

FTA#101: Application for listed project under the Fast-track Approvals Bill – Macraes Phase Four (MP4) Project for Schedule 2A

Date submitted to secretariat:	7 June 2024
Security level:	In-Confidence
To:	David TAPSELL, Chair – Fast-track Projects Advisory Group

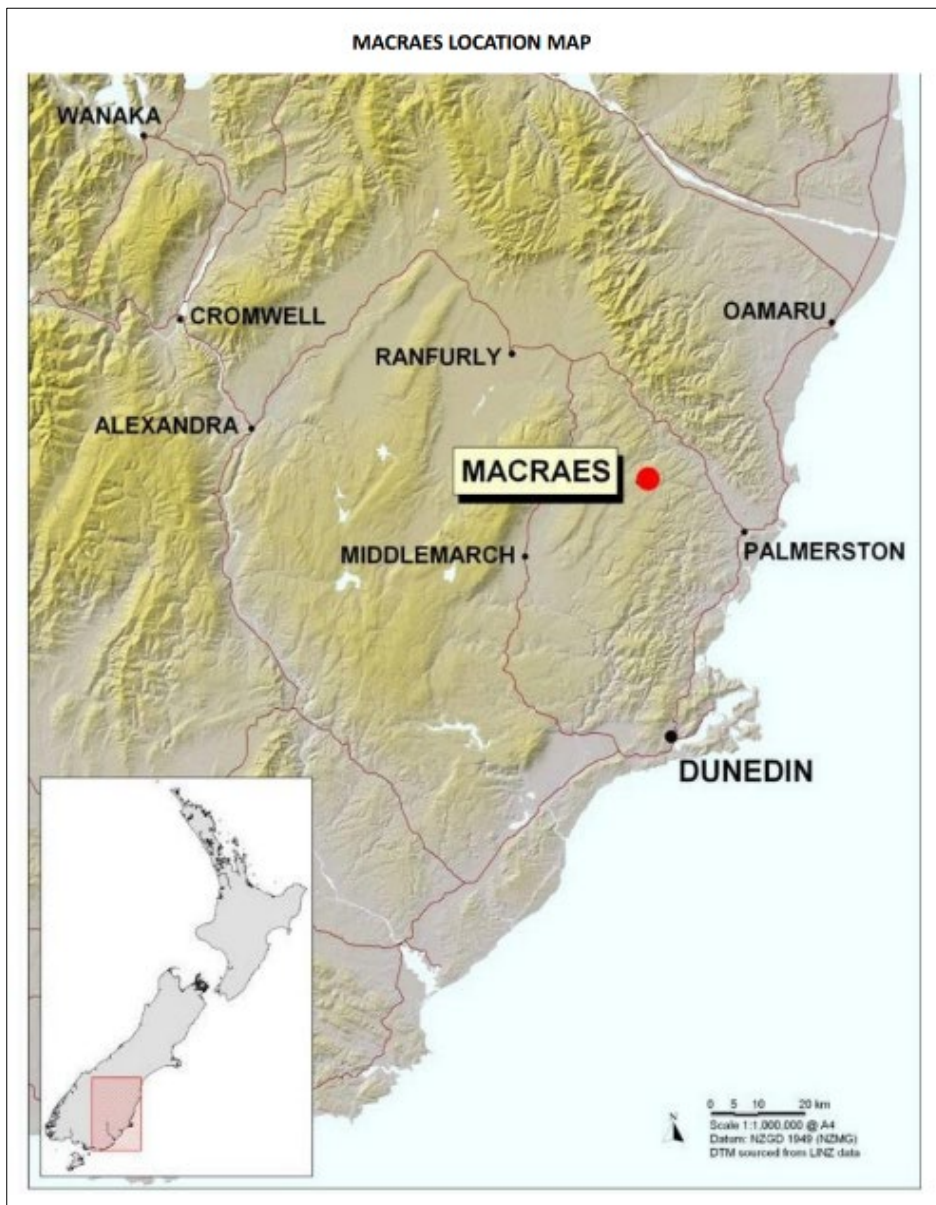
Number of attachments: #	Attachments: 1. Application documents for Macraes Phase Four (MP4) Project
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Applicant	Sector	Region	Identified in a priority/strategy?
Oceana Gold (New Zealand) Limited	Mining	Otago	No

