



FTA#333: Application for listed project under the Fast-track Approvals Bill – Wallace Road Stage 1A and 1B Subdivision and Land Use Consent with Associated Roding and Infrastructure 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 Wallace Road Stage 1A and 1B Subdivision and Land Use Consent with Associated Roding and Infrastructure Project
--------------------------	--

Applicant	Sector	Region	Identified in a priority/strategy?
Malcolm's Rest Ltd and L & K Seeney	Residential	Waikato	Yes

Ministry for the Environment contacts

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

Project location



Key messages

1. The Wallace Road Stage 1A and 1B Subdivision and Land Use Consent with Associated Rooding and Infrastructure Project is to subdivide and develop 111.5 hectares of greenfield land for residential housing at 27 Wallace Road and 461 Whatawhata Road on the fringe of Hamilton City. The project site is located in the Waikato District in the Waikato Region.
2. The project, to be delivered over 6 years, will comprise:
 - a. Subdivision of land
 - b. Provision of infrastructure services – three waters and roading
 - c. Connections to primary utilities and services
 - d. Construction of 230 residential lots of mixed typologies
 - e. Pathways and open spaces
 - f. Riparian planting.
3. The project will require resource consents under the Resource Management Act 1991 (RMA) for; subdivision, land use, earthworks, taking surface water, taking groundwater, discharge of stormwater, wetland structures and soil disturbance.
4. The applicant also seeks consent for ‘activities not provided for in a rural zone’ on the basis that the project does not comply with the current ‘rural’ zoning.
5. The applicant advises the project seeks to connect to water and wastewater infrastructure assets owned/managed by Hamilton City Council and recognises that there are some city-wide capacity issues around these services that need to be addressed. Approvals are also required from other asset owners and utility providers including Waikato District Council and NZTA. It is not clear how or where the applicant intends to connect to the utilities and services assets.
6. The project site is private freehold land under two titles, each owned by the respective applicants.
7. While the project land has been identified as a future growth cell for Hamilton City since 2005, the project site sits entirely within the Waikato District and subject to a ‘rural zoning’ and ‘urban expansion overlay’ under both the operative and proposed Waikato District Plan.
8. The applicant is party to a 2022 memorandum of understanding with HCC which sets out the intent and steps to the transfer of the project land to HCC jurisdiction.
9. We have undertaken an initial (Stage 1) analysis of the application, and this is provided in Table A.
10. 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).
11. The project does not trigger the ineligibility criteria in clause 18 of the Fast-track Approvals Bill (the Bill).

12. 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 black ink, appearing to read 'S. Frame', with a stylized, cursive script.

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 Wallace Road Stage 1A and 1B Subdivision and Land Use Consent with Associated Roding and Infrastructure Project</p> <p>Applicant Malcom's Rest Ltd L & K Seeney</p> <p>Company director/s Anne Marie KING ANNE MARIE Andrew William KING</p> <p>Location 27 Wallace Road and 461 Whatawhata Road, Hamilton.</p> <p>Land Status Private freehold land owned by the applicants.</p>	<p>The Wallace Road Stage 1A and 1B Subdivision and Land Use Consent with Associated Roding and Infrastructure Project is to subdivide and develop 111.5 hectares of greenfield land for residential housing at 27 Wallace Road and 461 Whatawhata Road on the fringe of Hamilton City. The project site is in the Waikato District in the Waikato Region.</p> <p>The project, to be delivered over 6 years, will comprise: Subdivision of land; Provision of infrastructure services – three waters and roading; Connections to primary utilities and services;</p>	<p>The applicant seeks approval under the:</p> <ul style="list-style-type: none"> Resource Management Act 1991 	<p>The applicant has consulted with Hamilton City Council as is party to an MOU which sets out the intent and steps to the transfer of the project land to HCC jurisdiction.</p> <p>The applicant has also consulted with Waikato District Council and Waikato Regional Council.</p> <p>The applicant has identified affected parties for future consultation.</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>It is more appropriate to deal with the application under another Act.</p> <p>Maybe – the project could be considered under RMA processes given the requirement for the Hamilton City boundary adjustment and zoning compliance matters identified by the applicant.</p> <p>The project may have significant adverse effects on the environment.</p> <p>Yes – the applicant notes the site has the potential to generate adverse effects around land stability, stormwater and transport. A summary of adverse effects is provided.</p> <p>The applicant advises the project can generate adverse effects in water and wastewater servicing as there is a city-wide infrastructure capacity issue requiring system upgrades. The</p>	<p>Whether access to the fast-track process will enable the project to be processed in a more timely and cost-efficient way than under normal processes.</p> <p>Yes – the applicant advises the Fast-track process offers time and cost advantages through precluded notification.</p> <p>The impact referring this project will have on the efficient operation of the fast-track process.</p> <p>Low-medium impact – while the project is relatively straightforward, there are territorial</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 – development of the Wallace Road Growth Cell has been identified in the Waikato Future Proof Strategy (2024) as an 'urban enablement area' meaning development is anticipated in the future.</p> <p>The project will deliver regionally or nationally significant infrastructure.</p> <p>Yes – the applicant advises the project will deliver regionally significant infrastructure.</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 project will deliver housing.</p> <p>The project will deliver significant economic benefits.</p> <p>Yes – the applicant advises the project will create employment opportunities in the construction phase.</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>

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.

