

FTA#118: Application for listed project under the Fast-track Approvals Bill – Ruakura Tuumata Residential and Commercial Project for Schedule 2B

Date submitted to secretariat:	9 July 2024
Security level:	In-Confidence
To:	David TAPSELL, Chair – Fast-track Projects Advisory Group

Number of attachments: 1	Attachments: 1. Application documents for Ruakura Tuumata Residential and Commercial Project
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Applicant	Sector	Region	Identified in a priority/strategy?
Tainui Group Holdings Limited	Residential and Industrial	Waikato	Yes

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 Ruakura Tuumata Residential and Commercial project is a new master-planned residential neighbourhood over 68 ha of between 1100-1300 homes, supported by a new Neighbourhood Centre, and on a separate but nearby 14 ha site, a large format retail centre.
2. The project will require resource consents under the Resource Management Act 1991 (RMA), and an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014.
3. The landowners, TGH Ruakura Industrial Development Limited and TGH Residential Development Limited, are subsidiary companies of the applicant.
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 2B.
6. The project does not trigger the ineligibility criteria in clause 18 of the Fast-track Approvals Bill (the Bill).
7. We note that the site is zoned “Ruakura Industrial Park”, therefore the large format retail may be better considered under usual RMA processes. For the residential development,

the applicant has submitted a Private Plan Change to Hamilton City Council, which has been publicly notified and a hearing is pending (although the application is on hold). If the Plan Change is approved, the residential development may also be better considered under usual RMA processes.

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

A handwritten signature in black ink, appearing to read 'S. Frame', written over a light grey rectangular 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] Would the project have significant regional or national benefits [clause 17(3)]
				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)]		
High level summary			Y	N	N	N	N		
<p>Schedule requested 2B</p> <p>Project Name Ruakura Tuumata Residential and Commercial project</p> <p>Applicant Tainui Group Holdings Limited</p> <p>Company director/s Craig Mathew Barrett Rebecca Bronwen Eele Robert Mark Petersen Hinerangi Raumati-Tu'ua Tania Joy Te Rangingangana Simpson</p> <p>Location Kirikiriroa, Hamilton. The residential development is located on Wairere Drive, while the commercial development is located to the east of this land, and on the opposite side of the proposed Eastern Transport Corridor.</p> <p>Land Status The landowners, TGH Ruakura Industrial Development Limited</p>	<p>To develop a new master-planned residential neighbourhood over 68 ha of between 1100-1300 homes, supported by a new Neighbourhood Centre, and on a separate but nearby 14 ha site, a large format retail centre.</p>	<p>The applicant seeks approval under the:</p> <ul style="list-style-type: none"> • Resource Management Act 1991 • Heritage New Zealand Pouhere Taonga Act 2014 	<p>The application identifies the following as persons affected:</p> <ul style="list-style-type: none"> • Waikato Tainui • Ngaa Hapuu as represented on the Ruakura Tangata Whenua Working Group; namely: Ngaati Maahanga, Ngaati Hauaa, Ngaati Tamaiunapo, Ngaati Wairere, Ngaati Korokii Kahukura and Ngaati Tamainupo. • Hamilton City Council (HCC) • Waikato Regional Council • Local residents and businesses • Kainga Ora • Ministry of Education • Transpower <p>The applicant has provided information regarding engagement that has been included in the application documents.</p>	No – while the land was returned to Waikato-Tainui under their treaty settlement, they are the applicant for this project.	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>Potentially – both land parcels, including that intended for residential development, are currently zoned "Ruakura Industrial Park". This zoning was sought by the applicant through the Nationally Significant Proposal process and approved by an independent Board of Inquiry in 2014.</p> <p>The large format retail center could potentially proceed under normal RMA consent processes.</p> <p>Any change of land use to residential use may be more appropriately considered through a Plan Change under the RMA. The applicant has lodged Private Plan Change 15 (Tuumata Residential) with the HCC. This has been publicly notified, and a hearing is pending, although the applicant notes the application is on hold.</p> <p>However, even if a Plan Change does not occur the project may be able to be consented more easily under the fast-track regime than the RMA.</p> <p>The project may have significant adverse effects on the environment.</p> <p>Potentially – the applicant has identified potential adverse effects on amenity, traffic, industrial land supply, noise and vibration, ecology and the Transpower transmission corridor, but those effects can generally be avoided, remedied or mitigated through appropriate consent conditions.</p> <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:</p> <ul style="list-style-type: none"> • has been identified as an area for industrial growth in local government plans and strategies, including the Hamilton City District Plan, and the Future Proof Strategy 2022. • will increase the supply of housing, and contribute to a well-functioning urban environment • may deliver significant economic benefits • may support climate change mitigation, including the reduction or removal of greenhouse gas emissions. • May be generally consistent with local or regional planning documents, including spatial strategies, although the current zoning of the site is for industrial, and not residential activity.

