

FTA#106: Application for listed project under the Fast-track Approvals Bill –Waikanae North Developments Project for Schedule 2A

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

Number of attachments: 2	Attachments: <ol style="list-style-type: none"> Application documents for the Waikanae North Developments Project Agency feedback (MPI)
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Applicant	Sector	Region	Identified in a priority/strategy?
Waikanae North Developments Limited	Residential	Wellington	No

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)	

2. The project will require resource consents under the Resource Management Act 1991 (RMA); archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014; and a permit under the Wildlife Act 1953.
3. The applicant reports they are the landowner, noting the record of title is in the name of Peka Peka Farms Limited, a company since removed from the Companies Register. The applicant reports Waikanae North Developments Limited was formerly known as Peka Peka Farms Limited.
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 2A (although we note it could still be included on Schedule 2B based on the information provided).
6. The project does not trigger the ineligibility criteria in clause 18 of the Fast-track Approvals Bill (the Bill).
7. Advice on PSGE development priorities and Māori development is provided in Table A. Table A also includes the relevant PSGEs or Māori groups and the settlement mechanisms, that will/may be impacted by the project and whether the project is low, medium or high impact on Treaty settlement/s and other relevant arrangements. Appendix 1 provides further detail on how this advice should be considered and our approach to analysis.

Signature

A handwritten signature in blue ink, appearing to read 'S. Frame', with a large, stylized initial 'S' and a long horizontal flourish at the end.

Stephanie Frame
Manager – Listed Projects

Table A: Stage 1 initial assessment of project eligibility and Treaty settlement assessment and advice¹

Project details	Project description	Approvals sought	Consultation undertaken	Does the project trigger the ineligibility criteria [clause 18]?				Discretionary ground to decline [clause 21(2)]	Eligibility [clause 17]	
				Treaty settlement land, Māori customary land, customary marine title, customary rights, aquaculture settlement area, or prevented by RMA clauses [clauses 18(a-e, g)]	Access arrangement under CMA where a permit can't be granted, or is listed in items 1-11, 14 [clauses 18(f,h)]	Activity on a national reserve under Reserves Act which requires approval under that Act [clause 18(i)]	Prohibited activity under EEZA or regulations under that Act, decommissioning-related activities, offshore renewable energy progressing ahead of permitting legislation [clause 18(j-l)]		Is the project eligible [clause 17(2)]	Would the project have significant regional or national benefits [clause 17(3)]
High level summary			Y	N	N	N	N			
<p>Schedule requested 2A</p> <p>Project Name Waikanae North Development</p> <p>Applicant Waikanae North Developments Limited</p> <p>Company director/s Andrew James Leslie Beatson Oliver Archie John Hunt Jeremy Ross Moon Paul Turner</p> <p>Location 169-171 Peka Peka Road, Kāpiti, to the north of Waikanae.</p> <p>Land Status The applicant reports they are the landowner, noting the record of title is in the name of Peka Peka Farms Limited, a company</p>	<p>To establish a master-planned urban development comprising:</p> <ul style="list-style-type: none"> Over 1000 residential dwellings of diverse typologies A local centre with retail, café, shared working space, and other commercial activities Neighbourhood parks, playing fields, walkways and cycleways Ecological restoration areas including a 15.5 ha ecological wetland sanctuary, 19 ha of amenity open space Enhancement planting to the existing Te Harakeke wetland Dune restoration and enhancement planting of some 17.5 ha The creation of a harakeke harvesting area Restoration and re-naturalisation of an existing watercourse 	<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 Wildlife Act 1953 <p>The applicant notes that approvals may also be required under the Local Government Act 1974 for roading.</p>	<p>The applicant identifies the following parties as affected:</p> <ul style="list-style-type: none"> Kāpiti Coast District Council (KCDC) Greater Wellington Regional Council Ātiawa Ki Whakarongotai Ngāti Raukawa Waka Kotahi NZTA Transpower Adjacent property owners <p>KCDC has expressed support for the project and has included the site as part of its draft Infrastructure Strategy that is currently undergoing consultation as part of LTP processes.</p> <p>Engagement with Ātiawa ki Whakarongotai and Ngāti Raukawa has been positive and is ongoing. Cultural uses of the site, iwi ambitions, and</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.</p> <p>is more appropriate to deal with the application under another Act.</p> <p>Potentially – this project is not enabled by the underlying Rural zoning. It may be that the project would be more appropriately considered following a Plan Change under the RMA, to ensure sustainable urban form and servicing.</p> <p>We note that 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 identifies there will be ecology, landscape and rural character /visual, soils, traffic, earthworks and construction, archaeological, reverse sensitivity and infrastructure effects, but with appropriate management they are expected to be minor.</p> <p>The applicant has a poor compliance history under the relevant legislation.</p> <p>No.</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>Potentially – under usual RMA processes this project may require a Plan Change to enable it.</p> <p>The impact referring this project will have on the efficient operation of the fast-track process.</p> <p>Yes.</p> <p>Whether the application contains sufficient information to inform the referral decision.</p> <p>Yes.</p>	<p>The project has been identified as a priority project in a central government, local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy) or central government infrastructure priority list.</p> <p>No.</p> <p>The project will deliver regionally or nationally significant infrastructure.</p> <p>No – housing is not defined as infrastructure by the RMA.</p> <p>The project will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment.</p> <p>Yes – provided public infrastructure to service the development can be sustainably supplied in a timely manner, and it fits with the region's plan for growth.</p> <p>The project will deliver significant economic benefits.</p> <p>Yes – through construction and increasing housing capacity. The applicant states a detailed analysis will be provided in the substantive application.</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>

