



FTA#241: Application for listed project under the Fast-track Approvals Bill – Sanford Second Greenshell Mussel Spat Hatchery Project for Schedule 2A

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

Number of attachments: #	Attachments: 1. Application documents for Sanford Second Greenshell Mussel Spat Hatchery 2. Feedback from Ministry for Primary Industries
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Applicant	Sector	Region	Identified in a priority/strategy?
Sanford Ltd	Aquaculture	Canterbury	Yes

Ministry for the Environment contacts

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

Project location

s 9(2)(b)(ii)



Note: the applicant has stressed that the location remain confidential due to the scarcity of suitable spat hatchery sites around the NZ coastline.

Key messages

1. The Sanford Second Greenshell Mussel Spat Hatchery project is to construct and operate a land based Greenshell mussel spat hatchery near s 9(2)(b)(ii)
2. The applicant has stressed that the location remain confidential due to the scarcity of suitable spat hatchery sites around the NZ coastline. Site suitability considerations include access to seawater, elevation, and proximity to roading/freight networks and electrical services.
3. At full production the spat hatchery will have the capacity to support 20,000 tonnes per annum of harvest – 20 per cent of national production
4. The spat hatchery will comprise:
 - a. Primary buildings and plant

- b. A water intake structure within the coastal marine area to take seawater
 - c. Ancillary buildings, structures and infrastructure
 - d. Landscaping including planting and boundary screening.
5. The project will require resource consents under the Resource Management Act 1991 (RMA) for undertaking an intensive farming activity, infrastructure (including the seawater intake structure), storage of hazardous substances, permits to take water from the coastal marine area and to discharge effluent to ground.
 6. As a land-based fish farm the project will require a fish farm license issued by the Ministry for Primary Industries under the Freshwater Fish Farming Regulations 1983.
 7. A resource consent for the project has been lodged with Canterbury Regional Council under RMA s.88. the council has requested further information under RMA s.92.
 8. The applicant advises that some consultation has commenced but provides no further details on that.
 9. The applicant advises the project site is private freehold land. It has been used for farming and exotic forestry. The applicant has secured agreement with the landowner for the project and intends to enter into a lease agreement with the landowner.
 10. We have undertaken an initial (Stage 1) analysis of the application, and this is provided in Table A.
 11. We consider the applicant **has not** 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).
 12. The project does not trigger the ineligibility criteria in clause 18 of the Fast-track Approvals Bill (the Bill).
 13. 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			N	N	N	N	N			
<p>Schedule requested 2A</p> <p>Project Name Sanford Second Greenshell Mussel Hatchery</p> <p>Applicant Sanford Ltd</p> <p>Company director/s David William MAIR Robert Arnold MCLEOD Craig Raniera ELLISON William John STROWGER Thomas MCCLURG</p> <p>Location s 9(2)(b)(ii)</p> <p>Note: the applicant has stressed that the location remain confidential due to the scarcity of suitable spat hatchery sites</p>	<p>The Sanford Second Greenshell Mussel Spat Hatchery project is to construct and operate a land based Greenshell mussel spat hatchery.</p> <p>The spat hatchery will comprise: Primary buildings and plant A water intake structure within the coastal marine area to take seawater Ancillary buildings, structures and infrastructure Landscaping including planting and boundary screening.</p>	<p>The applicant seeks approval under the:</p> <ul style="list-style-type: none"> Resource Management Act 1991 Freshwater Fisheries Regulations 1983 	<p>No - the applicant advises that some consultation has commenced but provides no further details on that.</p>	No	No	<p>No – however, the project is on land near to the Kaikoura Marine Management Area.</p>	No	<p>The project, or any part of it, is inconsistent with a relevant Treaty settlement, the NHP Act, the Marine and Coastal Area (Takutai Moana) Act 2011, a Mana Whakahono ā Rohe, or a joint management agreement.</p> <p>No - this project does not appear to be inconsistent according to the information provided in the application.</p> <p>It is more appropriate to deal with the application under another Act.</p> <p>No – it is more efficient and timelier to deal with this application under the Fast-track legislation.</p> <p>The project may have significant adverse effects on the environment.</p> <p>No - the applicant advises that adverse effects will be less than minor. The applicant advises the resource consent application will include an AEE.</p> <p>The applicant has a poor compliance history under the relevant legislation.</p> <p>Yes – Canterbury Regional Council issued an abatement notice in 2019 in relation to a thaw water discharge from Sanford's Timaru processing plant.</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 Fast-track process will enable the project to be processed in a more efficient and timelier way than existing processes.</p> <p>The impact referring this project will have on the efficient operation of the fast-track process.</p> <p>Low impact – the project does not appear to be overly complex, and the consent application will provide information including an AEE.</p> <p>Whether the application contains sufficient information to inform the referral decision.</p>	<p>The project has been identified as a priority project in a central government, local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy) or central government infrastructure priority list.</p> <p>Yes - securing mussel spat supply and growing shellfish hatchery production are key priorities identified in the NZ Government Aquaculture Strategy Implementation Plan (2023).</p> <p>The project will deliver regionally or nationally significant infrastructure.</p> <p>Yes – nationally and regionally significant aquaculture infrastructure.</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 – through export revenue, local employment and wider flow-on benefits to related services/industries. The applicant advises that, at full development, the project will generate more than \$86m per annum in export revenue.</p> <p>The project will support primary industries, including aquaculture.</p> <p>Yes – this is an aquaculture project.</p> <p>The project will support development of natural resources, including minerals and petroleum.</p> <p>No</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>around the NZ coastline.</p> <p>Land Status</p> <p>Private freehold land. The applicant has secured agreement with the landowner and intends to enter into a lease agreement for the project.</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>No – we consider the applicant has not provided sufficient information to consider the project for inclusion on Schedule 2A. Information is lacking around consultation that has occurred or is intended.</p>	<p>The project will support climate change mitigation, including the reduction or removal of greenhouse gas emissions.</p> <p>No - although the applicant advises that marine farming has a low carbon footprint compared to other animal farming modes.</p> <p>The project will support adaptation, resilience, and recovery from natural hazards.</p> <p>Yes – a second spat hatchery will mitigate the risk of depending on a single hatchery should that be impacted by natural hazards.</p> <p>The project will address significant environmental issues.</p> <p>Yes - the applicant has indicated that it will address environmental issues identified in the AEE for this proposal.</p> <p>The project is consistent with local or regional planning documents, including spatial strategies.</p> <p>Yes – consistent with the Canterbury Regional Policy Statement, Regional Coastal Plan and Kaikoura District Plan</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.

