time available, we have identified the following relevant plans and documents:

- Waikato-Tainui Environmental Management Plan
- Vision and Strategy for the Waikato River (addressed under relevant Treaty settlement arrangements below)

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.

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.

Impact on Treaty settlements and other relevant arrangements

Waikato Raupatu Claims Settlement Act 1995

There are no statutory acknowledgements in the Waikato Raupatu Claims Settlement Act 1995, which the applicant has identified. There are no other mechanisms in the Act that appear to be directly impacted by the project.

Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010

The application identifies the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 as applying to the project as it is located within the Waikato River catchment. The catchment area is provided for in the SO plan agreed between Waikato-Tainui and the Crown in the Deed of Settlement signed 17 December 2009.⁷ This includes the proposed project site. The Waikato-River arrangements are detailed with a number of powerful and complex interactions with the legislation including the RMA, conservation and heritage legislation.

The Waikato-Tainui river arrangements are recorded in the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010. The overarching purpose of the settlement is to restore and protect the health and wellbeing of the Waikato River for future generations.

There are two underlying principles in the settlement:

Te Mana o te Awa

To Waikato-Tainui, the Waikato River is a tupuna (ancestor) which has mana (prestige) and in turn represents the mana and mauri (life force) of the tribe. Respect for te mana o te awa (the spiritual authority, protective power and prestige of the Waikato River) is at the heart of the relationship between the tribe and their ancestral river:

Mana whakahaere

Mana whakahaere embodies the authority that Waikato-Tainui and other River tribes have established in respect of the Waikato River over many generations, to exercise control, access to and management of the Waikato River and its resources in accordance with tikanga (values, ethics and norms of conduct). For Waikato-Tainui, mana whakahaere has long been exercised under the mana of the Kiingitanga:

The key elements provided for in the legislation include:

- A statement of significance of the river to Waikato-Tainui
- The Waikato River Authority (co-governance entity with five iwi and five Crown appointed members)
- Te Ture Whaimana (vision and strategy) – the primary direction setting strategic document for the Waikato River
- The Clean-Up Trust (with the Waikato River Authority as the trustee)
- The Waikato River Authority appointing half of the hearing commissions for resource consent applications relating to the river
- Arrangements to reflect the mana whakahaere of Waikato-Tainui including:
 - joint management agreements under the RMA
 - recognition of the exercise of customary activities on the river
 - recognition of the Waikato-Tainui iwi environmental plan
 - an integrated river management plan.

The interactions between the Waikato River arrangements and the RMA, conservation and heritage legislation include the following:

- Te Ture Whaimana (the vision and strategy) is a powerful planning document and is stated in the legislation to be the 'primary direction setting' document for the river:
 - It is incorporated directly and without amendment into the RMA regional policy statement
 - It overrides any direction in an RMA national policy statement
 - RMA regional and district plans must give effect to Te Ture Whaimana
 - It has the status of 'general policy' under the conservation legislation
 - A number of decision-makers must 'have particular regard' to Te Ture Whaimana (including under the RMA, conservation and heritage legislation)

The joint management agreements (JMAs) between the river iwi and each local authority are expressly provided for and required under the legislation. Those JMAs have been negotiated and agreed, and include:

- A range of RMA mechanisms (including a committee structure for RMA planning processes with Waikato-Tainui as part of the decision-making structure, and provisions for RMA consenting and monitoring/enforcement). There are detailed provisions to provide for Waikato-Tainui involvement in decision-making and processes under the RMA
- A range of customary activities can be exercised on the river and are exempt from having to comply with the RMA
- A decision-maker on a resource consent and under conservation legislation must have regard to the Waikato-Tainui environmental plan.

The Waikato River arrangements have a significant influence over statutory processes including complex interactions with the RMA, conservation, wildlife and heritage legislation. Any change to the statutory processes for these authorisations (for example, through the fast-track process) could have a significant impact on the operation and integrity of the arrangements.

Iwi Environment Management plans

	<p>Note the comments above in relation to iwi management plans.</p> <p><u>Implications for groups yet to settle their historical Treaty of Waitangi claims</u></p> <p>There are groups still working through their Treaty settlement processes. For example, the remaining Waikato-Tainui claims. 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><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), 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-high 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.