

FTA#163: Application for listed project under the Fast-track Approvals Bill – Ōtaki Māori Racing Club (OMRC) Development Project for Schedule 2A

Date submitted to secretariat:	10 July 2024
Security level:	In-Confidence
To:	David TAPSELL, Chair – Fast-track Projects Advisory Group

Number of attachments: #	Attachments: 1. Application documents for Ōtaki Māori Racing Club (OMRC) Development Project
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Applicant	Sector	Region	Identified in a priority/strategy?
The Wellington Company Limited	Residential/Commercial/Industrial	Wellington	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 Ōtaki Māori Racing Club (OMRC) Development project is to construct a mixed use development over a 20.3 hectare project area within a 59.8 hectare site near Ōtaki, Wellington region. The existing racing activities will be retained over the remaining 39.5 hectares.
2. The project will comprise:
 - a. 550 dwellings (a mix of standalone, duplex, terrace and apartments), a childcare centre accommodating up to 80 children, a 100m² café constructed within the existing ŌMRC pavilion building complex
 - b. a housing 'assembly and distribution centre' at the eastern end of the site, for assembly of the new residential units from prefabricated components
 - c. three-waters infrastructure including flood storage, stormwater attenuation and flood hazard management, public and private open spaces, enhancement of existing watercourses, road connections, a shared walking/cycling path and external road improvements.
3. The project will require approvals under the Resource Management Act 1991 (RMA).
4. The applicant (The Wellington Company) is linked to Ōtaki Revisited Limited and is the

owner of the 4.43 hectare parcel and also has agreements in place with the landowner (Ōtaki Māori Racing Club Incorporated) regarding the other 55.38 hectare parcel.

5. We note the applicant requested and obtained referral under the COVID-19 (Fast Track Consenting) Act 2020 process. The application was lodged on the 7 December 2023. At the time of application to this process, the application indicates “the Ōtaki Māori Racecourse Expert Conferencing Panel has just been appointed with a site visit recently undertaken and the formal comments process about to commence”. We note it is unclear why the applicant has also applied through this fast-track process.
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 an operator has not yet been determined and so alternatively 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

A handwritten signature in blue ink, appearing to read 'S. Frame', is written over a light grey grid background.

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 Ōtaki Māori Racing Club (OMRC) Development</p> <p>Applicant The Wellington Company Limited</p> <p>Company directors</p> <ul style="list-style-type: none"> Ian Bracken Cassels Patricia Caitlin Taylor <p>Location 47 Te Roto Road, Ōtaki</p> <p>Land Status The applicant (The Wellington Company) is linked to Ōtaki Revisited Limited and is the owner of the 4.43 hectare parcel and also has agreements in place with the landowner (Ōtaki Māori Racing Club Incorporated) regarding the</p>	<p>The Ōtaki Maori Racing Club (OMRC) Development project is to construct a mixed use development over a 20.3 hectare project area within a 59.8 hectare site near Ōtaki, Wellington region. The existing racing activities will be retained over the remaining 39.5 hectares.</p> <p>The project will comprise:</p> <ul style="list-style-type: none"> 550 dwellings (a mix of standalone, duplex, terrace and apartments), a childcare centre accommodating up to 80 children, a 100m² café constructed within the existing ŌMRC pavilion building complex a housing 'assembly and distribution centre' at the eastern end of the site, for assembly of the new residential units from prefabricated components three-waters infrastructure including flood 	<p>The applicant seeks approval under the:</p> <ul style="list-style-type: none"> Resource Management Act 1991 	<p>The application identifies the following as persons affected:</p> <ul style="list-style-type: none"> Ngāti Toa Rangitira Kāpiti Coast District Council Greater Wellington Regional Council Wellington Water Kāinga Ora Adjacent property owners <p>The applicant has provided information regarding engagement that has been included in the application documents.</p>	No – the application and Treaty advice below has not identified any ineligibility triggers.	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 – 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>No – the application identifies potential effects being positive: social impacts, economic effects, ecological effects, landscape character and natural character effects, visual amenity effects, internal residential character and amenity, and has also identified earthworks and construction effects, access and traffic generation effects, subdivision effects,</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 the project will achieve the purpose of the Bill with particular regard to clause 17(3) being a development project of significant regional benefit.</p> <p>We note the applicant requested and obtained referral under the COVID-19 (Fast Track Consenting) Act 2020 process. The application was lodged on the 7 December 2023. At the time of application to this process, the application indicates "the Ōtaki Māori Racecourse Expert Conferencing Panel has just been appointed with a site visit recently undertaken and the formal comments process about to commence."</p> <p>We note it is unclear why the applicant has also applied through</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>Yes – once completed, the project will supply 550 new dwellings.</p> <p>The project will deliver significant economic benefits.</p> <p>Potentially – the project will create many direct and indirect jobs during the construction phases. Once operational, some ongoing employment opportunities will be created with the childcare centre, café and housing assembly and distribution centre.</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>

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.