Ministry for the Environment contacts

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

Project location



Key messages

1. The Macraes Phase Four (MP4) project is for the staged expansion of the existing and future open pits and underground mining operations over parts of the 13,500-hectare total site area at Golden Point Road, Macraes Flat, East Otago. The project will extend the life of the mine, due to expire in 2026 until 2036. The project will contribute to the total and continued output of 130,000 ounces of gold per annum.
2. The project will comprise:
 - a. exploration, geotechnical and hydrogeological investigation, design and infrastructure construction at selected locations throughout the project footprint
 - b. site preparation earthworks, realignment of roads and access

- c. consenting and re-consenting of associated waste rock storage, associated water management, re-mining and reprocessing tailings
 - d. constructing Camp Creek and Coal Creek water storage dams and associated use plus other water management infrastructure
 - e. development of a predator controlled, covenanted ecological enhancement area.
3. The project will require resource consents under the Resource Management Act 1991 (RMA), authorities under the Heritage New Zealand Pouhere Taonga Act 2014 and authorities under the Wildlife Act 1953. Regarding use or closure of the road, the applicant will require approvals under the Local Government Act 1974 or the Public Works Act 1981.
 4. The applicant is the landowner. Parts of the project area involve road closure, requiring approvals under the Local Government Act 1974 or Public Works Act 1981, and will follow the same process as previous stages.
 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** 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).
 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 Macraes Phase Four (MP4)</p> <p>Applicant Oceana Gold (New Zealand) Limited</p> <p>Company director/s • Alison Claire Paul • Peter John Sharpe</p> <p>Location Golden Point Road, Macraes Flat, East Otago</p> <p>Department of Conservation advice is that Public Conservation Land, namely Golden Point Historic Reserve, Deepdell Creek Conservation Area, Murphys Flat Historic Reserve is present within the applicant's wider Crown</p>	<p>The Macraes Phase Four (MP4) project is for the staged expansion of the existing and future open pits and underground mining operations over parts of the 13,500-hectare total site area at Golden Point Road, Macraes Flat, East Otago. The project will extend the life of the mine, due to expire in 2026 until 2036. The project will contribute to the total and continued output of 130,000 ounces of gold per annum.</p> <p>The project will comprise:</p> <ul style="list-style-type: none"> • exploration, geotechnical and hydrogeological investigation, design and infrastructure construction at selected locations throughout the project footprint • site preparation earthworks, realignment of roads and access • consenting and consenting of associated waste 	<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 – DoC have received an application regarding native lizard populations. <p>Regarding use or closure of the of the road, the applicant will require approvals under the:</p> <ul style="list-style-type: none"> • Local Government Act 1974 • Public Works Act 1981. <p>DoC advise that approvals may be required relating to the presence of threatened native non-migratory galaxias fish</p>	<p>The application identifies the following as persons affected:</p> <ul style="list-style-type: none"> • Waitaki District Council • Dunedin City Council • Otago Regional Council • A small number of private landowners with land or residences neighbouring or close to the mine • Farm leaseholders (of OceanaGold land) • Macraes Community Incorporated (Macraes township) (MCI) • Fish and Game • Department of Conservation (DoC) • Te Rūnanga o Moeraki • Kāti Huirapa Rūnaka ki Puketeraki • Te Rūnanga o Ōtakou • Kai Tahu <p>The applicant identifies that from</p>	No.	No – The applicant identifies that the existing mining permit has related access arrangements in place which cover the project area.	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 – the application and Treaty advice below has not identified any inconsistency grounds.</p> <p>It is more appropriate to deal with the application under another Act.</p> <p>No – although the application identifies that approvals will be required under the RMA, we consider the project could be assessed by an expert panel with the benefit of a full application, in a post-enactment context.</p> <p>The project may have significant adverse effects on the environment.</p> <p>Yes – the applicant identifies effects relating to cultural effects, economic effects, social effects, biodiversity effects, hydrological effects, landscape and visual effects, transport effects, amenity effects, air quality effects, and effects relating</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 – the applicant identifies that consenting and permitting requirements have changed and processing timeframes have become extended and more complex, including recent changes in DoC's approach to the administration of the Wildlife Act following from case law in 2019, where the ability to incorporate conventional planning and consenting and wildlife permitting processes has resulted in process duplication, complexities and delays.