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.

and TGH Residential Development Limited, are subsidiary companies of the applicant.							<p>The project includes an activity that is a prohibited activity under the RMA.</p> <p>No.</p> <p>Whether the application contains sufficient information to inform the referral decision.</p> <p>Yes.</p>	
<p>PSGE Settlement Priorities and Māori Development assessment –</p> <p><i>Note - given the time and scope constraints of this advice, some assumptions have been made and engagement has only been undertaken in limited circumstances. Given this, the advice may not be comprehensive and is not intended to reflect the views of relevant Post Settlement Governance Entities or other groups (unless specifically noted). In limited circumstances where engagement has been able to occur, it has most likely not been comprehensive due to the timeframes available.</i></p> <p><i>Advice on Māori development and PSGE settlement priorities includes information relating to:</i></p> <ul style="list-style-type: none"> • 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. 								
<p>Ineligible projects - based on the considerations at cl18(a–e) of the Fast Track Approvals Bill (version as at introduction)</p>	<p>The applicant has stated that the project is not ineligible and is on land returned to Waikato-Tainui under a Treaty settlement. The land is owned by a subsidiary of the applicant (commercial entity of Waikato-Tainui) and the applicant states it has landowner consent.</p>							
<p>Affected Māori group/s</p>	<p>The applicant has identified the following groups with interests in the project area:</p> <ul style="list-style-type: none"> • Waikato-Tainui • Ngāa Hapuu as represented on the Ruakura Tangata Whenua Working Group including: Ngāti Māhanga, Ngāti Hauā, Ngāti Tamainupō, Ngāti Wairere and Ngāti Korokī Kahukura <p><u>Waikato-Tainui</u></p> <p>Waikato-Tainui is an iwi whose area of interest includes the proposed project site, based on the area of interest agreed between Waikato-Tainui and the Crown in the Deed of Settlement signed 22 May 1995.¹ In addition, the Waikato River settlement arrangements also include the proposed project site, based on the SO Plan agreed between Waikato-Tainui and the Crown in the Deed of Settlement signed 17 December 2009.² Ngāti Māhanga, Ngāti Tamainupō, Ngāti Wairere are hapū of Waikato-Tainui.</p> <p><u>Waikato-Tainui remaining claims</u></p> <p>Waikato-Tainui are yet to settle their remaining historical Treaty of Waitangi claims and so the area of interest is not confirmed. There is a proposed area of interest included in the Terms of Negotiation signed 14 December 2020 and the proposed project location is within this area.³ Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.</p> <p><u>Ruakura Tangata Whenua Working Group</u></p> <p>Ruakura Tangata Whenua Working Group comprises the tangata whenua representatives relating to Ruakura, being Ngaati Maahanga, Ngaati Hauaa, Ngaati Tamaiunapo, Ngaati Wairere, Ngaati Korokii Kahukura and Ngaati Tamainupo. The application provides that the Working Group has provided cultural input into the development of the Ruakura Superhub to date.</p> <p><u>Ngāti Hauā</u></p> <p>Ngāti Hauā is an iwi whose area of interest includes the proposed project site, based on the area of interest agreed between Ngāti Hauā and the Crown in the Deed of Settlement signed on 18 July 2013.⁴</p> <p><u>Ngāti Māhanga</u></p> <p>Ngāti Māhanga is a hapū of Waikato-Tainui and does not have independent Treaty Settlements.⁵</p> <p><u>Ngāti Tamainupō</u></p> <p>Ngāti Tamainupō is a hapū of Waikato-Tainui and does not have independent Treaty Settlements.⁷</p> <p><u>Ngāti Wairere</u></p> <p>Ngāti Wairere is a hapū of Waikato-Tainui and does not have independent Treaty Settlements.⁸</p> <p><u>Ngāti Korokī Kahukura</u></p> <p>Ngāti Korokī Kahukura is an iwi whose area of interest does not appear to include the proposed project site, based on the area of interest agreed between Ngāti Korokī Kahukura and the Crown in a Deed of Settlement signed on 20 December 2012.⁵</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:</p>							