	Construction of 230 residential lots of mixed typologies; Pathways and open spaces; Riparian planting.							applicant has identified contingencies for these. The applicant has a poor compliance history under the relevant legislation. No The project involves an activity that would occur on land that the Minister for Treaty of Waitangi Negotiations considers necessary for Treaty settlement purposes. No The project includes an activity that is a prohibited activity under the RMA. No	boundary adjustment and plan compliance matters to be addressed. Whether the application contains sufficient information to inform the referral decision. Yes – the application contains sufficient information to inform the referral decision.	Yes – the applicant advises that the project will support low emission transport options and encourage shorter trip lengths. The project will support adaptation, resilience, and recovery from natural hazards. Yes – the applicant advises that natural hazard risks can be addressed in design. The project will address significant environmental issues. No The project is consistent with local or regional planning documents, including spatial strategies. No and Yes – the project is not consistent with the current 'rural' zoning rules under the Waikato District Plan, but the 'future urban expansion' overlay indicates urban development is anticipated in the future. The Wallace Road Growth Cell has been identified in the Waikato Future Proof Strategy and the Hamilton-Waikato Metropolitan Spatial Plan as an area for future urbanisation.
--	--	--	--	--	--	--	--	---	---	---

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"> • Waikato-Tainui • Ngāti Hauā • Ngāti Korokī Kahukura <p><u>Waikato-Tainui</u> Waikato-Tainui is an iwi whose area of interest includes the proposed project site, based on the Area of Interest agreed between Waikato-Tainui and the Crown in the Deed of Settlement signed 22 May 1995.² In addition, the Waikato River settlement arrangements also include the proposed project site, based on the SO Plan agreed between Waikato-Tainui and the Crown in the Deed of Settlement signed 17 December 2009. The project site is also within the area of interest for the Waikato-Tainui remaining claims mandate.³ There is a proposed area of interest included in the Terms of Negotiation signed 14 December 2020 and the proposed project location is within this area.³ Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.</p> <p><u>Ngāti Hauā</u> Ngāti Hauā is an iwi whose area of interest includes the proposed project site, based on the Area of Interest agreed between Ngāti Hauā and the Crown in the Deed of Settlement signed 18 July 2013.⁴</p> <p><u>Ngāti Korokī Kahukura</u></p>

² Waikato-Tainui Deed of Settlement 22 May 1995 (tearawhiti.govt.nz)

³ Appendix B - Area of Interest for proposed Waikato-Tainui remaining claims mandate (high resolution).jpg (2481x3506) (tpk.govt.nz)

⁴ Ngāti Hauā Deed of Settlement - Attachments 18 July 2013 (tearawhiti.govt.nz)

