

## FTA#369: Application for listed project under the Fast-track Approvals Bill – Summerset Retirement Village - Mosgiel Project for Schedule 2A

Date submitted to secretariat:	5 July 2024
Security level:	In-Confidence
To:	David TAPSELL, Chair – Fast-track Projects Advisory Group

Number of attachments: #	Attachments: 1. Application documents for Summerset Retirement Village - Mosgiel Project
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Applicant	Sector	Region	Identified in a priority/strategy?
Summerset Villages (Mosgiel) Limited	Retirement	Otago	No

### Ministry for the Environment contacts

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

## Project location

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## Key messages

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1. The Summerset Villages - Mosgiel project is to construct and operate a comprehensive care retirement village on a 17 hectare project area of land<sup>1</sup> anticipated to be released as General Residential 1 zone at 47 and 51 Wingatui Road, 21 Owhiro Drive, 67 Gladstone Road North and two Dunedin City Council endowment parcels, near Mosgiel, Otago.
2. The project will comprise:
  - a. approximately 260 independent living units (cottages, villas and townhouses)
  - b. a central main building with approximately 20 assisted living suites, 20 memory

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<sup>1</sup> The site is currently zoned Residential Transition Zone as directed by Environment Court Decision No. [2022] NZEnvC 207. Consultation is progressing with Dunedin City Council and Otago Regional Council.

care suites, 10 care suite beds, 20 serviced apartments, and associated staff and administrative functions

- c. a range of resident amenities such as a bowling green, café, restaurant, swimming pool, library, recreation centre, cinema and residents' shop
  - d. internal circulation and parking provision (approximately 100 spaces proposed)
  - e. extensive site landscaping.
3. The project will require approvals under the Resource Management Act 1991 (RMA) and the Wildlife Act 1953.
  4. The applicant is the landowner and in relation to the two endowment parcels identifies that "Dunedin City Council owns endowment land to the south and west of the site which is proposed to be used for road access to the site (but not required). Summerset and Dunedin City Council will be entering an agreement for this land to be utilised for village access."
  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 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

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A handwritten signature in blue ink, appearing to read 'S. Frame', with a long horizontal flourish extending to the right.

Stephanie Frame  
**Manager – Listed Projects**

**Table A: Stage 1 initial assessment of project eligibility and Treaty settlement assessment and advice<sup>2</sup>**

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)]
<b>High level summary</b>			Y	N	N	N	N			
<p><b>Schedule requested</b> 2A</p> <p><b>Project Name</b> Summerset Retirement Village - Mosgiel</p> <p><b>Applicant</b> Summerset Villages (Mosgiel) Limited</p> <p><b>Company director/s</b></p> <ul style="list-style-type: none"> <li>• Robyn Heyman</li> <li>• Scott Grady Scoullar</li> <li>• Aaron David Smail</li> <li>• Dean James Tallentire</li> <li>• Sarah Lorraine Theodore</li> <li>• William George Graeme Wright</li> </ul> <p><b>Location</b> The site bounded by 51 and 47 Wingatui Road, 21 Owhiro Drive and 67 Gladstone Road North and Pt Sec 2 Blk II East Taieri SD and Pt Sec 3 Blk</p>	<p>The Summerset Villages - Mosgiel project is to construct and operate a comprehensive care retirement village on a 17 hectare project area of land<sup>3</sup></p> <p>The project will comprise:</p> <ul style="list-style-type: none"> <li>• approximately 260 independent living units (cottages, villas and townhouses)</li> <li>• a central main building with approximately 20 assisted living suites, 20 memory care suites, 10 care suites beds, 20 serviced apartments, and associated staff and administrative functions</li> <li>• a range of resident amenities such as a bowling green, café, restaurant, swimming pool, library, recreation</li> </ul>	<p>The applicant seeks approval under the:</p> <ul style="list-style-type: none"> <li>• Resource Management Act 1991</li> <li>• Wildlife Act 1953</li> </ul> <p>The Department of Conservation (DoC) advice is that approvals may be required under the:</p> <ul style="list-style-type: none"> <li>• Freshwater Fisheries Regulations 1983</li> </ul>	<p>The application identifies the following as persons affected:</p> <ul style="list-style-type: none"> <li>• Dunedin City Council</li> <li>• Otago Regional Council</li> <li>• Te Rūnanga o Ngāi Tahu</li> <li>• Ngāi Tahu Papatipu Runanga</li> <li>• Te Rūnanga o Ōtākou</li> <li>• Te Rūnanga o Waihao</li> <li>• Te Rūnanga o Moeraki</li> <li>• Hokonui Rūnanga</li> <li>• Kati Huirapa Rūnaka ki Puketeraki</li> <li>• Adjacent landowners</li> </ul> <p>The application identifies that: "Summerset has been in consultation with Aukaha, a mana whenua owned consultancy representing the</p>	No.	No.	No.	No.	<p>The project, or any part of it, is inconsistent with a relevant Treaty settlement, the NHNP Act, the Marine and Coastal Area (Takutai Moana) Act 2011, a Mana Whakahono ā Rohe, or a joint management agreement.</p> <p>No – the application and Treaty advice below has not identified any inconsistency grounds.</p> <p><b>It is more appropriate to deal with the application under another Act.</b></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><b>The project may have significant adverse effects on the environment.</b></p> <p><b>Potentially</b> – the application identifies potential effects relating to bulk and location of proposed buildings, character and amenity, construction (noise, vibration, dust, ground settlement, silt and sediment control, construction traffic), network utility infrastructure capacity, flooding and overland flow, ecological effects (including on lizard populations), operational effects (traffic management) and freshwater effects on wetlands within the site and on the</p>	<p><b>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.</b></p> <p><b>Yes</b> – the applicant identifies a number of advantages. Public and limited notification is precluded under the Fast-track Approvals Bill. The panel is only permitted to invite comments from specified persons and a short timeframe is provided for comment. It is Summerset's view that few parties are affected by the project in a more than minor way, based on the anticipated effects and how they will be managed.</p> <p>The Regional Council's indicative approach to notification for consents required under the NES-F.</p> <p>Notification of the Project would result in significant delays and increases the</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><b>The project will deliver regionally or nationally significant infrastructure.</b></p> <p>No.</p> <p><b>The project will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment.</b></p> <p><b>Potentially</b> – the scale of the project has the potential to free up existing housing in the region.</p> <p><b>The project will deliver significant economic benefits.</b></p> <p><b>Yes</b> – the project will create many jobs directly and indirectly over the staged 5 year construction period. Once operational, ongoing employment is expected to generate approximately 50 FTE jobs.</p>

