

FTA#051: Application for listed project under the Fast-track Approvals Bill – Wheao Hydro-Electric Power Scheme Re-Consenting for Schedule 2A

Date submitted to secretariat:	28 May 2024
Security level:	In-Confidence
To:	David TAPSELL, Chair – Fast-track Projects Advisory Group

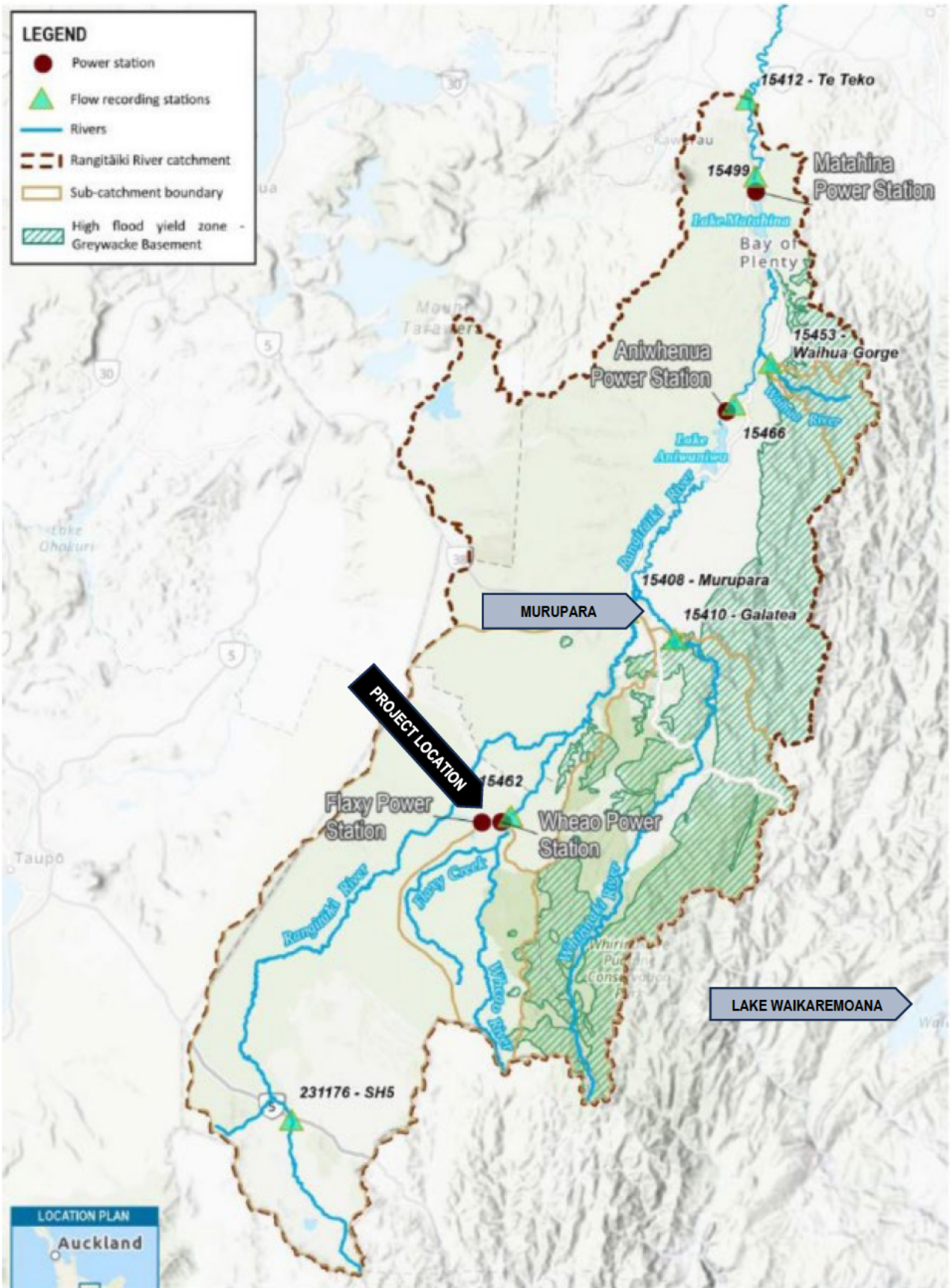
Number of attachments: #	Attachments: 1. Application documents for Wheao Hydro-Electric Power Scheme Re-Consenting Project
--------------------------	--

