

FTA#303: Application for listed project under the Fast-track Approvals Bill – The Kaikohe Wastewater Treatment Plant Renewal Project for Schedule 2A

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

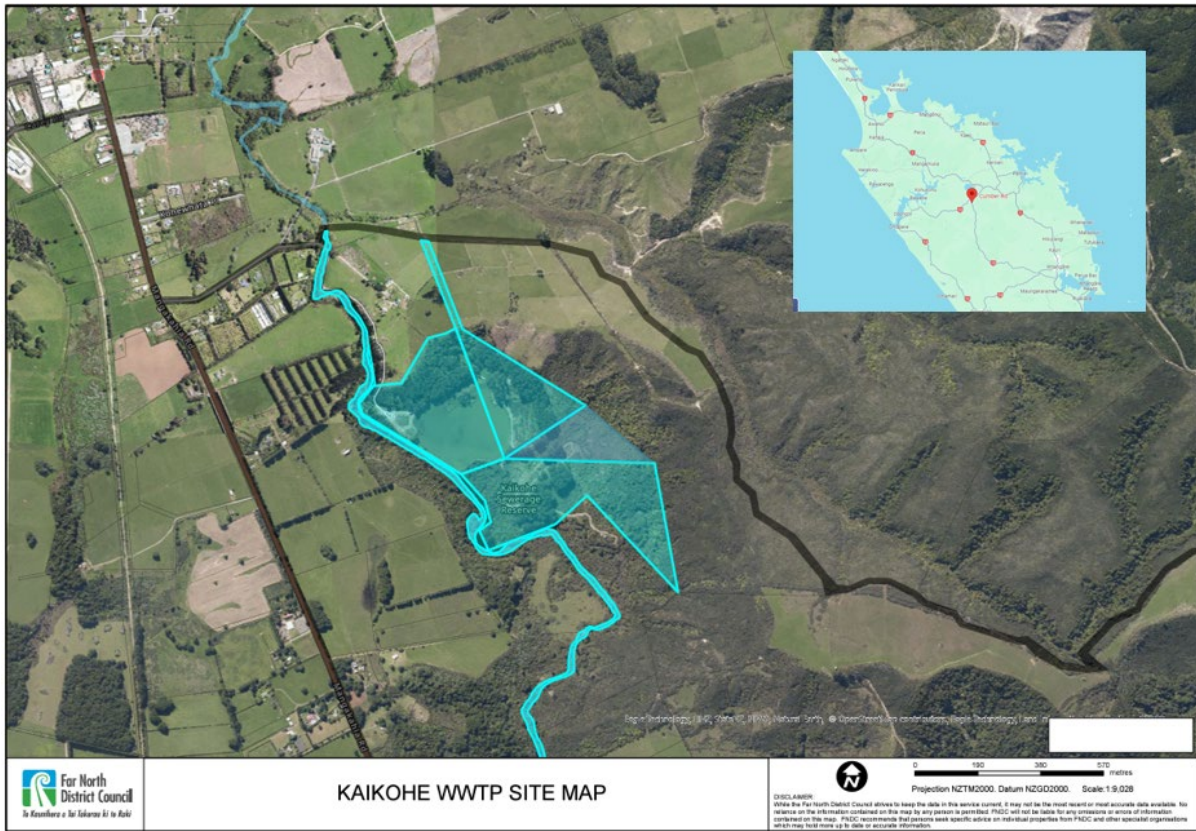
Number of attachments: #	Attachments: 1. Application documents for The Kaikohe Wastewater Treatment Plant Renewal Project
--------------------------	---

