

FTA#243: Application for listed project under the Fast-track Approvals Bill – Taradale and Awatoto Borefields-Water Treatment Plants Project for Schedule 2A

Date submitted to secretariat:	27 June 2024
Security level:	In-Confidence
To:	David TAPSELL, Chair – Fast-track Projects Advisory Group

Number of attachments: #	Attachments: 1. Application documents for Taradale and Awatoto Borefields-Water Treatment Plants Project
--------------------------	---

Applicant	Sector	Region	Identified in a priority/strategy?
Napier City Council	Infrastructure	Hawke's Bay	Yes

Ministry for the Environment contacts

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

Project location



Key messages

1. The Taradale and Awatoto Borefields-Water Treatment Plants project is to increase capacity at each of the existing borefield sites at Taradale and Awatoto, Napier, to improve supply, quality and resilience of Napier City's municipal water network.
2. The project will comprise:
 - a. Drilling up to three new bores at each site (one each as contingency), to deliver up to 500 litres per second at each site (from deeper parts of the aquifer, subject to further testing)
 - b. Decommissioning existing bores
 - c. Improvements to the water treatment plants.
3. The project will require resource consents and potentially notice of requirement under the Resource Management Act 1991 (RMA).
4. The applicant (Napier City Council) owns both subject sites.
5. We have undertaken an initial (Stage 1) analysis of the application, and this is provided in Table A.
6. We consider the applicant **has** provided sufficient information to consider the project for inclusion on Schedule 2A (although we note it could still be included on Schedule 2B based on the information provided).
7. The project does not trigger the ineligibility criteria in clause 18 of the Fast-track Approvals

Bill (the Bill).

8. Advice on PSGE development priorities and Māori development is provided in Table A. Table A also includes the relevant PSGEs or Māori groups and the settlement mechanisms, that will/may be impacted by the project and whether the project is low, medium or high impact on Treaty settlement/s and other relevant arrangements. Appendix 1 provides further detail on how this advice should be considered and our approach to analysis.

Signature



Ray Salter
Principal – 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	Y/N			
<p>Schedule requested</p> <p>2A</p> <p>Project Name</p> <p>Taradale and Awatoto Borefields-Water Treatment Plants</p> <p>Applicant</p> <p>Napier City Council</p> <p>Location</p> <p>Two distinct locations:</p> <ul style="list-style-type: none"> Taradale borefield: 294 Guppy Road, Taradale, Napier Awatoto borefield: 94 Awatoto Road, Meeanee, Napier <p>Land Status</p> <p>Both sites are owned by the applicant. The Awatoto borefield is in a road reserve. The Taradale borefield is within the Tereha Recreation Reserve.</p>	<p>The project will comprise:</p> <ul style="list-style-type: none"> Drilling up to three new bores at each site (one each as contingency), to deliver up to 500 litres per second at each site Decommissioning existing bores Improvements to the water treatment plants 	<p>The applicant seeks approval (resource consent and potentially notice of requirement) under the:</p> <ul style="list-style-type: none"> Resource Management Act 1991 <p>The application notes the overall volume will not exceed the parameters of its existing water take consent 387,744m³ per 7-day period).</p> <p>Approval may also be required under section 176 of the RMA for works within a Hawke's Bay Regional Council designation, which runs immediately adjacent to 96 Awatoto Road. This type of approval does not appear to be within scope of the Fast-track Approvals Bill as introduced.</p>	<p>The applicant has met with the Hawke's Bay Regional Council about consenting the project.</p> <p>The applicant notes "the project has been 'signalled' / 'introduced' to Mana Ahuriri Trust – with more meaningful engagement yet to commence".</p> <p>The applicant also identifies Ngāti Kahungunu and Te Waiwhenua o Te Whanganui Ā Orotū as relevant iwi authorities but does not describe any consultation with those groups in its application.</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>There have been no joint management agreements, mana whakahono ā rohe, Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 considerations identified, or unsettled claims identified in the project area. This is discussed further in the substantive Treaty analysis.</p> <p>It is more appropriate to deal with the application under another Act.</p> <p>No – The project is largely upgrading existing infrastructure on council land, without increasing the overall water take capacity. Nothing in the application indicates it would be more appropriate for the project to be considered under another Act.</p> <p>The project may have significant adverse effects on the environment.</p> <p>No – The project is largely an upgrade of existing works, and the water extraction limits under existing permits will not change. There may be some</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>Maybe – The applicant considers following a standard RMA process would likely exceed six months, and risks appeal (depending on whether notification provisions are triggered). The consent application (and notification assessment) has not yet been undertaken.</p> <p>The impact referring this project will have on the efficient operation of the fast-track process.</p> <p>Yes – The applicant notes this is a discrete project with confined assessment matters and potentially affected parties.</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 – Priority for Napier City Council (the applicant), with funding included in its three-year plan for consultation.</p> <p>The project will deliver regionally or nationally significant infrastructure.</p> <p>Yes– The applicant considers the project to be regionally significant infrastructure, and that the upgrade works will significantly improve the resilience and quality of the Napier water supply network.</p> <p>The project will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment.</p> <p>Yes –The application notes that the upgrade works will improve the resilience and quality of the Napier water supply network, and enable further urban growth to be supported to meet regional housing needs.</p> <p>The project will deliver significant economic benefits.</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>environmental effects that could be managed through appropriate consent conditions.</p> <p>The applicant has a poor compliance history under the relevant legislation.</p> <p>No – The applicant notes there have been isolated instances of non-compliance with resource consent conditions, primarily relating to infrastructure funding and maintenance and managing contractors for project delivery.</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 – Nothing in the application suggests the project to upgrade existing water infrastructure suggests would be prohibited under the RMA.</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 enable you to assess the project for inclusion on Schedule 2 Part A.</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> <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 applicant anticipates the deeper bores will provide greater resilience in respect to groundwater levels.</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 applicant notes municipal water supply is supported by the local and regional planning documents but does not provide further detail.</p>
--	--	--	--	--	--	--	--	---	--	---