<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 not provided specific information about the location of the proposed project so ineligibility criteria cannot be tested.</p>
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<p>Affected Māori group/s</p>	<p>Following a request for further information on the location of the project, the applicant states “due to the commercial sensitivity of the project highlighting whether and what treaty settlements apply has been withheld at this stage”</p> <ul style="list-style-type: none"> no groups are identified in the application <p>We have identified the following groups as likely to be affected based on the general location of the proposed project in the vicinity of s 9(2)(b)(ii)</p> <ul style="list-style-type: none"> Te Rūnanga o Ngāi Tahu <ul style="list-style-type: none"> Noting Te Rununga o Ngāi Tahu must be recognised for all purposes as the representative of Ngāi Tahu Whānui... “Ngāi Tahu Whānui” means the collective of the individuals who descend from the primary hapū of Waitaha, Ngāti Mamoe, and Ngāi Tahu, namely, Kāti Kuri, Kāti Irakehu, Kāti Huirapa, Ngāi Tuahuriri, and Kai Te Ruahikihiki (section 15(1) and section 2 of Te Rūnanga o Ngāi Tahu Act 1996). <p>Applicants for Customary Marine Title</p> <ul style="list-style-type: none"> Ngāi Tahu Whānui, Te Rūnangā o Ngāi Tahu Ngāi Tūāhuriri Hapū, Upoko o Ngāi Tūāhuriri hapū
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<p>Has the applicant consulted with those Māori groups?</p>	<p>The applicant states <i>“Consultation has started. However, due to the commercial sensitivity of the project highlighting those we have consulted with will disclose the area(s), and has been withheld at this stage.”</i></p> <p>From the information provided with the application we are unable to ascertain the extent of consultation, or the level of detail in the information provided to those affected.</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 it is made by or on behalf of a Māori organisation, or that the project will have a direct benefit in terms of Māori development. In the time available, officials have identified the following relevant plans and documents that are likely relevant to the application:</p> <ul style="list-style-type: none"> Te Runanga o Kaikoura Environmental Management Plan² states <i>“aquaculture is a growing industry in New Zealand. However, in some parts of the country it has grown too fast, and with little control over where it should be allowed.”</i> <i>“In some areas, aquaculture projects may have significant cultural or environmental impacts.”</i> <ul style="list-style-type: none"> The plan goes on to detail issues and policy positions regarding aquaculture. Ngāi Tahu's document, Ngāi Tahu 2025 states an aspiration that <i>“Te Rūnanga o Ngāi Tahu fully participates in the decision-making processes of resource management agencies”</i> and that <i>“Te Rūnanga o Ngāi Tahu is actively managing a number of sites, resources and areas either in joint partnership with another agency or as the sole manager”</i>. <p>It is not possible to confirm the extent to which this project aligns with the policies or plans identified, given the low level of detail provided regarding consultation efforts. Engagement with Te Runanga o Ngāi Tahu would be necessary to reach such conclusions.</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>The location detail provided with the application approximately indicates the project would be established near s 9(2)(b)(ii)</p> <ul style="list-style-type: none"> there is one statutory acknowledgement in the s 9(2)(b)(ii) vicinity that involves s 9(2)(b)(ii). Further detail about the location of the project would be necessary to understand if that statutory acknowledgement is affected by the proposal. The acknowledgement refers to mahinga kai and sustainability values, cultural values and sites associated with the river and the mauri of the river. <p>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 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).</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 those same rights to the PSGE (particularly the potential right to make a submission and then participate in a hearing and appeal). For Schedule 2 Part A projects 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). The same applies to archaeological authorities, as the Environment Court will not hear appeals in the same way as occurs under the Heritage New Zealand Pouhere Taonga Act 2014.</p> <p><i>Conservation Act 1987</i></p> <p>The Settlement Act includes obligations in relation to the Conservation Act 1987. This application states that approval for the project may be necessary under the Conservation Act 1987 but does not provide the location detail necessary to understand whether concessions are relevant to settlement obligations.</p> <p><u>Implications arising under the Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019</u></p> <p>It is unclear if this project is in the common marine and coastal area, but if it is there are no customary marine title or protected customary rights holders under the Marine and Coastal Area (Takutai Moana) Act 2011 recorded on the register within the s 9(2)(b)(ii) general area - Marine and Coastal Area Register Te Whenua - Land Information New Zealand (linz.govt.nz).</p> <p>There are however at least 2 applications by iwi, hapū and whānau groups (takutai moana applicant groups) who have applied to have their customary interests recognised under the Act. Under the Act, takutai moana applicant groups have certain rights in relation to consenting processes under the Resource Management Act 1991, including the right to be consulted on resource consent applications in their takutai moana application area.</p> <p>The following records were selected by drawing a polygon loosely around the general area indicated in the application in the High Court Application Areas High Court Application Areas Te Kete Korero a Te Takutai Moana open data portal (arcgis.com)</p>

