

FTA#095: Application for listed project under the Fast-track Approvals Bill – Implementation of the Ōtākaro Avon River Corridor Regeneration Plan Project for Schedule 2A

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

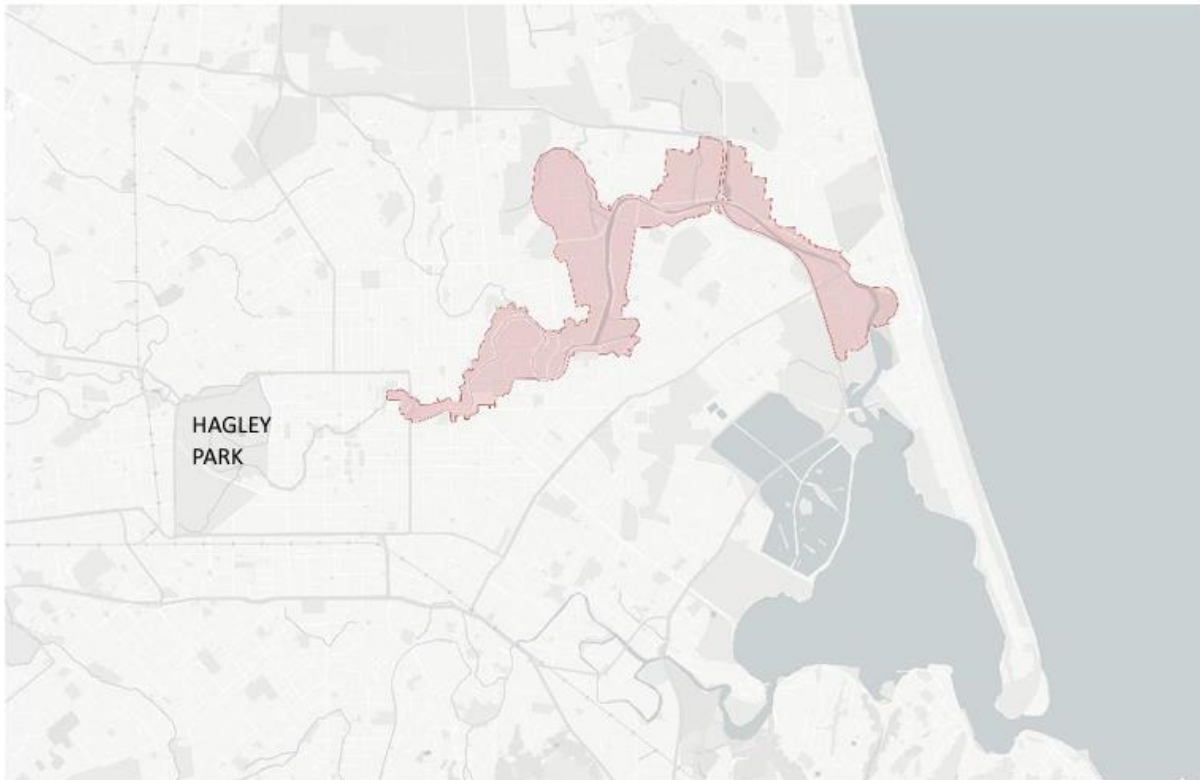
Number of attachments: #	Attachments: 1. Application documents for Implementation of the Ōtākaro Avon River Corridor Regeneration Plan Project
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Applicant	Sector	Region	Identified in a priority/strategy?
Christchurch City Council	Infrastructure	Canterbury	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



Key messages

1. The Implementation of the Ōtākaro Avon River Corridor Regeneration Plan project is to provide the infrastructure and facilities to regenerate the Ōtākaro Avon River in response to the Canterbury earthquakes, including stop banks and pumping stations for flood protection, stormwater detention and treatment, large scale planting, wetland restoration, transport, community facilities (recreation, tourism and sporting) and river work, such as bank naturalisation or armouring, opening of the tidal wetlands and construction of new outfall structures.
2. The project will comprise:
 - a. 22km of stop bank installation
 - b. 18 pumping stations to mitigate flood hazards
 - c. Detention points, wetlands and other stormwater infrastructure installation to improve water quality and reduce flood risk
 - d. Ground improvement and land stabilisation
 - e. Large scale planting (200,000 trees) and ecological restoration
 - f. Multi-modal transport infrastructure
 - g. Establish areas for community facilities and public open spaces
 - h. Placement of fill on the Bexley landfill site
3. The project will require resource consents under the Resource Management Act 1991 (RMA). ; Concessions under the Wildlife Act 1953 and Heritage New Zealand Pouhere

Taonga Act 2014 will also be required.