<sup>2</sup> **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.

<sup>3</sup> The site is currently zoned Residential Transition Zone as directed by Environment Court Decision No. [2022] NZEnvC 207. Consultation is progressing with Dunedin City Council and Otago Regional Council.



									<p><b>Potentially</b> – it is not clear whether the project includes any activities prohibited under the RMA, regarding the wetland. We note if the project is prohibited under the RMA, it can still be considered under the Bill.</p>	<p>relation to the planning documents.</p> <p>This may need to be clarified by an expert panel.</p>
<p><b>PSGE Settlement Priorities and Māori Development assessment –</b></p> <p><i>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).</i></p> <p>Advice on Māori development and PSGE settlement priorities includes information relating to:</p> <ul style="list-style-type: none"> <li>• where projects align explicitly with PSGE or iwi strategic objectives/vision/other strategic documents.</li> <li>• 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;</li> <li>• 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.</li> </ul>										
<p><b>Ineligible projects - based on the considerations at cl18(a–e) of the Fast Track Approvals Bill (version as at introduction)</b></p>		<p>The project does not appear to be ineligible according to the information provided in the application.</p>								
<p><b>Affected Māori group/s</b></p>		<p>The applicant has identified the following groups with interests in the project area:</p> <ul style="list-style-type: none"> <li>• Ngāi Tahu</li> <li>• Te Rūnanga o Ōtākou, Te Rūnanga o Waihao, Te Rūnanga o Moeraki, Hokonui Rūnanga and Kati Huirapa Rūnaka ki Puketeraki.</li> </ul> <p><u>Ngāi Tahu</u></p> <p>Ngāi Tahu is an iwi whose area of interest includes the proposed project site, based on the Area of Interest agreed between Ngāi Tahu and the Crown in the Deed of Settlement signed 21 November 1997.<sup>4</sup></p> <p><u>Papatipu rūnanga</u></p> <p>Te Rūnanga o Ōtākou, Te Rūnanga o Waihao, Te Rūnanga o Moeraki, Hokonui Rūnanga and Kati Huirapa Rūnaka ki Puketeraki are papatipu rūnanga of Ngāi Tahu for the project area.</p> <p>We have not identified any additional groups beyond those identified by the applicant.</p>								
<p><b>Has the applicant consulted with those Māori groups?</b></p>		<p>The applicant states that they have been in consultation with Aukaha, a mana whenua owned consultancy representing the local papatipu rūnanga as listed above, and consultation will be ongoing through the development of the resource consent application, with relevant iwi authorities then having opportunity to provide comments on the substantive application and any proposed conditions.</p> <p>The applicant hasn't stated whether Auhaka has provided any specific feedback about the project.</p>								
<p><b>Impact/s of the project on Māori development and PSGE settlement priorities and related matters</b></p>		<p><b><u>Impacts on PSGE settlement priorities and Māori development</u></b></p> <p>The applicant states that the proposed project is supported and identified in the Future Development Strategy which was created by both the Dunedin City Council and the Otago Regional Council in collaboration with mana whenua<sup>5</sup>.</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"> <li>• Ngāi Tahu 2025<sup>6</sup></li> <li>• Waitaki Iwi Management Plan (2019)<sup>7</sup></li> <li>• Kai Tahu Ki Otago Natural Resource Management Plan (2004)<sup>8</sup></li> <li>• Future Development Strategy for Dunedin 2024<sup>9</sup> (noting pages 29-31 "Statement of mana whenua values and hapū values and intent")</li> </ul> <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>								