- ² HYPERLINK "<https://ngaitahu.iwi.nz/assets/Documents/Te-Runanga-o-Kaikoura-Environmental-Management-Plan.pdf>" [Te Runanga o Kaikoura Environmental Management Plan \(ngaitahu.iwi.nz\)](#)
- HYPERLINK "<https://ngaitahu.iwi.nz/assets/Documents/Te-Runanga-o-Kaikoura-Environmental-Management-Plan.pdf>" [Te Runanga o Kaikoura Environmental Management Plan \(ngaitahu.iwi.nz\)](#)

	<ul style="list-style-type: none"> • Ngāi Tahu Whānui, Te Rūnangā o Ngāi Tahu • Ngāi Tūāhuriri Hapū, Upoko o Ngāi Tūāhuriri hapū <p>The Fast-track Approvals Bill currently provides for consultation with takutai moana applicant groups on Schedule 2B projects at the Ministerial referral stage, and the clause 13 report must include information about the relevant takutai moana applicant groups in the project area. For schedule 2A projects these steps would not apply. For listed projects (both Schedule 2A and 2B), the Fast-track Approvals Bill as currently drafted, does not provide for consultation with takutai moana applicant groups at the expert panel stage.</p> <p>This means that an implication of listing a project under Schedule 2A is that takutai moana applicants would not have the ability to input into the process at all, and for Schedule 2B listing the only opportunity for any input is at the Ministerial referral stage.</p> <p>As the project area is outside of ngā rohe moana o ngā hapū o Ngāti Porou there are no implications for the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 arising from this application.</p> <p>Other matters</p> <p>In the time available, officials have not identified any impacts for Joint Management Agreements outside of settlement or Mana Whakahono ā Rohe. Treaty settlements have been completed over the Ngāi Tahu takiwā including this area. The <u>§ 9(2)(b)(ii)</u> location is adjacent to the Kaikoura Marine Management Area</p> <p><u>Iwi Environment Management plans</u></p> <p>Note the comments above in relation to iwi management plans.</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 high impact. This is due to the low level of reporting regarding consultation and the concerns and policy positions expressed by iwi and hapū regarding aquaculture the imprecise location of the project, and the potential impact on statutory acknowledgements.</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 essential given the low level of detail available in the application and response to the request for further information given the clearly stated position of Te Rununga o Ngai Tahu on the matter of aquaculture. We were unable to undertake this consultation in the time available.</p>
<p>Additional comments/context</p>	<p>Due to the unknown location of the project, we think this is more appropriate as a Schedule 2B project where decision makers will have the benefit of a Treaty Impact Report in accordance with clause 13 of the Fast Track Approvals Bill (yet to be enacted).</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.