Applicant	Sector	Region	Identified in a priority/strategy?
Manawa Energy Limited	Hydro	Bay of Plenty	No

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 Wheao Hydro-Electric Power Scheme Re-Consenting project is to re-consent Manawa Energy Ltd's existing Wheao Hydro-Electric Power Scheme, which is located within the Rangitāiki River Catchment, approximately 44km east of Taupō and 21km southwest of Murupara. We note the scheme's existing consents under the RMA are due to expire at various times through 2026 (this is not explicit in the application but can be found from a search of the Bay of Plenty Regional Council's public resource consents viewer).
2. The project will comprise continuing operation of the existing Scheme, largely as authorised under the current resource consent with the exception of:
 - a. implementing a residual flow in the Wheao River downstream of the Wheao Weir
 - b. altering the sluicing regime in the Wheao Weir, and sluicing event operation to improve sediment mobilisation down the Wheao River
 - c. clarifying what flow rate downstream of the Wheao Power Station constitutes 'normal operating conditions'.
3. The project will require recourse consents under the Resource Management Act 1991 (RMA).
4. In respect of land access for the project, the application notes that the Wheao Hydro-Electric Power Scheme is existing (with the applicant Manawa Energy as operator), and that the current titles associated include operational easements for this purpose. The applicant states it has secured the relevant landowners' consent.
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. It is unclear from the documentation whether criteria (a) in clause 18 of the Fast-track Approvals Bill may be triggered, as it is unclear whether written agreement has been received from CNI Holdings Ltd, which is the relevant owner of land returned under a Treaty settlement. This may warrant further clarification from the applicant.
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