4. Christchurch City Council owns the majority of project land. Some ancillary work may require NZTA or Orion property access.
5. The Department of Conservation states there are a couple of small parcels of Public Conservation Land within the project, which would need to obtain the appropriate conservation concessions, which would likely be supported by DOC. Note there are also several other Reserves gazetted under the Reserves Act within the area, mostly either vested in, or controlled and managed by, the City Council itself.
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



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	Y/N			
<p>Schedule requested 2A</p> <p>Project Name Implementation of the Ōtākaro Avon River Corridor Regeneration Plan</p> <p>Applicant Christchurch City Council</p> <p>Company director/s Phil Mauger, Christchurch Mayor</p> <p>Location Ōtākaro Avon River Corridor (OARC) and surrounds including Bexley Park, eastern Christchurch</p> <p>Land Status Christchurch City Council owns the majority of project land. Some ancillary work may require NZTA or Orion property access. The Department of Conservation states there are a</p>	<p>To provide the infrastructure and facilities to regenerate the Ōtākaro Avon River in response to the Canterbury earthquakes, including stop banks and pumping stations for flood protection, stormwater detention and treatment, large scale planting, wetland restoration, transport, community facilities (recreation, tourism and sporting) and river work, such as bank naturalisation or armouring, opening of the tidal wetlands and construction of new outfall structures.</p> <p>The project will comprise:</p> <p>22km of stop bank installation</p> <p>18 pumping stations to mitigate flood hazards</p> <p>Detention points, wetlands and other stormwater infrastructure installation to improve water</p>	<p>The applicant seeks approval under the:</p> <ul style="list-style-type: none"> • Resource Management Act 1991 • Heritage New Zealand Pouhere Taonga Act 2014 • Wildlife Act 1953 	<p>Yes, affected parties include Canterbury Regional Council, Te Tunanga o Ngāi Tahu, Te Ngāi Tūāhuiriri, Ihutai Agu Whenua Trust, Private owners.</p> <p>Te Ngāi Tūāhuiriri are suggested to be included in governance decision-making.</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 – the applicant noted minor floor risk to some nearby landowners and some sediment discharge during construction, with suggested mitigation plan in place.</p> <p>The applicant has a poor compliance history under the relevant legislation.</p> <p>Yes – eight other projects have received abatement notices between</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>Project is well understood and consulted on. Project is shovel ready.</p> <p>Whether the application contains sufficient information to inform</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 – Ōtākaro Avon River Corridor noted as a Specific Purpose zone in the Christchurch District Plan</p> <p>The project will deliver regionally or nationally significant infrastructure.</p> <p>Yes – applicant states this is regionally significant restoration. However potentially national significance as providing conservation opportunities for threatened and at risk native species.</p> <p>The project will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment.</p> <p>Yes – applicant states it supports good accessibility for people between housing, jobs and community spaces as well as providing resilience to flooding from climate change.</p> <p>The project will deliver significant economic benefits.</p> <p>Yes – applicant anticipates \$334 million spent on construction, contributing to local economy. Also notes potential to increase nearby house prices.</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 – planting and wetland restoration will act as carbon sinks. Cycle and walking paths encouraging alternative</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.

