

Application 2022-086 Strathmill Project (Shildon Limited)

To:	Required action:
Hon David Parker, Minister for the Environment	Consider this report prior to making a decision under section 24 of the FTCA
Date submitted: 18 August 2022	

Ministry for the Environment contacts

Position	Name	Cell Phone	1 st Contact
Principal Author	Pip Lee		
Acting Manager	Madeleine Berry	s 9(2)(a)	✓
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Introduction

1. The Ministry for the Environment has prepared this report in consultation with the Office for Māori Crown Relations – Te Arawhiti and in accordance with section 17 of the Covid-19 Recovery (Fast-track Consenting) Act 2020 (the FTCA).
2. To satisfy obligations under section 6 of the FTCA, you must consider this report before you make any decision under section 24 of the FTCA to accept the application to refer the Strathmill Project (project) to an expert consenting panel (panel).

Proposed project

3. The applicant (Shildon Limited) proposes to subdivide a 24.3-hectare site in Orewa, Auckland and construct approximately 465 residential units and supporting infrastructure. The project includes restoration and planting of land adjoining West Hoe Stream.
4. A location map is in Attachment 1.

Essential information

5. The following information is required under section 17(3) of the FTCA for the project area.

Section of the FTCA	Information required	Detail
s17(3)(a)	Relevant iwi authorities (13)	Ngaati Whanaunga Incorporated Society Ngāi Tai ki Tāmaki Trust Ngā Maunga Whakahii o Kaipara Development Trust Ngāti Manuhiri Settlement Trust Ngāti Maru Rūnanga Trust Ngāti Paoa Iwi Trust Ngāti Paoa Trust Board Ngāti Tamaterā Treaty Settlement Trust Te Ara Rangatu o Te Iwi o Ngāti Te Ata Waiohua Te Rūnanga o Ngāti Whātua Te Ākitai Waiohua Iwi Authority Te Kawerau Iwi Settlement Trust Te Patukirikiri Iwi Trust <i>Contact details are in Attachment 2</i>
s17(3)(b)	Treaty settlements that relate to the project area (7)	Ngāti Manuhiri Claims Settlement Act 2012 Ngāti Whātua o Kaipara Claims Settlement Act 2013 Te Kawerau ā Maki Claims Settlement Act 2015 Ngāi Tai ki Tāmaki Claims Settlement Act 2018 Te Patukirikiri – deed of settlement 7 October 2018 Ngāti Paoa – deed of settlement 20 March 2021 Te Ākitai Waiohua – deed of settlement 12 Nov 2021
s17(3)(a)	Relevant Treaty settlement entities (10)	Ngāti Manuhiri Settlement Trust Ngā Maunga Whakahii o Kaipara Development Trust Te Kawerau Iwi Settlement Trust Ngāi Tai ki Tāmaki Trust Te Patukirikiri Iwi Trust Ngāti Paoa Iwi Trust Te Ākitai Waiohua Settlement Trust Ngāti Maru Rūnanga Trust Ngāti Tamaterā Treaty Settlement Trust Ngaati Whanaunga Ruunanga Trust <i>Contact details are in Attachment 2</i>
s17(3)(c)	Relevant principles and provisions of the Treaty settlements	<i>See details in blue-shaded section below</i>

Section of the FTCA	Information required	Detail
s17(3)(d)	Groups with a negotiation mandate recognised by the Crown which are yet to commence Treaty settlement negotiations	Ngāti Te Ata (Ngāti Te Ata Claims Support Whānau Trust)
s17(3)(d)	Current Treaty settlement negotiations	Ngāti Maru (Hauraki) (Ngāti Maru Treaty Settlement Negotiators) Ngāti Tamaterā (Ngāti Tamaterā Negotiators) Ngaati Whanaunga (Ngaati Whanaunga Ruunanga Trust) Marutūāhu Iwi Collective Ngāti Whātua (Te Rūnanga o Ngāti Whātua)
s17(3)(e)	Court orders recognising customary marine title or protected customary rights under the Marine and Coastal Area (Takutai Moana) Act 2011 or another Act	None that are relevant as the project does not occur in the coastal marine area

Supporting information

Project details

6. The project site is located at 250 and 256 West Hoe Heights, Orewa. It consists of mostly undeveloped rural land in a mix of vegetation types, and the site encircles a number of existing residential properties – see Attachment 3.
7. The proposed project layout is shown in Attachment 4. There are two on-site watercourses which flow to the Ōrewa River – West Hoe Stream and an unnamed tributary. Project works include enhancement of some riparian areas associated with West Hoe Stream.
8. Residential dwellings will be in a range of sizes and typologies, examples of which are shown in Attachment 5.