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	Maybe	N	N	N			
<p>Schedule requested 2A</p> <p>Project Name Wheao Hydro-Electric Power Scheme Re-Consenting</p> <p>Applicants Manawa Energy Limited</p> <p>Company directors Margaret Joanna Breare Sheridan Adelene Broadbent Deion Mark Campbell Phillippa Mary Harford Michael John Smith Joseph Michael Windmeyer</p> <p>Location</p>	<p>Continuing operation of the existing Wheao Hydro-Electric Power Scheme, largely as authorised under the current resource consent with the exception of:</p> <ul style="list-style-type: none"> implementing a residual flow in the Wheao River downstream of the Wheao Weir altering the sluicing regime in the Wheao Weir, and sluicing event operation to improve sediment mobilisation down the Wheao River clarifying what flow rate downstream of the Wheao Power Station constitutes 'normal operating conditions' 	<p>The applicant seeks approval under the:</p> <ul style="list-style-type: none"> Resource Management Act 1991 	<p>The applicant has engaged with mana whenua and other iwi authorities within interest in the Rangitāiki Catchment since 2020 (and engagement is ongoing). Key issues relate to fish passage, residual flows and mixing of waters.</p> <p>The applicant met with CNI Holdings Limited, who wish to be informed but deferred detailed engagement to mana whenua.</p> <p>The applicant has engaged with Department of Conservation (DoC) and Fish & Game, who have yet to provide substantive feedback. Key concerns raised were fish passage and effects of sluicing, which Manawa Energy has proposed management plans for.</p>	<p>This project may be ineligible under clause 18(a). One of the titles is owned by CNI Iwi Holdings Limited, so is land that has been returned under a Treaty settlement (being the Central North Island Forests Deed of Settlement). The application does not confirm that the relevant owner (in this case, CNI Iwi Holdings Limited) has agreed to the proposal, but instead notes that "Manawa Energy has met with representatives of CNI Holdings Limited (CNI) who wish to be informed but deferred detailed engagement to mana whenua." While it can be inferred from this statement that CNI have agreed with the project, this is not made clear.</p>	<p>No access arrangements are required under the CMA</p>	<p>No activity is proposed on a national reserve.</p>	<p>The activity does not include activities covered by the EEZA or offshore renewable energy.</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>Maybe- From the information available we consider this project is likely to be of medium impact. This is due to the Rangitāiki River arrangements described in the Table below. In the fast-track process, the Rangitāiki River Forum will not have exactly the same rights as would be the case under the standard RMA resource consent process.</p> <p>This project is proposed for listing in Schedule 2 A. An impact of listing this project under Schedule 2 A is that the Ministers will not be required 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 still a requirement on the expert panel to invite comment from the PSGE on the application.</p> <p>It is more appropriate to deal with the application under another Act</p> <p>Maybe – This application states the activity status is 'controlled' – i.e. cannot be declined under RMA and precluded from notification (unless special circumstances apply).</p> <p>The project may have significant adverse effects on the environment</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 has already lodged separate applications with the Bay of Plenty Regional Council in June 2023 for the re-consenting project.</p> <p>However, the applicant states no further information requests have been received, and notification or substantive decisions have been made on that application by the council to date.</p> <p>The applicant states it could lodge an application with the EPA within one month of the Act becoming law.</p> <p>The impact referring this project will have on the efficient operation of the fast-track process</p> <p>Maybe – Medium impact and complexity</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 – The project has not been identified in any particular list. The scheme is existing and requires re-consenting to continue.</p> <p>The project will deliver regionally or nationally significant infrastructure</p> <p>Yes – The Wheao Scheme provides 26 MW with annual generation in the range of 111 GWh which powers up to 17,000 homes. The Bay of Plenty Regional Policy Statement defines regionally significant infrastructure as including "facilities for the generation and/or transmission of electricity where it is supplied to the national electricity grid and/or the local distribution network".</p> <p>The project will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment</p> <p>No – Other than the general supply of electricity as a generation project</p> <p>The project will deliver significant economic benefits</p> <p>Yes – The application highlights the cost of the existing resource consent process as being substantially higher than the RMA process, the need to generate electricity elsewhere if this project is not</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>Within the Rangitāiki River Catchment, approximately 44km east of Taupō and 21km southwest of Murupara</p> <p>Includes areas of public conservation land, and land returned under a Treaty Settlement.</p> <p>Land Status</p> <p>The Wheao Hydro-Electric Power Scheme is existing on the site.</p> <p>The application states that all current titles associated with the Scheme include operational easements.</p> <p>The application states the scheme operates on land that is owned by:</p> <p>The Crown Department of Conservation (DOC) (public conservation land) CNI Iwi Holdings Ltd</p>				<p>DoC note there have been concerns expressed by settled iwi in relation to the scheme operation, and advise it would be essential to ensure the views of the settled iwi were canvassed and conveyed to those who will decide if the relevant settlements are being upheld in the context of this application.</p> <p>The application also states that no private land owner approval is required for the project as easements are in place for the relevant titles.</p> <p>However, based on the information available it is not possible to confirm that the project is not ineligible.