

## FTA#153: Application for listed project under the Fast-track Approvals Bill – Waitaha Hydro Project for Schedule 2A

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

Number of attachments: #	Attachments: 1. Application documents for Waitaha Hydro Project
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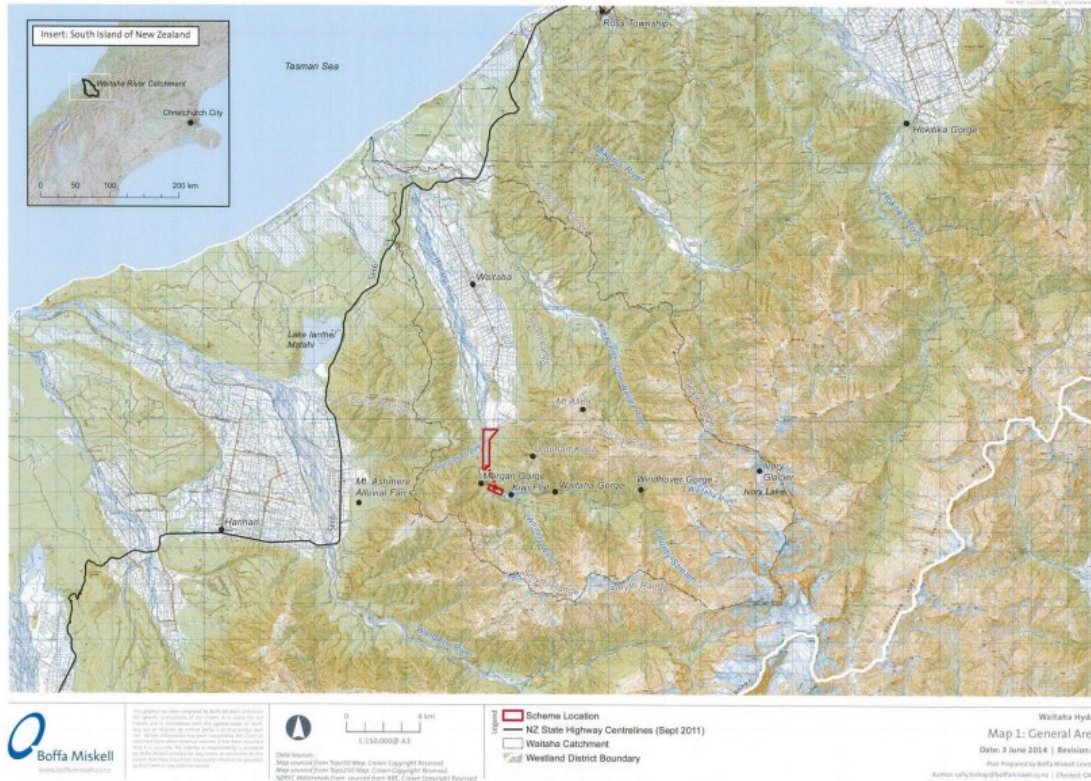
Applicant	Sector	Region	Identified in a priority/strategy?
Westpower Limited	Hydro	West Coast	Yes