Statutory matters relating to this report

9. No parts of the proposed project will occur in the coastal marine area, meaning:
 - a. pursuant to section 16(1) of the FTCA you are the sole party required to consider this report
 - b. the project is unaffected by the provisions of the Marine and Coastal Area (Takutai Moana) Act 2011 (MACAA) or any other Act pertaining to the grant of protected customary rights or customary marine title.

10. There are therefore no court orders granted under the MACAA or another Act to consider in your referral decision for this project.¹

Iwi authorities

Methodology and information sources

11. This report must identify the relevant iwi authorities for the project, in accordance with section 17(3)(a) of the FTCA. Under section 7(1) of the FTCA, a relevant iwi authority for a referred project means an iwi authority whose area of interest includes the area in which a project will occur.
12. 'Area of interest' can mean different things depending on context and perspective and can be indicative (such as an area identified at the outset of Treaty settlement negotiations), formally agreed (such as in a deed of settlement or memorandum of understanding) or self-nominated. An area of interest can be difficult to define precisely on a map, particularly where a boundary that has been depicted on a small-scale map is scaled up and used precisely in relation to an individual site or property.
13. For the purposes of this report, we have considered information from the following sources as a starting point for identifying iwi areas of interest:
- a. the Te Arawhiti Internal Crown Asset Tracking Tool (i-Cat), an online database that records areas of interest associated with Treaty settlements and Treaty settlement negotiations
 - b. area of interest maps in signed Treaty settlement deeds or other Treaty settlement negotiation documents (including deeds of mandate)
 - c. Auckland Council's online interactive map depicting tribal regions and iwi in the Auckland Region²
 - d. the Iwi Areas of Interest viewer, an online application managed by the Ministry of Māori Development - Te Puni Kōkiri (TPK)
 - e. Te Kāhui Māngai (TKM), an online directory of iwi and Māori organisations maintained by TPK, which includes information on rohe (tribal areas) provided by those organisations.
14. Generally, the areas of interest shown on these databases for an iwi or group do not always completely align, and sometimes the differences can be significant. We consider carefully the reasons for such discrepancies, including the reliability or accuracy of the information shown and the local context and decision-making environment, before deciding which areas of interest we consider apply to a project under FTCA process.
15. The FTCA does not specifically define iwi authority but pursuant to section 7(2) of the FTCA, 'iwi authority' has the same meaning as in the Resource Management Act 1991 (RMA): the authority which represents an iwi and which is recognised by that iwi as having authority to do so.
16. To identify iwi authorities associated with the identified areas of interest, we considered information from:

¹ Section 17(3)(e) of the FTCA requires this report to identify any court orders granted under the MACAA or another Act which recognise, in relation to the project area, customary marine title or protected customary rights.

² Accessed via the webpage for the Auckland Plan 2025 (the long-term spatial plan for Tāmaki Makaurau): <https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-plans-strategies/auckland-plan/about-the-auckland-plan/Pages/iwi-tamaki-makaurau.aspx>

- a. the TKM online directory noted above
- b. Auckland Council's [online tool](#) for identifying mana whenua contacts for a particular address
- c. Auckland Council's response to the invitation to comment on the referral application under section 21(2)(a) of the FTCA.

Iwi authorities relevant to project

17. We consider the project site lies within the areas of interest of Ngaati Whanaunga, Ngāi Tai ki Tāmaki, Ngāti Maru (Hauraki), Ngāti Paoa, Ngāti Tamaterā, Ngāti Te Ata, Ngāti Whātua, Ngāti Whātua o Kaipara, Te Ākitai Waiohua, Te Kawerau ā Maki, Te Patukirikiri, and the Marutūāhu Iwi Collective.
18. We consider the following 13 iwi authorities associated with these iwi to be the relevant iwi authorities for the project:
 - a. Ngaati Whanaunga Incorporated Society, representing Ngaati Whanaunga
 - b. Ngāi Tai ki Tāmaki Tribal Trust, representing Ngāi Tai ki Tāmaki
 - c. Ngā Maunga Whakahii o Kaipara Development Trust, representing Ngāti Whātua o Kaipara
 - d. Ngāti Manuhiri Settlement Trust, representing Ngāti Manuhiri
 - e. Ngāti Maru Rūnanga Trust, representing Ngāti Maru (Hauraki)
 - f. Ngāti Paoa Iwi Trust, representing Ngāti Paoa
 - g. Ngāti Paoa Trust Board, also representing Ngāti Paoa
 - h. Ngāti Tamaterā Treaty Settlement Trust, representing Ngāti Tamaterā
 - i. Te Ara Rangatu o Te Iwi o Ngāti Te Ata Waiohua, representing Ngāti Te Ata
 - j. Te Rūnanga o Ngāti Whātua, representing Ngāti Whātua iwi
 - k. Te Ākitai Waiohua Iwi Authority, representing Te Ākitai Waiohua
 - l. Te Kawerau Iwi Settlement Trust, representing Te Kawerau ā Maki
 - m. Te Patukirikiri Iwi Trust representing Te Patukirikiri.