</p> <p>This is something that may warrant clarification from the applicant.</p>				<p>Yes – The project is to reconstent an existing scheme, with no additional footprint proposed.</p> <p>DoC notes there are concerns about effects of the scheme on wildlife such as whio, and on freshwater fisheries in the area, which may require approvals under the appropriate legislation and for some effects to be better addressed. This is acknowledged in part by the application providing more substantial flows in dewatered parts of the catchment.</p> <p>The application notes proposed mitigation measures to improve the scheme’s fish passage and a revised sluicing regime to improve sediment mobilisation.</p> <p>These matters can be addressed by an expert panel.</p> <p>The applicant has a poor compliance history under the relevant legislation</p> <p>No – The applicant has identified Manawa Energy (stated as Trustpower / Manawa):</p> <ul style="list-style-type: none"> received handful of abatement or infringement notices with no further action by regulators one prosecution by Otago Regional Council against Trustpower for sediment discharge from Waipori Scheme into the Beaumont River. Pled guilty. <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 – The project site does not include land available for Treaty settlement redress.</p> <p>The project is to reconstent an existing Scheme and no spatial expansion is proposed.</p> <p>The project includes an activity that is a prohibited activity under the RMA</p> <p>No - The project is to reconstent an existing Scheme, and the application states the relevant activities have ‘controlled’ activity status under the RMA.</p>	<p>Whether the application contains sufficient information to inform the referral decision</p> <p>No - The application does not contain sufficient information to determine whether Treaty Settlements will be upheld</p>	<p>reconstented (to meet demand), and other economic benefits of the existing scheme continuing.</p> <p>The project will support primary industries, including aquaculture</p> <p>No – The applicant has not suggested the project will support primary industries.</p> <p>The project will support development of natural resources, including minerals and petroleum</p> <p>No – The applicant has not suggested the project will support this.</p> <p>The project will support climate change mitigation, including the reduction or removal of greenhouse gas emissions</p> <p>Yes – The project is to reconstent an existing 26MW renewable electricity generation scheme. If the reconstenting is not approved, other energy sources would be required to meet the demand the current Scheme serves.</p> <p>The project will support adaptation, resilience, and recovery from natural hazards</p> <p>Yes – The applicant is a lifeline utility operator and notes the existing power scheme as part of that function during and after civil defence emergencies.</p> <p>The project will address significant environmental issues</p> <p>Yes – Alongside the existing renewable energy scheme, the project proposes measures to improve fish passage, manage sedimentation, and new residual flows.</p> <p>The project is consistent with local or regional planning documents, including spatial strategies</p> <p>Yes - The application states that the applications’ activity status is ‘controlled’ under the relevant planning documents. Resource consent applications for controlled activities cannot be declined, but conditions can be applied.</p> <p>The applicant has had a full planning assessment carried out against statutory and non-statutory planning documents, and iwi/hapū management plans, concluding that the project is consistent with those documents. The applicant states there are no relevant spatial strategies.</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 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>This project may be ineligible under clause 18(a). One of the titles is owned by CNI Iwi Holdings Limited, so is land that has been returned under a Treaty settlement (being the Central North Island Forests Deed of Settlement). The application does not confirm that the relevant owner (in this case, CNI Iwi Holdings Limited) has agreed to the proposal, but instead notes that “<i>Manawa Energy has met with representatives of CNI Holdings Limited (CNI) who wish to be informed, but deferred detailed engagement to mana whenua.</i>” While it can be inferred from this statement that CNI have agreed with the project, this is not made clear.</p> <p>The application also states that no private land owner approval is required for the project as easements are in place for the relevant titles.</p> <p>However, based on the information available it is not possible to confirm that the project is not ineligible.</p>
<p>Affected Māori group/s</p>	<p>The applicant has identified the following groups as the groups with interests in the area.</p> <p>Settled groups:</p> <ul style="list-style-type: none"> • Ngati Manawa; • Ngati Whare; • Ngati Hineuru. <p><u>Ngati Manawa</u> Ngati Manawa is an iwi whose area of interest includes the proposed project site, based on the Area of Interest agreed between Ngati Manawa and the Crown in the Deed of Settlement signed 12 December 2009.²</p> <p><u>Ngati Whare</u> Ngati Whare is an iwi whose area of interest includes the proposed project site, based on the Area of Interest agreed between Ngati Whare and the Crown in the Deed of Settlement signed 8 December 2009.³</p> <p><u>Ngati Hineuru</u> Ngati Hineuru is an iwi whose area of interest includes the proposed project site, based on the Area of Interest agreed between Ngati Hineuru and the Crown in the Deed of Settlement signed 2 April 2015.⁴</p> <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> <p>Settled groups:</p> <ul style="list-style-type: none"> • Ngai Tuhoe; • Ngati Rangitihī; <p><u>Ngai Tuhoe</u> Ngai Tuhoe is an iwi whose area of interest appears to include the proposed project site, based on the Area of Interest agreed between Ngai Tuhoe and the Crown in the Deed of Settlement signed 14 June 2013.⁵</p> <p><u>Ngati Rangitihī</u> Ngati Rangitihī is an iwi whose area of interest appears to include the proposed project site, based on the Area of Interest agreed between Ngati Rangitihī and the Crown in the Deed of Settlement initialled 9 July 2020.⁶</p> <p>Unsettled groups:</p> <ul style="list-style-type: none"> • Ngati Uenukukopako <p><u>Ngati Uenukukopako</u></p>