	<p>Ngāti Koroki Kahukura is an iwi whose area of interest does not appear to include the project site, based on the Area of Interest agreed between Ngāti Koroki Kahukura and the Crown in the Deed of Settlement signed 20 December 2012.⁵</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 applicant has not outlined any engagement with affected groups. The applicant states that should their application be accepted, engagement with Ngāti Hauā, Ngāti Koroki Kahukura and Waikato-Tainui will be undertaken regarding the project to ensure that potential adverse effects on cultural values are avoided [noting that officials have identified the project site does not sit within the area of interest for Ngāti Koroki Kahukura].</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>The applicant states that the project will give effect to Te Ture Whaimana o Te Awa o Waikato – Vision and Strategy for the Waikato River - through integrated stormwater management via Mangakōtūkutu integrated catchment management plan directives. The applicant does not provide further information about how this will occur.</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"> • Tai Tumu, Tai Pari, Tai Ao: Waikato-Tainui Environmental Plan (2013)⁶ • Waikato Raupatu River Trust (Waikato-Tainui) and Waikato Regional Council (Co-management Agreement for Waikato River Related Lands) - 10 December 2012⁷ • Te Ture Whaimana - Vision and Strategy for the Waikato River, Waikato River Authority⁸ • Te Ara Whakatupuranga 2050: The Five Year Plan FY20 to FY24⁹ • Te Rautaki Tāmata Ao Turoa o Hauā (2018)¹⁰ <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>Waikato Raupatu Claims Settlement Act 1995</p> <p>There are no statutory acknowledgements in the Waikato Raupatu Claims Settlement Act 1995. There are no other mechanisms in the Act that appear to be directly impacted by the project.</p> <p>Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010</p> <p>The project as it is located within the Waikato River catchment. The catchment area is provided for in the SO plan agreed between Waikato-Tainui and the Crown in the Deed of Settlement signed 17 December 2009.⁷ This includes the proposed project site. The Waikato-River arrangements are detailed with a number of powerful and complex interactions with the legislation including the RMA, conservation and heritage legislation. The Waikato-Tainui river arrangements are recorded in the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010. The overarching purpose of the settlement is to restore and protect the health and wellbeing of the Waikato River for future generations.</p> <p>There are two underlying principles in the settlement:</p> <p>Te Mana o te Awa</p> <p><i>To Waikato-Tainui, the Waikato River is a tupuna (ancestor) which has mana (prestige) and in turn represents the mana and mauri (life force) of the tribe. Respect for te mana o te awa (the spiritual authority, protective power and prestige of the Waikato River) is at the heart of the relationship between the tribe and their ancestral river:</i></p> <p>Mana whakahaere</p> <p><i>Mana whakahaere embodies the authority that Waikato-Tainui and other River tribes have established in respect of the Waikato River over many generations, to exercise control, access to and management of the Waikato River and its resources in accordance with tikanga (values, ethics and norms of conduct). For Waikato-Tainui, mana whakahaere has long been exercised under the mana of the Kiingitanga:</i></p> <p>The key elements provided for in the legislation include:</p> <ul style="list-style-type: none"> • A statement of significance of the river to Waikato-Tainui • The Waikato River Authority (co-governance entity with five iwi and five Crown appointed members) • Te Ture Whaimana (vision and strategy) – the primary direction setting strategic document for the Waikato River • The Clean-Up Trust (with the Waikato River Authority as the trustee) • The Waikato River Authority appointing half of the hearing commissions for resource consent applications relating to the river • Arrangements to reflect the mana whakahaere of Waikato-Tainui including: <ul style="list-style-type: none"> ○ joint management agreements under the RMA ○ recognition of the exercise of customary activities on the river

⁵ Ngāti Koroki Kahukura Deed of Settlement - Attachments 20 Dec 2012 (tearawhiti.govt.nz)

⁶ Environmental Plan – Waikato-Tainui (waikatotainui.com)

⁷ 2276497-Tainui-v2.pdf (waikatoregion.govt.nz)

⁸ Vision-and-Strategy-Reprint-2019web.pdf (waikatoriver.org.nz)

⁹ Whakatupuranga-2050-Five-Year-Plan-2024.pdf (waikatotainui.com)

¹⁰ Trust Documents - Ngati Haua Iwi Trust

	<ul style="list-style-type: none"> ○ recognition of the Waikato-Tainui iwi environmental plan ○ an integrated river management plan. <p>The interactions between the Waikato River arrangements and the RMA, conservation and heritage legislation include the following:</p> <ul style="list-style-type: none"> • Te Ture Whaimana (the vision and strategy) is a powerful planning document and is stated in the legislation to be the 'primary direction setting' document for the river: <ul style="list-style-type: none"> ○ It is incorporated directly and without amendment into the RMA regional policy statement ○ It overrides any direction in an RMA national policy statement ○ RMA regional and district plans must give effect to Te Ture Whaimana ○ It has the status of 'general policy' under the conservation legislation ○ A number of decision-makers must 'have particular regard' to Te Ture Whaimana (including under the RMA, conservation and heritage legislation) <p>The joint management agreements (JMA) between the river iwi and each local authority are expressly provided for and required under the legislation. Those JMAs have been negotiated and agreed, and include:</p> <ul style="list-style-type: none"> • A range of RMA mechanisms (including a committee structure for RMA planning processes with Waikato-Tainui as part of the decision-making structure, and provisions for RMA consenting and monitoring/enforcement). There are detailed provisions to provide for Waikato-Tainui involvement in decision-making and processes under the RMA • A range of customary activities can be exercised on the river and are exempt from having to comply with the RMA • A decision-maker on a resource consent and under conservation legislation must have regard to the Waikato-Tainui environmental plan. <p>The Waikato River arrangements have a significant influence over statutory processes including complex interactions with the RMA, conservation, wildlife and heritage legislation. Any change to the statutory processes for these authorisations (for example, through the fast-track process) could have a significant impact on the operation and integrity of the arrangements.</p> <p>Ngāti Hauā Claims Settlement Act 2014</p> <p><i>Statutory acknowledgements</i></p> <p>This Treaty settlements contain 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. 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).</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>Waikato River Arrangements</i></p> <p>Ngāti Hauā participates in the Waikato River arrangements (refer to text above).</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, the project site is within the area of interest for the Waikato-Tainui remaining claims mandate. 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), 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-high impact. This is due to lack of consultation with iwi with interests in the area and the complexity of the Waikato River arrangements.</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, and the significance of the Waikato River arrangements, 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.