Other iwi authorities which may have an interest in the project

19. Auckland Council databases indicate that the project site lies in the interest areas for Ngātiwai and Ngāti Whātua Ōrākei. We are unsure as to the reasons for this as it is not supported by other available information; in particular the self-nominated areas of interest shown on TKM, over which Ngātiwai and Ngāti Whātua Ōrākei respectively exercise kaitiakitanga for RMA purposes, do not include the project site.
20. We have therefore not identified the corresponding iwi authorities for these iwi – Ngātiwai Trust and Ngāti Whātua Ōrākei Trust Board – as relevant iwi authorities for the project. Instead, we recommend that you consider them as iwi authorities which may have an interest in the project take that into account in your decisions relating to project referral.
21. The self-nominated area of interest for Hako shown on the TKM website includes the project site. This area of interest does not align with the areas of interest on i-Cat or Auckland Council databases, and we note that the TKM site states that the area over which Hako exercises kaitiakitanga for RMA purposes has yet to be confirmed. We therefore recommend that you

consider Te Kupenga o Ngāti Hako (the iwi authority representing Hako) as an iwi authority which may have an interest in the project, and also take that into account in your decisions relating to project referral.

22. We note that the Hauraki Māori Trust Board also represents seven of the above-named iwi as an iwi authority.³ To avoid unnecessary duplication of input, while still providing opportunity for involvement in the consideration of consent applications for the project, we recommend that you consider the Hauraki Māori Trust Board as an iwi authority which may have an interest in the project and take that into account in your decisions relating to project referral.

Treaty settlements and Treaty settlement entities

23. This report must identify the Treaty settlements that relate to the project area and relevant Treaty settlement entities, in accordance with sections 17(3)(b) and 17(3)(a) respectively. We use information relevant to the project area from the first two sources listed in paragraph 13 and relevant documents on the [NZ Government Treaty settlements website](#), together with advice from the Office of Maori Crown Relations – Te Arawhiti, for this task.

Treaty settlements relating to the project area

24. Under the FTCA, a Treaty settlement includes both a Treaty settlement Act and a Treaty settlement deed which is signed by both the Crown and the representative Māori group.
25. The project site falls within the area of interest covered by Treaty settlements with the following seven iwi:
- a. Ngāti Manuhiri
 - b. Ngāti Whātua o Kaipara
 - c. Te Kawerau ā Maki
 - d. Ngāi Tai ki Tāmaki
 - e. Te Patukirikiri
 - f. Ngāti Paoa
 - g. Te Ākitai Waiohū.
26. The Ngāti Manuhiri Claims Settlement Act 2012 gives effect to certain provisions of the deed of settlement signed by Ngāti Manuhiri and the Crown on 21 May 2011. Deeds to amend the settlement deed were signed in February and June 2012. [Relevant documents](#) are available on the NZ Government Treaty settlements website.
27. The Ngāti Whātua o Kaipara Claims Settlement Act 2013 gives effect to certain provisions of the deed of settlement signed by Ngāti Whātua o Kaipara and the Crown on 9 September 2011, and amendment deeds signed in 2012 and 2020. [Relevant settlement documents](#) are available on the NZ Government Treaty settlements website.
28. Te Kawerau ā Maki Claims Settlement Act 2015 gives effect to certain provisions of the deed of settlement signed on 22 February 2014. Amendment deeds were signed in August 2015 and October 2019. [Relevant documents](#) are available on the NZ Government Treaty settlements website.

³ Ngaati Whanaunga, Ngāi Tai ki Tāmaki, Ngāti Maru (Hauraki), Ngāti Paoa, Ngāti Tamaterā, Te Patukirikiri and Hako.