² AOI-NgatiManawa.jpg (709×910) (tkm.govt.nz)

³ AOI-NgatiWhare.jpg (610×897) (tkm.govt.nz)

⁴ AOI-NgatiHineuru.jpg (690×978) (tkm.govt.nz)

⁵ AOI-Tuhoe.jpg (1103×1635) (tkm.govt.nz)

⁶ AOI-NgatiRangitihī.png (971×1407) (tkm.govt.nz)

	<p>Ngati Uenukukopako is listed on Te Kahui Mangai as an iwi recognised in the Maori Fisheries Act as well as an iwi authority under the Resource Management Act. However, this iwi is also represented by Te Pumautanga o Te Arawa Trust and Te Arawa Lakes Trust, the two PSGEs for Te Arawa Iwi and Hapu. Based on the information on Te Kahui Mangai website, this may be an iwi with interests in the proposed project location. However, the area of interest map agreed between the Affiliate Te Arawa Iwi and Hapu and the Crown in the Deed of Settlement signed 11 June 2008 appears to be outside the proposed project location.⁷</p>
<p>Has the applicant consulted with those Māori groups?</p>	<p>The applicant states that it commenced engagement in 2020 with mana whenua and other iwi authorities with interests in the Rangitaiki River catchment. This engagement has included site visits and provision of technical assessments. The applicant states the key issues raised by mana whenua relate to fish passage, residual flows and the mixing of waters.</p> <p>The applicant also states that it met with CNI Holdings Limited who wishes to be informed but deferred engagement to mana whenua.</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>The applicant refers to a planning assessment carried out by Mitchell Daysh that has concluded that the project is consistent with the iwi management plans of Ngati Hineuru, Ngati Manawa and Ngati Whare.</p> <p>In the time available, it has not been possible to independently verify the planning assessment and the consistency of the project with relevant iwi management plans. These plans address a range of issues and a full analysis of those plans 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>Rangitaiki River arrangements</p> <p>The Rangitaiki River arrangements (including the Rangitaiki River Forum and planning document) are provided for in the Ngāti Manawa Claims Settlement Act 2012, Ngāti Whare Claims Settlement Act 2012, with members also being appointed through subsequent Treaty settlement legislation (Ngāti Tūwharetoa Claims Settlement Act 2018, Tūhoe Claims Settlement Act 2014 and the Hineuru Claims Settlement Act 2016).</p> <p>The Rangitaiki River Forum is a joint committee consisting of 7 iwi members and 6 council members that exercises statutory functions over the Rangitaiki River catchment.</p> <p>The purpose of the Forum is the protection and enhancement of the environmental, cultural, and spiritual health and wellbeing of the Rangitaiki River and its resources for the benefit of present and future generations.</p> <p>The functions of the Forum include:</p> <ul style="list-style-type: none"> • To prepare and approve the Rangitaiki River Document (see below), which has statutory effect on RMA planning processes; • To promote the integrated and co-ordinated management of the Rangitaiki River; • To engage with and provide advice to local authorities on statutory and non-statutory processes that affect the Rangitaiki River, including under the Resource Management Act 1991 and to Crown agencies that exercise functions in relation to the Rangitaiki River; and • To take any other action that is related to achieving the purpose of the Forum (which could include submitting on resource consent applications). <p>In relation to the Rangitaiki River Document, when the Bay of Plenty Regional Council prepares or changes the regional policy statement, it must 'recognise and provide' for the relevant provisions in that document. Further, until the regional policy statement has been prepared or changed to comply with that obligation, Councils must have particular regard to the document when preparing or changing any regional plans or district plans that are relevant. The Rangitaiki River Document was published in 2015. Its vision is for a healthy Rangitaiki River, valued by the community, protected for future generations. The Document notes as key concerns that the river no longer provides food, water quality is poor, young people have no strong ties with the river, the river is losing its special qualities and the river has not been looked after satisfactorily. Specific actions recorded are to work with hydro-generators on tuna access, to develop sustainable environmental flows, and to improve the overall health of the river.</p> <p>The key impact of listing (for Part A projects, such as this) is that the Ministers do not have to exercise their 'referral discretion' including considering the Treaty settlement impacts through that process, and the Ministers will not have the benefit of the clause 13 report).</p> <p>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</p> <p>The fast track process generally (not necessarily just the listing) will not provide equivalent impact for the Rangitaiki River redress. One key purpose of the redress was to provide opportunities for the relevant iwi to influence whether and how resource consents may be granted. That was primarily through the impact of the Rangitaiki River Document (prepared and approved by the Rangitaiki River Forum) on the RMA planning documents (eg the regional policy statement, regional plan or district plan) which set the framework for whether resource consents can be granted (and what conditions may need to be imposed). If the fast-track legislation means that those RMA planning documents have lesser weight, that could impact on the integrity of the redress (although there are requirements in the fast-track Bill for the same or equivalent effect to be given to that type of redress).</p> <p>In the fast-track process, the Rangitaiki River Forum will not have exactly the same rights as would be the case in the standard RMA resource consent process. For example, under the RMA process, if the Forum makes a submission on a notified application, the Forum could attend a hearing (including presenting evidence and being heard), appeal to the Environment Court (including presenting evidence and being heard), and appeal to the High Court and higher courts. The fast-track process does not provide those rights (noting there are more limited appeal rights on 'points of law' and judicial review options).</p> <p>The Rangitaiki River settlement legislation also provides for the habitat of tuna to be had particular regard to by any person exercising functions under the RMA. It is not clear that this obligation would continue to apply under the fast track process.</p> <p>In addition, the legislation provides that where particular iwi provide notice that they wish to enter a joint management agreement to relevant councils, those councils must respond. We are not aware of whether the relevant iwi have entered into joint management agreements. However, if they have, those agreements may cover processes which would be affected by the fast track process.</p> <p>Statutory Acknowledgements</p> <p>There are also various statutory acknowledgements in the Treaty Settlement Acts relevant to the proposed project site.</p>