Applicant	Sector	Region	Identified in a priority/strategy?
Far North District Council	Public Infrastructure	Northland	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 Kaikohe Wastewater Treatment Plant Renewal project is to resolve non-compliance issues and improve the treatment process at the Kaikohe Wastewater Treatment Plant.
2. The project will comprise:
 - a. Inlet works
 - b. Upgrade to a Membrane Bioreactor system (pre denitrification zone, aeration zone, post denitrification zone, re-aeration zone)
 - c. Membrane separation
 - d. UV disinfection
3. The project will require resource consents under the Resource Management Act 1991 (RMA).
4. The resource consent authorising the discharge from the Kaikohe Wastewater Treatment Plant (WWTP) plant expired on 30 November 2021 and the applicant applied for a new discharge consent in August 2021. The application was placed on hold by Northland Regional Council to allow a working group to be established to determine the future options for discharge for the Kaikohe WWTP.
5. Project site is on freehold land registered to the applicant Far North District Council.
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 – 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 The Kaikohe Wastewater Treatment Plant Renewal</p> <p>Applicant Far North District Council</p> <p>Location Kaikohe Wastewater Treatment Plant located on Cumber Road, Kaikohe</p> <p>Land Status Project site is on freehold land registered to the applicant Far North District Council.</p>	<p>The Kaikohe Wastewater Treatment Plant Renewal project is to resolve non-compliance issues and improve the treatment process at the Kaikohe Wastewater Treatment Plant.</p> <p>The project will comprise:</p> <p>Inlet works</p> <p>Upgrade to a Membrane Bioreactor system (pre denitrification zone, aeration zone, post denitrification zone, re-aeration zone)</p> <p>Membrane separation</p> <p>UV disinfection</p>	<p>The applicant seeks approval under the:</p> <ul style="list-style-type: none"> Resource Management Act 1991 	<p>Yes</p> <p>The project has a working group, Ngā Hapū o Kaikohe, consisting of hapu representatives and the applicant. A letter of support from hapū is included in this application.</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>Yes – Applicant states minor adverse effects on aquatic habitats arising from increased periphyton growth and nutrient loads and potential for contaminants in soil.</p> <p>The applicant has a poor compliance history under the relevant legislation.</p> <p>Yes – Applicant provided list of 32 notices relating to water consents.</p> <p>The project involves an activity that would occur on land that the Minister for Treaty of Waitangi Negotiations considers</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>No</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 – Far North District Council's Long Term Plan - Budget 2024-2027.</p> <p>The project will deliver regionally or nationally significant infrastructure.</p> <p>Yes – Applicant states this is regionally significant. The plant currently treats sewage generated by approximately 4,500 people within the community</p> <p>The project will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment.</p> <p>Yes – Contributes to a well-functioning urban environment.</p> <p>The project will deliver significant economic benefits.</p> <p>Yes – Applicant anticipates 40 FTE during construction</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>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 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 – Proper treatment reduces greenhouse gas emissions associated with untreated sewage and sludge</p> <p>The project will support adaptation, resilience, and recovery from natural hazards.</p> <p>Yes – Applicant states the plant is designed to withstand natural disasters such as floods, earthquakes, and storms.</p> <p>The project will address significant environmental issues.</p> <p>Yes – The applicant states the new plant would remove ammonia currently present downstream of the plant & overall reduce nutrient output.</p> <p>The project is consistent with local or regional planning documents, including spatial strategies.</p> <p>Yes – Far North District Council's Long Term Plan - Budget 2024-2027.</p>
--	--	--	--	--	--	--	--	---	--	---

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 project does not appear to be ineligible according to the information provided in the application.
Affected Māori group/s	<p>The applicant has identified Ngā Hapū ō Kaikohekohe as having interests in the project area.</p> <p><u>Ngā Hapū o Kaikohekohe</u> The applicant stated that Ngā Hapū ō Kaikohekohe is a working group consisting of hapū representatives including Te Uri o Hua, Te Takotokē, Ngāti Kura, Ngāti Whakaeke, Ngāti Tautahi Haou, Te Matarahurahu and Ngāti Ueoneone and the Far North District Council. These hapū are hapū of Ngāpuhi.</p> <p><u>Ngāpuhi</u> Ngāpuhi are yet to settle their historical Treaty of Waitangi claims and so the area of interest of the Ngāpuhi is not confirmed through a Treaty settlement as yet. Information from Te Kāhui Māngai confirms the proposed project location as being closely adjacent to the area of interest for Ngāpuhi.² Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations. Ngāti Kura, Te Uri o Hua, Ngāti Whakaeke, Ngāti Tautahi, Te Matarahurahu/Ngāti Ueoneone and Te Takotokē are hapū of Ngāpuhi.</p>
Has the applicant consulted with those Māori groups?	The application states that the applicant has consulted with Ngā Hapū ō Kaikohekohe about the design of the project, and the application includes a letter of support from Ngā Hapū ō Kaikohekohe for the project and the fast tracking of the project.
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>Ngā Hapū ō Kaikohekohe have provided a letter of support for the project and the fast tracking of it. The letter of support states “We believe that [the project] holds significant benefits for our community including enabling affordable housing and environmental improvements” and “We believe that these works will contribute positively to our community’s well-being, environmental sustainability, and economic resilience.”</p> <p>The application further states that Ngā hapū o Kaikohekohe “strongly support the proposal as an opportunity to return the life essence of the water to how it was for the future generations to come and to recognize the whakapapa and authority of hapū over their rohe in accordance with the spirit of He Whakaputanga and Te Tiriti o Waitangi.”</p> <p>In the time available, we have not identified any relevant iwi management plans and documents.</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, Ngāpuhi. 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>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 (noting that the project is not in the common marine and coastal area). In the time available, officials have not identified any other relevant matters.</p>
Is the project considered low, medium or high impact (based on assessment criteria above)	<p>From the information available we consider this project is likely to be of low impact. This is due to the letter of support provided by the relevant groups.</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>
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

² TKM | Iwi | Ngāpuhi | Te Kahui Māngai

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.