29. The Ngāi Tai ki Tāmaki Claims Settlement Act 2018 gives effect to certain provisions of the deed of settlement signed by Ngāi Tai ki Tāmaki, Ngāi Tai ki Tāmaki Trust and the Crown on 7 November 2015, and amendment deeds signed in 2016, 2017 and 2018. [Relevant settlement documents](#) are on the NZ Government Treaty settlements website.
30. The Crown and Te Patukirikiri signed a deed of settlement on 7 October 2018. Legislation has yet to be enacted. [The deed and associated documents](#) are on the NZ Government Treaty settlement website.
31. Ngāti Paoa, the Ngāti Paoa Iwi Trust and the Crown signed a deed of settlement on 20 March 2021. Legislation has yet to be enacted. [The deed and associated documents](#) are on the NZ Government Treaty settlement website.
32. Te Ākitai Waiohua, Te Ākitai Waiohua Iwi Settlement Trust and the Crown signed a deed of settlement on 12 November 2021. Legislation has yet to be enacted. The [deed and associated documents](#) are on the NZ Government Treaty settlement website.

Relevant Treaty settlement entities

33. We have identified 10 relevant Treaty settlement entities for the project. These are listed in paragraph 5 and further explanation is provided below.

Post-settlement governance entities

34. Under the FTCA, a Treaty settlement entity includes a post-settlement governance entity, defined as a body corporate or trustees of a trust established by a claimant group for receiving redress, or for participating in arrangements established under a Treaty settlement Act.
35. The respective post-settlement governance entities associated with the Treaty settlement Acts noted above are:
 - a. Ngāti Manuhiri Settlement Trust
 - b. Ngā Maunga Whakahii o Kaipara Development Trust
 - c. Te Kawerau Iwi Settlement Trust
 - d. Ngāi Tai ki Tāmaki Trust.
36. A post-settlement governance entity may exist ahead of finalisation of a deed of settlement and/or enactment of Treaty settlement legislation. The following post-settlement governance entities in this category are also relevant:
 - a. Te Patukirikiri Iwi Trust, which was ratified as the post-settlement governance entity for the Treaty settlement with Te Patukirikiri on 2 September 2013
 - b. Ngāti Paoa Iwi Trust, which was ratified as the post-settlement governance entity for the Ngāti Paoa Treaty settlement on 25 September 2013
 - c. Te Ākitai Waiohua Settlement Trust, which was ratified as the post-settlement governance entity for the Te Ākitai Waiohua Treaty settlement in June 2014 and signed the deed of settlement with the Crown (noted in paragraph 26) on 12 November 2021
 - d. Ngāti Maru Rūnanga Trust, which was ratified as the post-settlement governance entity for the Ngāti Maru (Hauraki) Treaty settlement in August 2012. Ngāti Maru (Hauraki) initialled a deed of settlement with the Crown on 8 September 2017

- e. Ngāti Tamaterā Treaty Settlement Trust, which was ratified as the post-settlement governance entity for the Ngāti Tamaterā Treaty settlement in August 2012. The Crown and Ngāti Tamaterā initialled a deed of settlement on 20 September 2017
 - f. Ngaati Whanaunga Ruunanga Trust, which was ratified as the post-settlement governance entity for the Ngaati Whanaunga Treaty settlement in December 2017, following the initialling of a deed of settlement by Ngaati Whanaunga and the Crown on 25 August 2017.
37. The Marutūāhu Iwi Collective, which comprises Ngāti Paoa, Ngāti Maru (Hauraki), Ngāti Tamaterā, Ngaati Whanaunga and Te Patukirikiri, initialled a Collective Redress Deed with the Crown on 27 July 2018. The Marutūāhu Iwi Collective area of interest⁴ covers parts of the Auckland, Waikato and Bay of Plenty Regions, and includes the project site.
38. The Marutūāhu Rōpū Limited Partnership was established to receive the collective commercial redress provided in the Marutūāhu Iwi Collective Redress Deed, and therefore meets the definition of a post-settlement governance entity under the FTCA. The Marutūāhu Iwi Collective Redress Deed also provides for establishment of the Taonga o Marutūāhu Trustee Limited, to receive the Marutūāhu Iwi collective cultural redress. This redress entity would also qualify as a post-settlement governance entity under the FTCA however it is yet to be established.
39. The cultural and commercial redress provided under the Marutūāhu Iwi Collective Redress Deed forms part of the individual settlements with each of the Collective's five iwi. None of this redress, to be managed by the two redress entities named above once the redress deed is signed and given effect through legislation, is affected by the project. We have therefore not identified these redress entities as relevant Treaty settlement entities for the project.

