

FTA#256: Application for listed project under the Fast-track Approvals Bill – Klondyke Storage 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: 1	Attachments: 1. Application documents for the Klondyke Storage Project
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Applicant	Sector	Region	Identified in a priority/strategy?
Mid Canterbury Water Storage Limited	Water Infrastructure	Canterbury	No

Ministry for the Environment contacts

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

Project location



Key messages

1. The Klondyke Storage project aims to improve irrigation reliability of the existing MHV Water Ltd and Ashburton Lyndhurst Irrigation Ltd community irrigation schemes in mid Canterbury by constructing storage for up to 53M m³ of water. Existing consents allow water to be taken from the Rangitata and Ashburton Rivers via the Rangitata Diversion Race (RDR). Part of the RDR will be realigned to facilitate the diversion and take of water into storage. In 2018 consents were granted for a large storage facility at the site, however the applicant states they are not fit for purpose, and it is unfeasible to develop the entire consented facility (and implement all required mitigations) in the manner originally contemplated. Instead, they propose to stage the amount of available storage over time.
2. The project will require resource consents and a possible designation under the Resource Management Act 1991 (RMA).
3. The applicant owns the land on which the project will occur.
4. We have undertaken an initial (Stage 1) analysis of the application, and this is provided in Table A.
5. 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).
6. The project does not trigger the ineligibility criteria in clause 18 of the Fast-track Approvals Bill (the Bill).
7. 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

A handwritten signature in black ink, appearing to read 'S. Frame', is written on a light gray grid background. The signature is stylized with a large initial 'S' and a cursive 'Frame'.

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	N	N	N	N			
<p>Schedule requested 2A</p> <p>Project Name Klondyke Storage</p> <p>Applicant Mid Canterbury Water Storage Limited</p> <p>Company director/s Stevenn Edzo Broeils Bierema Colin Wesley Glass Cole David Groves Simon Abbott King Paul Jason Munro</p> <p>Location 917 & 986 Shepherds Bush Road, Ruapuna, Canterbury. Adjacent to the Rangitata River, approximately 38 km from Ashburton.</p> <p>Land Status The applicant owns the project land.</p>	<p>The Klondyke Storage project aims to improve irrigation reliability of the existing MHV Water Ltd and Ashburton Lyndhurst Irrigation Ltd community irrigation schemes in mid Canterbury by constructing storage for up to 53M m³ of water. Existing consents allow water to be taken from the Rangitata and Ashburton Rivers via the Rangitata Diversion Race (RDR). Part of the RDR will be realigned to facilitate the diversion and take of water into storage. In 2018 consents were granted for a large storage facility at the site, however the applicant states they are not fit for purpose, and it is unfeasible to develop the entire consented facility (and implement all required mitigations) in the manner originally contemplated. Instead, they propose to stage the amount of available storage over time.</p>	<p>The applicant seeks approval under the:</p> <ul style="list-style-type: none"> Resource Management Act 1991 <p>It is possible that approvals are also required under the:</p> <ul style="list-style-type: none"> Heritage New Zealand Pouhere Taonga Act 2014 Wildlife Act 1953 Public Works Act 1981 	<p>The applicant identifies the following parties as affected:</p> <ul style="list-style-type: none"> Ashburton District Council Canterbury Regional Council Te Rūnanga o Ngāi Tahu Te Rūnanga o Arowhenua <p>Extensive consultation occurred through the original consent process, with much focus on the effects of additional water take from the river (subsequently discontinued).</p> <p>The applicant has engaged with both councils and Te Rūnanga o Arowhenua, making them aware of the current project and dialogue 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>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.</p> <p>The Department of Conservation provided feedback on the application, noting:</p> <ul style="list-style-type: none"> There may be lizard habitat within the development footprint If the project impacts existing public access to main riverbed, alternative access will need to be provided. 	<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>Yes.</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>No – Although the importance of water storage infrastructure and improving water use efficiency in mid-Canterbury is recognised in the Canterbury Water Management Strategy 2009.</p> <p>The project will deliver regionally or nationally significant infrastructure.</p> <p>Yes – the Canterbury Regional Policy Statement recognises irrigation infrastructure as regionally significant.</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 potential value of increased supply reliability was assessed in 2016 in the order of \$33.5 million at the farm-gate, in the average season. The total (direct, indirect and induced) impact on Canterbury Regional GDP was estimated to be \$52.3 million per annum.</p> <p>The project will support primary industries, including aquaculture.</p> <p>Yes.</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 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.</p>	<p>The project will support development of natural resources, including minerals and petroleum.</p> <p>Yes.</p> <p>The project will support climate change mitigation, including the reduction or removal of greenhouse gas emissions.</p> <p>Yes – Water storage is a response to changes in water availability and reliability.</p> <p>The project will support adaptation, resilience, and recovery from natural hazards.</p> <p>Yes – Water storage is a response to changes in water availability and reliability (drought).</p> <p>The project will address significant environmental issues.</p> <p>Yes – Water use, and its availability and reliability is recognised as a significant issue in Canterbury, and storage is recognised as mitigation that will help achieve catchment targets and outcomes.</p> <p>The project is consistent with local or regional planning documents, including spatial strategies.</p> <p>Yes – On the basis that the potential adverse effects of the project on the surrounding environment are able to be appropriately managed, the project will be consistent with the local and regional planning documents.</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 project does not appear to be ineligible according to the information provided in the application.
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 Rūnanga o Arowhenua <p><u>Te Rūnanga o Ngāi Tahu</u></p> <p>Te Rūnanga o Ngāi Tahu is an iwi representative organisation of Ngāi Tahu.² The proposed project location is within the area of interest for Ngāi Tahu, based on the Area of Interest agreed between Ngāi Tahu and the Crown in a Deed of Settlement signed 21 November 1997.</p>

² TKM | Iwi | Ngāi Tahu | Te Kahui Mangai

	<p><u>Te Rūnanga o Arowhenua</u></p> <p>Te Rūnanga o Arowhenua is a papatipu runaka of Ngāi Tahu for the area.³ Department of Conservation have provided feedback that Te Rūnaka o Arowhenua are central to collaboration of manawhenua and six government agencies with various responsibilities for the Rakitata (a river running adjacent to the proposed project site). Department of Conservation advise they are committed to the wellbeing of the river and the community connected to it, and Department of Conservation are committed to the development and implementation of a restoration strategy.</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 states that it has consulted with Te Rūnanga o Arowhenua making them aware of the project and that consultation will be ongoing. No further detail on the type or outcomes of the consultation were provided with the application.</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 • Te Whakatau Kaupapa Ngāi Tahu Resource Management Strategy for the Canterbury Region • 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. The applicant has identified the statutory acknowledgement in relation to Rangitata River as being relevant to the project. Department of Conservation has provided feedback that the project site is adjacent to the riverbed of Rakitata Awa.</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>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 does not appear to be 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.</p>

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

	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.