### Ministry for the Environment contacts

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

## Project location

### ATTACHMENT 1 – PROJECT LOCATION DETAILS



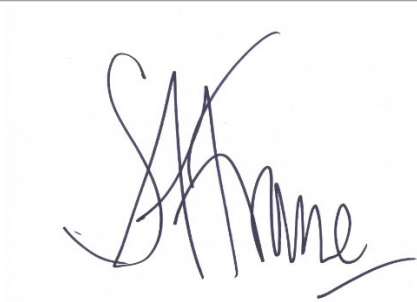
## Key messages

1. The Waitaha Hydro Project is to develop a run-of-river hydro scheme on the Waitaha River, 38 km south of Hokitika in South Westland. The project will provide renewable energy equivalent to providing electricity to approximately 12,000 households and reinforce the security of electricity supply to the West Coast.
2. The project will consist of the construction, operation and maintenance of a small weir, which will divert a portion of the Waitaha River into a 1.5 km tunnel which conveys water from the intake to a powerhouse. The diverted water will be returned to the Waitaha River. The section of the Waitaha River affected by the diverted flow is 2.6 km long including the Morgan Gorge. A minimum flow of 3.5 m<sup>3</sup>/s is proposed to be retained in the Waitaha River when the project is operational. An access road is required between the end of Waitaha Road, across Macgregor Creek and along the north bank of the Waitaha River to the powerhouse. This road will be built for the construction of the tunnel, powerhouse and associated structures and then maintained once the project is operational. A 66 kV transmission route, to convey power from the scheme to the distribution connection point on State Highway 6, will follow the access road to Macgregor Creek within conservation land. Beyond Macgregor Creek the transmission route to State Highway 6, including a potential crossing of the Waitaha River, is subject to further investigation.
3. The project will require consents under the Resource Management Act 1991, Conservation Act 1987 and Wildlife Act 1953. Approvals may also be required under the Freshwater Fisheries Regulations 1983. Approval is required for use of Crown Land under the Land Act 1948.

4. Westpower has negotiated an agreement allowing it to purchase part of the land and lease other parts of the land required for the project. The balance of the project land is held by the Department of Conservation (DoC) and will be addressed by a concession application. The applicant will also need approval from Land Information New Zealand (LINZ) for one parcel of Crown land within the project site.
5. We have undertaken an initial (Stage 1) analysis of the application(s) 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

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A handwritten signature in blue ink, appearing to read 'S. Frame', is written over a light blue rectangular background.

Stephanie Frame  
**Manager – Listed Projects**

**Table A: Stage 1 initial assessment of project eligibility and Treaty settlement assessment and advice<sup>1</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>			<b>Y</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>			
<p><b>Schedule requested</b> 2A</p> <p><b>Project Name</b> Waitaha Hydro Project</p> <p><b>Applicants</b> Westpower Limited</p> <p><b>Company directors</b> Timothy Bateman Albert Brantley Hamish Croft Hugh Little Suzanne Merriman Anthony Williams</p> <p><b>Location</b> The project is located within the true right bank of the Waitaha River, between the lower end of Kiwi Flat and Macgregor Creek within Waitaha Valley. A new electricity line will be installed from the proposed powerhouse substation to a connection with the</p>	<p>The project will consist of the construction, operation and maintenance of a small weir, which will divert a portion of the Waitaha River into a 1.5 km tunnel which conveys water from the intake to a powerhouse. The diverted water will be returned to the Waitaha River</p> <p>The overall construction is expected to take some 2-4 years and will comprise four key stages. It should be noted that the works will not be occurring at all sites for this entire length of time, for instance, no major works at the intake and powerhouse sites can be undertaken until the access road to the powerhouse is developed. The key stages and estimated timeframes are: 1) construction of the access road between Waitaha Road, across Macgregor Creek and along the north bank of the Waitaha River is estimated to take 6 months;</p>	<p>The applicant seeks approval under the:</p> <ul style="list-style-type: none"> <li>Resource Management Act 1991</li> <li>Freshwater Fisheries Regulations 1983</li> <li>Conservation Act 1987</li> <li>Wildlife Act 1953.</li> <li>Approval for use of Crown Land under the Land Act 1948</li> </ul>	<p>The applicant had an application for a concession declined by the Minister of Conservation in 2019. As part of the development of that application the applicant consulted with:</p> <ul style="list-style-type: none"> <li>West Coast Conservation Board</li> <li>Department of Conservation</li> <li>Adjacent landowners</li> <li>Federated Mountain Clubs</li> <li>Federated Farmers</li> <li>The Jet Boating Association</li> <li>Ministers of Parliament</li> <li>New Zealand Alpine Club</li> <li>Permolat</li> <li>West Coast Regional Council</li> <li>Westland District Council</li> <li>Members of the public and local community through an engagement portal on our project website</li> <li>Te Rūnanga o Ngāti Waewae</li> </ul>	<p>We are not aware of the project triggering any of these ineligibility criteria.</p>	<p>The project does not require an access arrangement under the Crown Minerals Act 1991 and the project site does not appear to include any land identified in Schedule 4 of that Act.</p>	<p>The activity does not occur on a national reserve that we are aware of.</p>	<p>The project will not occur in the EEZ.</p>	<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><b>No</b></p> <p>It is more appropriate to deal with the application under another Act</p> <p><b>No</b> – no application under the Resource Management Act 1991 has been made to date, because Westpower considered that permission of the landowner of the conservation estate is critical to the project and should be obtained first. A Concession application to undertake the Project partly on DoC land was lodged in 2014, which was later declined. An application for reconsideration of the concession decision was lodged with DoC on 31 May 2022. The re-consideration application has been placed on hold</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><b>Yes</b> - Omnibus consent processing will accelerate the consideration of the project.</p> <p>The impact referring this project will have on the efficient operation of the fast-track process</p> <p><b>Low impact</b> - The project does not raise novel effects, nor are assessments required where there is significant uncertainty. On that basis the application is likely to be relatively straightforward to process</p> <p><b>Whether the application contains sufficient information to inform the referral decision</b></p> <p><b>Yes</b></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><b>Yes</b> - This project has been specified the Te Poutini – West Coast Renewable Energy Strategy</p> <p>The project will deliver regionally or nationally significant infrastructure</p> <p><b>Yes</b> - Additional generation capacity</p> <p>The project will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment</p> <p><b>N/A</b></p> <p>The project will deliver significant economic benefits</p> <p><b>Yes</b> - The construction and operation of the project will increase economic activity for the local Westland District and West Coast regional economies; - In terms of direct economic effects, 70% of the construction cost could be spent in the Westland District and 80% could be spent on the West Coast; In addition, there are positive indirect economic effects on the suppliers to the firms directly contracted by the project from within the district and the region. During operation there will be an additional full time equivalent staff member required to undertake regular operations and maintenance duties.</p> <p>The project will support primary industries, including aquaculture</p>