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>since removed from the Companies Register. The applicant reports Waikanae North Developments Limited was formerly known as Peka Peka Farms Limited.</p>	<ul style="list-style-type: none"> Capacity for complementary activities such as a retirement village and a school Transport connections Integration of stormwater management and active transport infrastructure 		<p>job/housing/cultural harvesting opportunities have been discussed, and a MOU with iwi is in development. This engagement has informed the design of the masterplan.</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>Yes – some of the land is considered highly productive (LUC3), and that highly productive land is not identified in a council plan for future urban development. The NPS for Highly Productive Land generally requires territorial authorities avoid the subdivision, or inappropriate use or development of highly productive land. The applicant reports this LUC3 land is highly fragmented, occupies low lying areas and is not a viable stand-alone proposition for land based productive activity.</p>		<p>The project will support climate change mitigation, including the reduction or removal of greenhouse gas emissions.</p> <p>Potentially – transport planning for the project encourages reduced reliance on private motor vehicles, and the wetland area will be restored.</p> <p>The project will support adaptation, resilience, and recovery from natural hazards.</p> <p>Potentially – land use design considers natural hazards, and stormwater management can help mitigate flooding issues.</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>No – the current land zoning is Rural. The land is not identified in KCDC's growth strategy 'Te Tupu Pai – Growing Well'.</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 project does not appear to be ineligible according to the information provided in the application.</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"> Ātiawa ki Whakarongotai Ngāti Raukawa <p><u>Ātiawa ki Whakarongotai</u></p> <p>Ātiawa ki Whakarongotai are yet to settle their historical Treaty of Waitangi claims and so the area of interest of Ātiawa ki Whakarongotai is not confirmed. Information from Te Kāhui Māngai confirms the proposed project location as being within the area of interest for Ātiawa ki Whakarongotai. Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.²</p> <p><u>Ngāti Raukawa</u></p> <p>Ngāti Raukawa are yet to settle their historical Treaty of Waitangi claims and so the area of interest of Ngāti Raukawa is not confirmed. Information from Te Kāhui Māngai confirms the proposed project location as likely being within the area of interest for Ngāti Raukawa. Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.³</p>

² TKM | Iwi | Te Ātiawa ki Whakarongotai | Te Kahui Māngai

³ TKM | Iwi | Ngāti Raukawa ki te Tonga | Te Kahui Māngai

	<p>In addition to the groups identified by the applicant, we have also identified the following additional groups as potentially having interests in the proposed project location:</p> <ul style="list-style-type: none"> • Muaūpoko • Ngāti Toa Rangatira <p><u>Muaūpoko</u></p> <p>Muaūpoko are yet to settle their historical Treaty of Waitangi claims and so the area of interest of the Muaūpoko is not confirmed. Information from Te Kāhui Māngai confirms the proposed project location as being within the area of interest for Muaūpoko. Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.⁴</p> <p><u>Ngāti Toa Rangatira</u></p> <p>Ngāti Toa Rangatira is an iwi whose area of interest includes the proposed project site, based on the area of interest agreed between Ngāti Toa Rangatira and the Crown in the Deed of Settlement signed 7 December 2012.⁵</p>
<p>Has the applicant consulted with those Māori groups?</p>	<p>The applicant states that it has engaged with Ātiawa ki Whakarongotai and Ngāti Raukawa regarding the cultural uses of the site, the ambitions of iwi in regard to the site and opportunities such as job creation, housing, cultural harvesting. The engagement has informed the design of the masterplan. The applicants are engaged in the development of a memorandum of understanding with iwi.</p> <p>It does not appear, based on the information provided with the application, that the applicant has engaged with Muaūpoko and Ngāti Toa at this stage.</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"> • Ātiawa 2019 Kaitiaki Plan • Ngāti Toa Rangatira Iwi Environmental Management Plan and Poutiaki Plan <p>It is not possible to confirm from those documents that the project does or does not align with the strategic priorities of those iwi or Māori groups. The applicant has assessed these documents in their application.</p> <p>A full analysis of the plan would need to be undertaken in conjunction with the relevant iwi before any firm conclusions can be reached. That is a matter to be considered in more detail in subsequent stages if this progresses through the fast-track processes.</p> <p><u>Impact on Treaty settlements and other relevant arrangements</u></p> <p>Ngāti Toa Rangatira Claims Settlement Act 2014</p> <p><i>Statutory acknowledgements</i></p> <p>This Treaty settlement contains a number of statutory acknowledgements. It is not clear from the application whether a statutory acknowledgement covers or is adjacent to the project site or is directly impacted by the proposed project. The applicant states that the project is not located within any 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. The Environment Court must also have regard to a statutory acknowledgement in considering appeals on applications for archaeological authorities within the project area under the Heritage New Zealand Pouhere Taonga Act 2014.</p> <p>An impact of listing this project under Schedule 2 Part A is that the Ministers will not have to exercise their 'referral discretion' including considering the Treaty settlement impacts through that process, nor will they have the benefit of the clause 13 report. There is a requirement on the expert panel to invite comment from the PSGE on the application (noting this is an automatic right to participate, which is currently discretionary under the statutory acknowledgement). For a Schedule 2 Part B listing (which this project is not), Ministers will have to exercise their 'referral discretion' including considering the Treaty settlement impacts through that process, and they will have the benefit of the clause 13 report. The expert panel will also be required to invite comment from the PSGE on the application (again, noting this is an automatic right to participate, which is currently discretionary under the statutory acknowledgement).</p> <p>Listing this project, and the fast-track process generally, will not provide equivalent weight to the statutory acknowledgement, which may limit the influence of the iwi compared to the usual consenting regime. For example, under the RMA process, if a PSGE is notified due to the statutory acknowledgement, the PSGE has the right to make a submission, attend a hearing, appeal to the Environment Court, and appeal to the High Court and higher courts. The fast-track process does not provide exactly the same rights to the PSGE (particularly the potential right to make a submission and then participate in a hearing and de novo appeal), but as noted above there are some other enhanced rights of participation.</p> <p><i>Wildlife Act 1953</i></p> <p>The Settlement Act may include obligations in relation to the Wildlife Act 1953. This application involves wildlife permits which may be relevant to those settlement obligations (depending on the detail of the application made). The Department of Conservation has noted that this would trigger consultation obligations in respect to taonga species.</p> <p><u>Iwi Environment Management plans</u></p>