	<ul style="list-style-type: none"> • Waikato-Tainui support the application. Future Proof is the collaboration between Hamilton City Council, Waikato Regional Council, Waipa District Council, Waikato District Council and Tangata Whenua for the development of a sub-regional growth strategy covering the areas of the three territorial authorities and the region covered by the Waikato Regional Council. Other key organisations involved in the strategy include the New Zealand Transport Agency and Matamata Piako District Council. Tainui Group Holdings Limited and Waikato Tainui has engaged through this forum on development at Ruakura which in recent years has included discussions and agreement on the future development of the Ruakura East WEX block. <p>Several presentations were made to the Ruakura Tangata Whenua Working Group throughout 2022 when the residential master plan for the project was developed. The Working Group has provided cultural input into the development and has had regular hui, with presentations on and feedback sought on the on-going development of the Ruakura Superhub. The name of the project "Tuumata" was endorsed by the Working Group. The applicant is committed to ongoing engagement with the Working Group.</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>The application states that Tainui Group Holdings (TGH) (the applicant) <i>"is the wholly owned commercial entity of Waikato-Tainui with a responsibility to protect and grow the tribe's commercial assets to support the development and prosperity of its 88,000 tribal members. All profits generated by TGH fund education, health, elderly, cultural, housing and environmental programmes, and are reinvested into further growing the commercial assets"</i>.</p> <p>Therefore, the application is made on behalf of Waikato-Tainui and the application indicates that the project will have direct benefit in terms of Māori development.</p> <p>In the time available, we have also identified the following relevant plans and documents:</p> <ul style="list-style-type: none"> • Waikato-Tainui Environmental Management Plan • Vision and Strategy for the Waikato River (addressed under relevant Treaty settlement arrangements below) • Ngāti Hauā Environmental Management 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.</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. The support for the project from Waikato-Tainui is a clear indication of that though.</p> <p><u>Impact on Treaty settlements and other relevant arrangements</u></p> <p>Waikato Raupatu Claims Settlement Act 1995</p> <p>The project is being undertaken on land returned to Waikato-Tainui through its 1995 settlement which is significant.</p> <p>There are no statutory acknowledgements in the Waikato Raupatu Claims Settlement Act 1995, which the applicant has identified. There are no other mechanisms in the Act that appear to be directly impacted by the project.</p> <p>Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010</p> <p>The application identifies the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 as applying to the project as it is located within the Waikato River catchment. The catchment area is provided for in the SO plan agreed between Waikato-Tainui and the Crown in the Deed of Settlement signed 17 December 2009.¹⁰ This includes the proposed project site. The Waikato-River arrangements are detailed with a number of powerful and complex interactions with the legislation including the RMA, conservation and heritage legislation.</p> <p>The Waikato-Tainui river arrangements are recorded in the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010. The overarching purpose of the settlement is to restore and protect the health and wellbeing of the Waikato River for future generations.</p> <p>There are two underlying principles in the settlement:</p> <p><i>Te Mana o te Awa</i></p> <p><i>To Waikato-Tainui, the Waikato River is a tupuna (ancestor) which has mana (prestige) and in turn represents the mana and mauri (life force) of the tribe. Respect for te mana o te awa (the spiritual authority, protective power and prestige of the Waikato River) is at the heart of the relationship between the tribe and their ancestral river:</i></p> <p><i>Mana whakahaere</i></p> <p><i>Mana whakahaere embodies the authority that Waikato-Tainui and other River tribes have established in respect of the Waikato River over many generations, to exercise control, access to and management of the Waikato River and its resources in accordance with tikanga (values, ethics and norms of conduct). For Waikato-Tainui, mana whakahaere has long been exercised under the mana of the Kiingitanga:</i></p> <p>The key elements provided for in the legislation include:</p> <ul style="list-style-type: none"> • A statement of significance of the river to Waikato-Tainui • The Waikato River Authority (co-governance entity with five iwi and five Crown appointed members) • Te Ture Whaimana (vision and strategy) – the primary direction setting strategic document for the Waikato River • The Clean-Up Trust (with the Waikato River Authority as the trustee) • The Waikato River Authority appointing half of the hearing commissions for resource consent applications relating to the river • Arrangements to reflect the mana whakahaere of Waikato-Tainui including: <ul style="list-style-type: none"> ○ joint management agreements under the RMA ○ recognition of the exercise of customary activities on the river ○ recognition of the Waikato-Tainui iwi environmental plan ○ an integrated river management plan.