<sup>1</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.

<p>distribution network adjacent to State Highway 6.</p> <p><b>Land Status</b></p> <p>With respect to Lot 2 DP 376096 privately held by the McLean Company Westpower has negotiated an agreement allowing Westpower to purchase the part of the land required and lease other parts of the land required for the project.</p> <p>The balance of the project land is held by the Department of Conservation (DoC) and will be addressed by a concession application. The applicant will also need approval from LINZ for one parcel of Crown land identified within the project site.</p>	<p>2) construction of the tunnel and subsurface structures is estimated to take 24 months;</p> <p>3) construction of the intake channel and weir is estimated to take 12-18 months; and</p> <p>4) construction of powerhouse, switchyard and 66 kV transmission line and installation of the penstock is estimated to take 12 months.</p>		<ul style="list-style-type: none"> <li>Te Rūnanga o Makaawhio</li> <li>Westland Milk Product</li> <li>Governor General.</li> </ul> <p>While the consultation does not relate to the fast-track process, it is relevant to the project as proposed.</p>					<p>pending the outcome of this application</p> <p><b>The project may have significant adverse effects on the environment</b></p> <p>The applicant considers the environmental effects to be more than minor</p> <p><b>The applicant has a poor compliance history under the relevant legislation</b></p> <p>No.</p> <p><b>The project involves an activity that would occur on land that the Minister for Treaty of Waitangi Negotiations considers necessary for Treaty settlement purposes</b></p> <p>No.</p> <p><b>The project includes an activity that is a prohibited activity under the RMA</b></p> <p>No.</p>		<p>No</p> <p><b>The project will support development of natural resources, including minerals and petroleum</b></p> <p>N/A</p> <p><b>The project will support climate change mitigation, including the reduction or removal of greenhouse gas emissions</b></p> <p>Yes - Assuming the project produces 100 GWh (100,000MWh) per year, this is equivalent to a reduction in CO2 emissions of 100,000 tonnes per annum from electricity production. CO2 emissions will also be reduced in the coal supply chain.</p> <p><b>The project will support adaptation, resilience, and recovery from natural hazards</b></p> <p>Yes - The project will provide the equivalent of almost half of the current electricity demand on the Westpower network on the West Coast of the South Island, greatly improving the resilience of the network, especially during times of natural disaster;</p> <p><b>The project will address significant environmental issues</b></p> <p>Yes - This project addresses energy security and resilience on the West Coast, and climate change, as significant environmental issues at a national and regional scale in New Zealand and lessens the reliance on non-renewable energy generation</p> <p><b>The project is consistent with local or regional planning documents, including spatial strategies</b></p> <p>Yes - Renewable energy solutions are identified as priority projects in the Tai Poutini West Coast 2050 Strategy</p> <p>Renewable energy is recognised and is supported in the Westland District Plan and West Coast regional Policy Statement.</p>
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**PSGE Settlement Priorities and Māori Development assessment –**

*Note - given the time and scope constraints of this advice, some assumptions have been made and engagement has only been undertaken in limited circumstances. Given this, the advice may not be comprehensive and is not intended to reflect the views of relevant Post Settlement Governance Entities or other groups (unless specifically noted). In limited circumstances where engagement has been able to occur, it has most likely not been comprehensive due to the timeframes available.*

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)**

This project does not appear to be ineligible according to the information provided in the application.