<sup>4</sup> Ngāi Tahu Deed of Settlement 21 Nov 1997 (tearawhiti.govt.nz)

<sup>5</sup> See Page 111 - Future-Development-Strategy-2024-54.pdf (dunedin.govt.nz)

<sup>6</sup> Ngāi Tahu 2025 - English version A4 (ngaitahu.iwi.nz)

<sup>7</sup> WaitakilwiManagementPlan2019TeRunangaoMoerakiInc.pdf (aukaha.co.nz)

<sup>8</sup> DD11112 KTKO ResourceG.qxd (aukaha.co.nz)

<sup>9</sup> Future-Development-Strategy-2024-54.pdf (dunedin.govt.nz)

	<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><b><u>Impact on Treaty settlements and other relevant arrangements</u></b></p> <p><b>Ngāi Tahu Claims Settlement Act 1998</b></p> <p><i>Statutory acknowledgements</i></p> <p>This Treaty settlement contains a number of statutory acknowledgements. The proposed project location does not appear to be in or adjacent to statutory acknowledgement areas.</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>Conservation Act 1987</i></p> <p>The Settlement Act includes obligations in relation to the Conservation Act 1987. The Department of Conservation have advised the applicant may require approval from DOC under the Freshwater Fish Regulations that the Ōwhiro Stream passes through the intended development site. Although the Ōwhiro Stream is highly modified there are freshwater values to consider. The Department has commented on these in the past resource management matters. Galaxiid species such as Giant kokopu, inanga along with lampreys and Longfin eels occupy the stream and parts of the catchment upstream. As a branch tributary of the Taieri River the Ōwhiro provides habitat for spawning and native fish passage. Under the threat classification system – Giant Kokopu, lamprey, inanga and long finned eel are classified as “at risk” and “declining”. These species are important to Kai Tahu as Mahika kai species, and are listed as taonga species under the Ngāi Tahu settlement Act 1998, Schedule 98, Part A. The proposed development needs to ensure the provision fish passage and spawning for migratory native fish species as they need to go to the sea as an obligatory part of their life cycle. Safe fish passage is essential for these species to complete their life cycle. There may also be potential in the scope of this proposal to advocate for a setback for the Ōwhiro stream, with a goal of maintaining and enhancing the biodiversity values and supports improvement in the water quality.</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 (noting that an application for wildlife permit was lodged by the applicant in March 2024). The applicant states that their ecologists have identified lizards on the site through lizard surveys and have prepared a draft lizard management plans to ensure any adverse effects on lizard populations are carefully managed through construction and operation of the village. Lizards do not feature in the Ngāi Tahu Deed of Settlement as a taonga species.</p> <p><i>Other redress</i></p> <p>The applicant has stated that they will require archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014. MfE assumes legislation and relationship agreements that the Ministry for Culture and Heritage (MCH) are the responsible entity for will also be relevant here.</p> <p><b><u>Other matters</u></b></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), groups yet-to-settle their historical claims, Joint Management Agreements outside of settlement or Mana Whakahono ā Rohe.</p>
<p><b>Is the project considered low, medium or high impact (based on assessment criteria above)</b></p>	<p>From the information available we consider this project is likely to be of medium impact. This is due to potential impact on taonga species. Officials note that the consultation that occurred with mana whenua during the drafting of the Dunedin Future Development Strategy 2024, which the project is listed in, and the consultation underway with Auhaka could be a mitigating factor.</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><b>Has the Ministry for the Environment undertaken engagement?</b></p>	<p>Officials consider engagement would be beneficial but were unable to undertake this in the time available.</p>
<p><b>Additional comments/context</b></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.