⁷ The Affiliate Te Arawa Iwi/Hapu Deed of Settlement Schedule 6: Area of Interest (tearawhiti.govt.nz)

	<p>In the time available, it has not been possible to confirm whether these are on or near to the proposed project site.</p> <p>Generally, a statutory acknowledgement is 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/Post Settlement Governance Entity (PSGE) 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 EPA. The Environment Court must also have regard to a statutory acknowledgement in considering appeals on applications for archaeological authorities 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, 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). The same applies to archaeological authorities, as the Environment Court will not hear appeals in the same way as occurs under the Heritage New Zealand Pouhere Taonga Act 2014.</p> <p>Listing this project may impact the application of the statutory acknowledgement in the context of this project, compared to the role of the PSGE in the standard RMA consenting regime. For example, under the RMA process, if a PSGE is notified as a result of 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 those same rights to the PSGE (particularly the potential right to make a submission and then participate in a hearing and substantive appeal, although there are appeals on points of law), but the PSGE will have a statutory right to comment on the application (which as noted is currently discretionary).</p> <p>Mana Whakahono ā Rohe</p> <p>According to the MfE website, there are no mana whakahono that relate to the proposed project site. The Bay of Plenty Regional Council is discussing two mana whakahono with iwi, but these are iwi with interests outside the Rangitaiki River catchment.</p> <p>Iwi Environment Management plans</p> <p>See comments above.</p> <p>Other matters</p> <p>In the time available, officials have not identified any other impacts for Treaty settlements, the Marine and Coastal Area (Takutai Moana) Act 2011 (noting the project area is outside the marine and coastal area), groups yet-to-settle their historical claims, Joint Management Agreements outside of settlement or Mana Whakahono ā Rohe, or a relevant iwi management plan..</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 Rangitaiki River arrangements described above.</p> <p>This project is proposed for listing in Schedule 2 Part A. 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 to better understand the impact on the Rangitaiki River arrangements, but were unable to undertake this in the time available.</p>
<p>Additional comments/context</p>	<p>DOC has advised that there are Treaty settlement obligations specific to these areas of public conservation land, with concerns expressed by settled iwi in relation to the scheme operation. DOC therefore advises that it would be essential to ensure the views of the settled iwi were canvassed and conveyed to those who will decide if the relevant settlements are being upheld in the context of this application. This may affect the project's eligibility.</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.