</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>No.</p> <p>The project will deliver significant economic benefits.</p> <p>Yes – the project will enable the continuation of the mine's annual GDP contribution of \$200 million including annual gold exports of 130,000 ounces, and employment of 600 direct and 2000 indirect jobs. The applicant expects regional contributions in payments to employees and local suppliers to amount to \$80 million, and to generate \$5 million in ongoing Crown Minerals royalties.</p> <p>The project will support primary industries, including aquaculture.</p> <p>Yes – under the National Planning Standards, the definition of primary production means (among other things) mining activities and includes initial processing as well as land and buildings.</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>Minerals Permit. Whether concessions or a land access arrangement are required for these is not entirely clear.</p> <p>The applicant states no requirement. This may need to be clarified.</p> <p>Land Status</p> <p>The applicant is the landowner. Parts of the project area involve road closure, requiring approvals under the Local Government Act 1974 or Public Works Act 1981, and will follow the same process as previous stages.</p>	<p>rock storage, associated water management, re-mining and reprocessing tailings</p> <ul style="list-style-type: none"> • constructing Camp Creek and Coal Creek water storage dams and associated use plus other water management infrastructure • development of a predator controlled, covenanted ecological enhancement area. 	<p>species if habitat is affected.</p>	<p>2022, ahead of lodging its recently resolved applications for resource consents in 2023 and March 2024, they engaged in consultation with key stakeholders on various elements of the project.</p>					<p>to mine closure and aftercare.</p> <p>The applicant has identified effects specific to the project relating to surface water and ground water, aquatic ecology, vibration and noise, landscape and visual amenity, roading and traffic, air quality, terrestrial ecology, heritage, post-closure effects, contaminated land and hazardous substances.</p> <p>DoC have identified the presence of native lizard populations and threatened native non-migratory galaxias fish species and habitat.</p> <p>We consider that the appropriate management of adverse effects, including remediation and mitigation could be assessed by an expert panel with the benefit of a full application, in a post-enactment context.</p> <p>The applicant has a poor compliance history under the relevant legislation.</p> <p>No – the applicant identifies:</p> <ul style="list-style-type: none"> • Prosecution by West Coast Regional Council in 2009, for sediment discharge into Devils Creek from a silt settling pond at Reefton mine. Pled guilty. Remediation works proposed. • Abatement notice issued by Otago Regional Council in February 2024 for outdoor storage of tyres in excess of 20m³ at project site. Applicant to obtain resource consent according with RM (National Environmental Standards for Storing Tyres Outside) Regulations 2021. <p>The project involves an activity that would occur on land that the Minister for Treaty of Waitangi</p>	<p>An effective and coordinated way of securing the required permissions and a consolidated set of conditions and requirements is vital for project continuity beyond 2026.</p> <p>The impact referring this project will have on the efficient operation of the fast-track process.</p> <p>No – the applicant identifies that they will offer a shovel-ready project with 34 years of history and baseline data, a full set of technical assessments of effects and mitigations/offsets for the purposes of the RMA and the Wildlife Act, supported by years of stakeholder and iwi feedback, council consultation and assessment, meaning it would be well-suited to early and efficient referral and disposition through expert panel and Ministerial decision processes.</p> <p>Whether the application contains sufficient information to inform the referral decision.</p> <p>Yes – we consider the applicant has provided sufficient information to consider it for listing in Schedule 2A.</p>	<p>The project will support development of natural resources, including minerals and petroleum.</p> <p>Yes – the applicant identifies that the project will produce 130,000 ounces of gold per annum, together with silver by-product, including the potential development of tungsten by-product opportunity identified as the site.</p> <p>The project will support climate change mitigation, including the reduction or removal of greenhouse gas emissions.</p> <p>No.</p> <p>The project will support adaptation, resilience, and recovery from natural hazards.