couple of small parcels of Public Conservation Land within the project, which would need to obtain the appropriate conservation concessions, which would likely be supported by DOC. Note there are also several other Reserves gazetted under the Reserves Act within the area, mostly either vested in, or controlled and managed by, the City Council itself	<p>quality and reduce flood risk</p> <p>Ground improvement and land stabilisation</p> <p>Large scale planting (200,000 trees) and ecological restoration</p> <p>Multi-modal transport infrastructure</p> <p>Establish areas for community facilities and public open spaces</p> <p>Placement of fill on the Bexley landfill site</p>							<p>2004-2023. This is minimal considering the number of projects the council undertakes.</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>the referral decision.</p> <p>Yes</p>	<p>forms of commuting. Plan has potential to sequester 2.6B tonnes of CO2.</p> <p>The project will support adaptation, resilience, and recovery from natural hazards.</p> <p>Yes –moving stop banks and adding stormwater pump stations for better resilience to natural hazards and reduce flooding of homes</p> <p>The project will address significant environmental issues.</p> <p>Yes– applicant states the project will provide habitat to nationally significant flora and fauna, while reestablishing wetlands and enhancing riparian margins.</p> <p>The project is consistent with local or regional planning documents, including spatial strategies.</p> <p>Yes – consistent with Canterbury Land and Water Regional Plan and Christchurch District Plan. The regeneration plan has also influenced the Integrated Water Strategy, Climate Resilience Strategy, Resilient Great Christchurch and Long-Term Plans.</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.

Ineligible projects - based on the considerations at cl18(a–e) of the Fast Track Approvals Bill (version as at introduction)	The applicant has stated that the project is not ineligible, however we note that, while the applicant states there are no identified parcels of Māori land, marae and identified wāhi tapu, it also states that this will be confirmed as the project progresses.
Affected Māori group/s	<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 <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 as provided in the Ngāi Tahu Deed of Settlement dated 21 November 1997.¹ Ngāi Tūāhuriri is a papatipu runaka of Ngāi Tahu for the area.</p> <p><u>Marine and Coastal Area (Takutai Moana) Act 2011 applicants</u> The applicant states that some ancillary works may require access in the coastal marine area. There are groups with applications under the Marine and Coastal Area (Takutai Moana) Act 2011 in that area that may therefore be affected.</p>
Has the applicant consulted with those Māori groups?	The applicant states that it has undertaken initial engagement with Te Ngāi Tūāhuriri as part of preparing this application and that there will be further engagement, including as part of governance decision-making on the programme of work. No further details were provided on the type of engagement or outcomes of the engagement.
Impact/s of the project on Māori development and PSGE settlement priorities and related matters	<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 • Te Whakatau Kaupapa Ngāi Tahu Resource Management Strategy for the Canterbury Region • The Mahaanui Iwi Management Plan

	<ul style="list-style-type: none"> • 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.</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. 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><u>Iwi Environment Management plans</u></p> <p>Note the comments above in relation to iwi management plans.</p> <p><u>Implications arising under the Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019</u></p> <p>The project area, specifically ancillary works related to the project, may be within the common marine and coastal area. Within this area there are no customary marine title or protected customary rights holders under the Marine and Coastal Area (Takutai Moana) Act 2011 recorded on the register – Marine and Coastal Area Register Toitū Te Whenua - Land Information New Zealand (linz.govt.nz). There are however 4 applications by whānau, hapū and iwi groups who have applied to have their customary interests recognised under the Act.</p> <p>Under the Act, takutai moana applicant groups have certain rights in relation to consenting processes under the Resource Management Act 1991, including the right to be consulted on resource consent applications in their takutai moana application area. The Fast-track Approvals Bill currently provides for consultation with takutai moana applicant groups on Schedule 2B projects at the Ministerial referral stage, and the clause 13 report must include information about the relevant takutai moana applicant groups in the project area. For schedule 2A projects these steps would not apply. For listed projects (both Schedule 2A and 2B), the Fast-track Approvals Bill as currently drafted, does not provide for consultation with takutai moana applicant groups at the expert panel stage.</p> <p>This means that an implication of listing a project under Schedule 2A is that takutai moana applicants would not have the ability to input into the process at all, and for Schedule 2B listing the only opportunity for any input is at the Ministerial referral stage.</p> <p>As the project area is outside of ngā rohe moana o ngā hapū o Ngāti Porou there are no implications for the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 arising from this application.</p> <p><u>Other matters</u></p> <p>There have been no joint management agreements or mana whakahono ā rohe 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.