other 55.38 hectare parcel.	storage, stormwater attenuation and flood hazard management, public and private open spaces, enhancement of existing watercourses, road connections, a shared walking/cycling path and external road improvements.							<p>geotechnical effects, climate change and natural hazard effects, historical and archaeological effects, cultural effects, and reverse sensitivity effects.</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.</p> <p>s 9(2)(f)(iv)</p> <p>No.</p> <p>The project includes an activity that is a prohibited activity under the RMA.</p> <p>No.</p>	<p>this fast-track process.</p> <p>The impact referring this project will have on the efficient operation of the fast-track process.</p> <p>No – the Project will progress much faster than using the alternative RMA processes. Obtaining consent under the ‘standard’ RMA process is expected to take 2 – 4 years given inevitable notification and depending on appeals. Subdivision would then only likely occur in 2028/2029, at the earliest.</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>No.</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>Yes – the project has been designed to support adaptation and resilience to flooding and includes mitigation measures in the stormwater device design and calculations.</p> <p>The project will address significant environmental issues.</p> <p>No.</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 and regional planning documents where adverse effects on the receiving environment are able to be appropriately managed and mitigated.</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"> • Ngā Hapū o Ōtaki • Ngāti Toa Rangitira • Te Atiawa • Te Rūnunga O Raukawa Incorporated • Muaūpoko Tribal Authority <p><u>Ngā Hapū o Ōtaki</u></p> <p>The applicant provides that mana whenua of Ōtaki consists of five hapū of Ngāti Raukawa ki te Tonga, Ngāti Koroki, Ngāti Kapu, Ngāti Pare, Ngāti Maiotaki and Ngāti Huia ki Katihiku (collectively Ngā Hapū). The applicant states that Ngā Hapū o Ōtaki are mandated to represent the hapū for a variety of purposes, including in respect to the proposed development.</p> <p><u>Ngāti Toa Rangitira</u></p>

	<p>Ngāti Toa Rangatira is an iwi whose area of interest includes the proposed project site, based on the area of interest agreed between Ngāti Toa Rangatira and the Crown in the Deed of Settlement signed 7 December 2012.¹</p> <p><u>Te Ātiawa ki Whakarongotai</u></p> <p>Ātiawa ki Whakarongotai are yet to settle their historical Treaty of Waitangi claims and so the area of interest of the Ātiawa ki Whakarongotai is not confirmed. Information from Te Kāhui Māngai confirms the proposed project location as being closely adjacent for Ātiawa ki Whakarongotai. Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.²</p> <p><u>Ngāti Raukawa</u></p> <p>Ngāti Raukawa ki te Tonga are yet to settle their historical Treaty of Waitangi claims and so the area of interest of the Ngāti Raukawa ki te Tonga is not confirmed. Information from Te Kāhui Māngai confirms the proposed project location as being within the area of interest for Ngāti Raukawa ki te Tonga.³ Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.</p> <p><u>Muaūpoko</u></p> <p>Muaūpoko are yet to settle their historical Treaty of Waitangi claims and so the area of interest of the Muaūpoko is not confirmed. Information from Te Kāhui Māngai confirms the proposed project location as being within the area of interest for Muaūpoko.⁴ Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.</p>
<p>Has the applicant consulted with those Māori groups?</p>	<p>The applicant states that:</p> <ul style="list-style-type: none"> • It has engaged with Ngā Hapū O Ōtaki which has included hui and site visits with Ngā Hapū advisors. Hui included technical meetings with the project team. • Meetings were held with ART Confederation members (Te Ātiawa and Ngāti Toa). • Consultation was undertaken with Te Rūnunga o Raukawa and Ngāti Toa and they confirmed they would not provide a cultural impact assessment and would defer to Ngā Hapū O Ōtaki. <p>It has engaged with Muaūpoko Tribal Authority which has included hui and site visit. Draft plans and information were provided for review and Muaūpoko Tribal Authority prepared a cultural impact assessment to accompany 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. However, the applicant does state that part of the vision of the project is, <i>“Providing a range of housing options and choices across the housing continuum in what will become an exemplar village development; whilst maintaining the significance of a key piece of Māori and community infrastructure through the retention of the Ōtaki Māori Racing Club activities.”</i></p> <p>In the time available, we have identified the following relevant plans and documents:</p> <ul style="list-style-type: none"> • Ātiawa 2019 Kaitiaki Plan • Ngāti Toa Rangatira Iwi Environmental Management Plan and Poutiaki Plan <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. The applicant has assessed these documents in their application.</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>Ngāti Toa Rangatira Claims Settlement Act 2014</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 (which this project is not), 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><u>Iwi Environment Management plans</u></p> <p>Note the comments above in relation to iwi management plans.</p> <p><u>Implications for groups yet to settle their historical Treaty of Waitangi claims</u></p>

	<p>There are groups still working through their Treaty settlement processes. For example, Te Ati Awa ki Whakarongotai and Muaūpoko. 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>Other matters</p> <p>In the time available, officials have not identified any other impacts for the Marine and Coastal Area (Takutai Moana) Act 2011 (noting the project area is not in the common marine and coastal area), Joint Management Agreements outside of settlement or Mana Whakahono ā Rohe.</p>
<p>Is the project considered low, medium or high impact (based on assessment criteria above)</p>	<p>From the information available we consider this project is likely to be of medium 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.