</p> <p>No – although the applicant identifies the requirement to comply with regulatory standards including the NZ Society on Large Dams and incorporate seismic and climate-based designed considerations.</p> <p>The project will address significant environmental issues.</p> <p>No – although the applicant identifies they have a strong track record of managing impacts on environmental values, using management techniques (such as avoidance, mitigation, offsetting and compensation) with a long association with the mine and ecological district. The applicant identifies that over 85% of the 13,500 hectare total site area is undisturbed by mining is mainly used for farming. The applicant is continuing create covenanted areas to preserve and foster biodiversity.</p> <p>The project will include the establishment of the Murphys Ecological Enhancement Area, an approximately 91 hectare area with predator control, to achieve a net gain in biodiversity, as well as providing an area for rescued rare plants and a shrubland offset, salvaged lizards will also be relocated to the enhancement area.</p> <p>The project is consistent with local or regional planning documents, including spatial strategies.</p> <p>Yes – the project is consistent with the local (Waitaki District Plan and Dunedin City 2GP – relevant to the proposed Coronation and Coronation North mine area extensions) and regional planning documents (Partially Operative and Proposed Otago Regional Policy Statement, Regional Plan: Air for Otago, Regional Plan: Water for Otago), where adverse effects on the receiving</p>
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									<p>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>environment are able to be appropriately managed and mitigated.</p> <p>Anything else</p> <p>Yes – the applicant holds mineral permits under the Crown Minerals Act which expire in 2030 (able to extend duration) and 2045. The applicant holds multiple resource consents for the existing operations that also support the project.</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)	This project does not appear to be ineligible according to the information provided in the application.
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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 Moeraki • Kāti Huirapa Rūnaka ki Puketeraki • Te Rūnanga o Ōtākou • Ngāi Tahu <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 dated 21 November 1997.²</p> <p><u>Te Rūnanga o Moeraki</u></p> <p>Te Rūnanga o Moeraki is a papatipu rūnanga of Ngāi Tahu for the area.³</p> <p><u>Kāti Huirapa Rūnaka ki Puketeraki</u></p> <p>Kāti Huirapa Rūnaka ki Puketeraki is a papatipu rūnanga of Ngāi Tahu for the area.⁴</p> <p><u>Te Rūnanga o Ōtākou</u></p> <p>Te Rūnanga o Ōtākou is a papatipu rūnanga of Ngāi Tahu for the area.⁵</p> <p>We have not identified any additional groups beyond those identified by the applicant.</p>
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Has the applicant consulted with those Māori groups?	<p>The applicant states that Aukaha, on behalf of local rūnanga, have prepared a Cultural Impact Assessment but have not yet made a copy available.</p> <p>It is not clear which groups the applicant has consulted with and when consultation occurred. The applicant makes statements such as:</p> <ul style="list-style-type: none"> • “From 2022, ahead of lodging its recently resolved and extant applications for resource consents in 2023 and March 2024, OceanaGold engaged in consultation with key stakeholders on various elements of the project.”
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² TKM | Iwi | Ngāi Tahu | Te Kāhui Māngai

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

⁴ Papatipu Rūnanga | Te Rūnanga o Ngāi Tahu (ngaitahu.iwi.nz)

⁵ Papatipu Rūnanga | Te Rūnanga o Ngāi Tahu (ngaitahu.iwi.nz)

	<p>"Post-lodgement consultation has been ongoing. OceanaGold anticipates that if MP4 becomes a listed project it will, in good faith, maintain meaningful dialogue with key stakeholders through all stages of the project unless they do not wish to engage with the company."</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 • Kai Tahu Ki Otago's Natural Resource Management Plan • 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 plans 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. The applicant states that there are no statutory acknowledgement areas relevant to the project. 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>Iwi Environment Management plans</p> <p>Note the comments above in relation to iwi management plans.</p> <p><u>Other matters</u></p> <p>There have been no joint management agreements, Mana Whakahono ā Rohe, Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 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>The Department of Conservation has advised it is a standard Ngāi Tahu Claims Settlement Act 1998 protocol area. The views of Ngāi Tahu would be needed to confirm that the settlement was being upheld.</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.