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"> • Ngāti Kahungunu • Te Waiwhenua o Te Whanganui Ā Orotū • Mana Ahuriri Trust • Heretaunga Tamatea <p><u>Ngāti Kahungunu and Te Waiwhenua o Te Whanganui Ā Orotū</u></p>

	<p>The applicant has identified Ngati Kahungunu as an affected iwi. Ngati Kahungunu is a large iwi with hapu from Wairoa to Wairarapa. The relevant hapu groupings in this area are Ahuriri Hapu and Heretaunga Tamatea, which are addressed below. Te Waiwhenua o Te Whanganui A Orotu is an organisation within the Ngati Kahungunu Iwi Incorporated structure that represents hapu.</p> <p><u>Mana Ahuriri Trust</u></p> <p>Mana Ahuriri Trust is the representative entity for Ahuriri Hapū. Ahuriri Hapū is a group of Ngāti Kahungunu hapū (including Ngāi Tāwhao, Ngāi Te Ruruku, Ngāti Hinepare, Ngāti Māhu, Ngāti Matepu, Ngāti Pārau and Ngāti Tū) whose area of interest includes the proposed project site, based on the area of interest agreed between Ahuriri Hapū and the Crown in a Deed of Settlement signed on 2 November 2016.¹</p> <p><u>Heretaunga Tamatea</u></p> <p>Heretaunga Tamatea Settlement Trust is the representative entity for Heretaunga Tamatea. Heretaunga Tamatea is a group of Kahungunu iwi/hapū whose area of interest includes the proposed project site, based on the area of interest agreed between Heretaunga Tamatea and the Crown in a Deed of Settlement signed on 26 September 2015.²</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 application states that the application has been 'signalled' to Mana Ahuriri Trust, but substantial consultation has not taken place.</p>
<p>Impact/s of the project on Māori development and PSGE settlement priorities and related matters</p>	<p><u>Impacts on PSGE settlement priorities and Māori development</u></p> <p>There is no information in the application to suggest that this application is made by or on behalf of a Māori organisation, or that the project will have a direct benefit in terms of Māori development.</p> <p>In the time available, we have identified the following relevant plans and documents:</p> <ul style="list-style-type: none"> • Management Plan Mana Ake Nga Hapu o Heretaunga 2015 published by Te Taiwhenua o Heretaunga • Kahungunu ki Uta Kahungunu ki Tai Marine and Freshwater Strategic Plan • Management Plan Tutaekuri Awa Management and Enhancement Plan 2015 • Ngāti Kahungunu Incorporated Taonga Tuku Iho 1992 <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.</p> <p><u>Impact on Treaty settlements and other relevant arrangements</u></p> <p>Ahuriri Claims Settlement Act 2021</p> <p><i>Statutory acknowledgements</i></p> <p>This Treaty settlement contains a number of statutory acknowledgements. The applications identifies that the project site is within or adjacent to a statutory acknowledgement area.</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>Hawke's Bay Regional Planning Committee</p> <p>The Hawke's Bay Regional Planning Committee is a joint committee consisting of equal numbers of iwi and council appointed members established under the Hawke's Bay Regional Planning Committee Act 2015. The purpose of the Hawke's Bay Regional Planning Committee is to oversee the development and review of RMA documents prepared in accordance with the RMA for the Regional Planning Committee region.</p> <p>The functions of the entity include:</p> <ul style="list-style-type: none"> • Overseeing the development and review of RMA regional planning documents (regional policy statements and regional plans); and recommending to the Council for public notification the content of any such document. If a recommendation is not accepted, the matter must be referred back to the Committee. • Monitoring the efficiency and effectiveness of the RMA documents in accordance with section 35 of the RMA. Under the terms of reference, there are also powers to recommend appointment to hearing commissioner panel. <p>This is a significant mechanism which has its origins in the Ngāti Pāhauwera Treaty settlement. If this project is progressed through the fast-track process, there is a risk that regional policy statements and plans will have a lesser effect than they would under the RMA, and hence the impact of this arrangement will be diminished.</p>

	<p>Heretaunga Tamatea Claims Settlement Act 2018 <i>Statutory acknowledgements</i> This Treaty settlement contains a number of statutory acknowledgements. The applications identifies that the project site is within or adjacent to a statutory acknowledgement area. The text above in relation to statutory acknowledgements applies here also.</p> <p>Hawke's Bay Regional Planning Committee The text above in relation to the Hawke's Bay Regional Planning Committee applies here also.</p> <p><u>Iwi Environment Management plans</u> Note the comments above in relation to iwi management plans.</p> <p><u>Other matters</u> There have been no joint management agreements, mana whakahono ā rohe, Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 considerations identified, or unsettled claims identified in the project area. In the time available, officials have not identified any other relevant matters.</p>
<p>Is the project considered low, medium or high impact (based on assessment criteria above)</p>	<p>From the information available we consider this project is likely to be of medium impact. This is due to the nature and range of interests present in the project area. 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.