	<p>The interactions between the Waikato River arrangements and the RMA, conservation and heritage legislation include the following:</p> <ul style="list-style-type: none"> • Te Ture Whaimana (the vision and strategy) is a powerful planning document and is stated in the legislation to be the 'primary direction setting' document for the river: <ul style="list-style-type: none"> ○ It is incorporated directly and without amendment into the RMA regional policy statement ○ It overrides any direction in an RMA national policy statement ○ RMA regional and district plans must give effect to Te Ture Whaimana ○ It has the status of 'general policy' under the conservation legislation ○ A number of decision-makers must 'have particular regard' to Te Ture Whaimana (including under the RMA, conservation and heritage legislation) <p>The joint management agreements (JMAs) between the river Iwi and each local authority are expressly provided for and required under the legislation. Those JMAs have been negotiated and agreed, and include:</p> <ul style="list-style-type: none"> • A range of RMA mechanisms (including a committee structure for RMA planning processes with Waikato-Tainui as part of the decision-making structure, and provisions for RMA consenting and monitoring/enforcement). There are detailed provisions to provide for Waikato-Tainui involvement in decision-making and processes under the RMA • A range of customary activities can be exercised on the river and are exempt from having to comply with the RMA • A decision-maker on a resource consent and under conservation legislation must have regard to the Waikato-Tainui environmental plan. <p>The Waikato River arrangements have a significant influence over statutory processes including complex interactions with the RMA, conservation, wildlife and heritage legislation. Any change to the statutory processes for these authorisations (for example, through the fast-track process) could have a significant impact on the operation and integrity of the arrangements.</p> <p>Ngāti Hauā 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.</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>Waikato River Settlement</i></p> <p>Ngāti Hauā participates in the Waikato River arrangements.</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, the Waikato Tainui remaining claims. 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>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 low impact and positive for the iwi and hapuu groups identified. This is due to the Waikato-Tainui involvement in and support of the project.</p> <p>A mitigating factor is that at this stage of the process, given this is proposed to be a Schedule 2B project, there is the opportunity to input at both the Ministerial referral and expert panel stage.</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.