**Affected Māori group/s**

Te Rūnanga o Ngai Tahu  
Relevant Papatipu Rūnanga: Ngāti Waewae and Makaawhio

<p><b>Has the applicant consulted with those Māori groups?</b></p>	<p>Yes, the applicant has provided a letter of support from Te Rūnanga o Ngāti Waewae and Tē Runanga o Makaawhio for this project to be listed in 2A of the Fast Track Approvals Bill. The letter also states that if granted approval Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio will be project partners and will also have a financial interest in 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 letter of support states that Ngāi Tahu, Te Rūnanga o Ngāti Waewae and Tē Runanga o Makaawhio (Poutini Ngāi Tahu) will be project partner with the applicant. The letter highlights the significance and benefits for the Rūnanga:</p> <ul style="list-style-type: none"> <li>• a means of reconnecting to whenua,</li> <li>• economic benefits</li> <li>• a shared vision to protect and advance the interests of the West Coast,</li> <li>• provide electrical resilience to the region via renewable energy,</li> <li>• provide for their iwi and Manaaki visitors,</li> <li>• the importance of security of supply as highlighted in the Ngāi Tahu Climate Change strategy He Rautaki mō te Huringa o te Āhuarangi,</li> <li>• employment and training.</li> </ul> <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>No statutory acknowledgement areas are known to apply on or adjacent to the site and officials have not identified any other matters relating to Ngāi Tahu's Treaty settlement. Furthermore, in the letter of support for the project Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio state that they "also consider the project to be consistent with the Ngāi Tahu Claims Settlement Act 1998".</p> <p><b>Poutini Ngāi Tahu's Mana Whakahono-ā-Rohe (MWAR) with West Coast Regional Council</b></p> <p>There is a 2020 Paetae Kotahitanga ki Te Tai Poutini (Partnership Protocol) and Mana Whakahono ā Rohe (Resource Management Act 1991 (RMA) Iwi and Hapū participation arrangement) between Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio, Te Rūnanga o Ngāi Tahu and the West Coast Regional Council. The Mana Whakahono ā Rohe between the West Coast Regional Council and Poutini Ngāi Tahu includes provisions for Rūnanga participation in different RMA functions, including (among other things) the appointment of hearing commissioners and the determination of whether the Rūnanga are an Affected Party to a resource consent application.</p> <p>Listing this project in the Fast-track Approval Bill may impact the application of these mechanisms providing for substantive input from Poutini Ngāi Tahu into processes related to this project that would occur through the normal consenting regime, though officials note that the application states that the relevant Papatipu Rūnanga support the project.</p> <p><b><u>Iwi Environment Management plans</u></b></p> <p>Ngāi Tahu's document, Ngāi Tahu 2025, is relevant to the project. Officials note consistency with the plan can only be assessed properly following consultation with Ngāi Tahu and a full plan assessment.</p> <p><b><u>Other matters</u></b></p> <p>In the time available, officials have not identified any other impacts for Treaty settlements, Mana Whakahono ā Rohe agreements, the Marine and Coastal Area (Takutai Moana) Act 2011 (noting the project area is outside the common marine and coastal area), groups yet-to-settle their historical claims (noting that Treaty settlements have been completed over the Ngāi Tahu takiwā including this area) or other relevant matters.</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 low impact. This is due to the support expressed by Poutini Ngāi Tahu as project partners, the benefits that have been identified by Poutini Ngāi Tahu relating to the project and that officials have not identified any impacts in relation to the Ngāi Tahu settlement</p>
<p><b>Has the Ministry for the Environment undertaken engagement?</b></p>	<p>Officials do not consider engagement necessary to inform this assessment.</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.