⁴ TKM | Iwi | Muaūpoko | Te Kahui Māngai

⁵ AOI-NgatiToaRangatira.jpg (945x1329) (tkm.govt.nz)

	<p>Note the comments above in relation to iwi management plans.</p> <p><u>Implications for groups yet to settle their historical Treaty of Waitangi claims</u></p> <p>There are groups still working through their Treaty settlement processes. For example, Te Ati Awa ki Whakarongotai and Muaūpoko. It will be important that these interests are considered in more detail if the project progresses through the fast-track process, but in the time available there are no further impacts noted.</p> <p><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 medium impact. This is due to the nature and range of interests present in the project area.</p> <p>An impact of listing this project under Schedule 2 Part A is that the Ministers will not have to exercise their 'referral discretion' including considering the Treaty settlement impacts through that process, nor will they have the benefit of the clause 13 report. For Part A projects, there is a requirement on the expert panel to invite comment from the PSGE on the application.</p>
<p>Has the Ministry for the Environment undertaken engagement?</p>	<p>Officials consider engagement would be beneficial given the nature and range of interests present in the project area but were unable to undertake this in the time available.</p>
<p>Additional comments/context</p>	<p>N/A</p>

Appendix One: Approach and considerations for Treaty settlement advice on listed project applications advice in Table A

1. Ministers have advised the Advisory Group should receive advice from officials on “Māori development and PSGE settlement priorities” relevant to each application. Note this differs from section 13 requirements of the current Fast Track Consenting Bill that ‘Ministers must consider Treaty settlements and other obligations report’ as these reports will not be in existence at the time, although matters identified in section 13 (2)(a)-(j) will be considered as part of official's analysis.
2. We have interpreted “Māori development” and “PSGE priorities” to mean primarily projects that:
 - a. align explicitly with PSGE or iwi strategic objectives/vision/other strategic documents; and/or
 - b. contribute towards addressing historical or systemic inequities faced by Māori. This would be undertaken through an equity assessment; and/or
 - c. the project is being led by or in partnership with a Māori entity or business.
3. Given the time constraints and limited engagement this advice cannot be considered as comprehensive and does not intend to reflect their views and should not be read as such.
4. Engagement with PSGEs and other relevant groups has been considered based on potential high-risk factors including, but not limited to, if:
 - a. a project will take place on or effect any taonga or areas of significance that are protected by Treaty settlement arrangements.
 - b. a project will have a substantive and/or ongoing environment impact on any taonga or areas of significance.
 - c. a project will include a consenting arrangement that will require a significant take, or be ongoing for an extended period, in relation to a taonga or area of significance, or in regions where PSGEs have specific planning mechanisms in place.
 - d. PSGEs or other Māori entities have previously strongly contested the project or a similar type of project, particularly where court action has been taken.
 - e. The project is clearly in conflict with or undermines PSGE priorities.
 - f. Engagement would be required to maintain and uphold the Te Tiriti Crown relationship.
5. In limited circumstances where engagement occurs, it has been brief. Where engagement has been undertaken it is reflected in our analysis but should not be taken to mean that our Treaty Partners endorse our advice.