Other bodies recognised or established under a Treaty settlement Act

40. A Treaty settlement entity is also defined for the purposes of the FTCA as including a board, trust, committee, authority, or other body, recognised in or established under a Treaty settlement Act.
41. No such entities established by any of the above-named Treaty settlement Acts are relevant to the proposed project.

Relevant principles and provisions of the Treaty settlements

Ngāti Manuhiri, Ngāti Whātua o Kaipara, Te Kawerau ā Maki, Ngāi Tai ki Tāmaki, Te Patukirikiri, Ngāti Paoa and Te Ākitai Waiohua Treaty settlements

Crown acknowledgements and apologies

42. The Crown offers acknowledgements and an apology as part of Treaty settlement redress to atone for historical wrongs, restore honour, and begin the process of healing.
43. In the settlement with Ngāti Manuhiri, the Crown states it profoundly regrets its breaches of the Treaty of Waitangi and its principles which left Ngāti Manuhiri with few landholdings by 1865. The Crown says it is deeply sorry for its failure to protect the remaining lands of Ngāti Manuhiri, the loss of which had devastating consequences for the cultural, spiritual, economic, and physical well-being of Ngāti Manuhiri that continue to be felt today.
44. The Crown also unreservedly apologises for not having honoured its obligations to Ngāti Manuhiri under the Treaty of Waitangi. It also expresses the desire to build a new relationship with Ngāti

⁴ The area of interest is shown on the map attached to the [Marutūāhu Collective Redress deed summary](#).

Manuhiri based on the Treaty of Waitangi and its principles, so that Ngāti Manuhiri and the Crown can work together to revitalise Ngāti Manuhiri.

45. In the settlement with Ngāti Whātua o Kaipara, the Crown acknowledges among other things that the cumulative effect of its breaches of the Treaty of Waitangi and its principles significantly undermined the tino rangatiratanga of Ngāti Whātua o Kaipara, their economic and social development, and physical, cultural and spiritual well-being with effects that continue to be felt to the present day. The Crown profoundly regrets and unreservedly apologises for its actions, which have resulted in the virtual landlessness of Ngāti Whātua o Kaipara. The Crown says it intends to improve and strengthen its historically close relationship with Ngāti Whātua o Kaipara based on the Treaty of Waitangi and its principles so as to create a solid foundation for the future.
46. As part of the settlement with Te Kawerau ā Maki, the Crown unreservedly apologises to Te Kawerau ā Maki, their ancestors and descendants, for not having honoured its obligations to them under the Treaty of Waitangi. The Crown states it seeks through the apology and the settlement to atone for its wrongs and lift the burden of grievance so that the process of healing can begin. The Crown says it hopes to form a new relationship with the people of Te Kawerau ā Maki based on mutual trust, co-operation, and respect for the Treaty of Waitangi and its principles.
47. In the Ngāi Tai ki Tāmaki settlement, the Crown unreservedly apologises for its breaches of te Tiriti o Waitangi/the Treaty of Waitangi and its principles, and for the prejudice its acts and omissions have caused. The Crown says it hopes the settlement will lead to a new relationship that fulfils the expectations of the tūpuna and mokopuna of Ngāi Tai ki Tāmaki, marked by cooperation, partnership, and respect for te Tiriti o Waitangi/the Treaty of Waitangi and its principles.
48. In the Te Patukirikiri Deed of Settlement, the Crown apologises to the people of Te Patukirikiri for the prejudice they have suffered as a result of its actions, and its breaches of te Tiriti o Waitangi/the Treaty of Waitangi and its principles. The Crown states it hopes that the settlement will mark the beginning of a new relationship with Te Patukirikiri based on good faith and cooperation.
49. In the Ngāti Paoa Deed of Settlement, the Crown apologises to Ngāti Paoa for the suffering it has inflicted through its acts and omissions, and for the laws and policies enacted in Aotearoa/New Zealand that have led to the loss of Ngāti Paoa whenua and taonga te reo Māori. The Crown apologises to the tūpuna and mokopuna of Ngāti Paoa for its failure to uphold its obligations under te Tiriti o Waitangi/the Treaty of Waitangi and its principles. The Crown seeks to atone for these injustices and hopes that through this settlement it can rebuild the relationship that it established with Ngāti Paoa in 1840, begin the process of healing and enter a new age of co-operation with Ngāti Paoa.
50. In the Te Ākitai Waiohua Deed of Settlement, the Crown acknowledges its failure to deal with long-standing grievances of Te Ākitai Waiohua. The Crown regrets its actions which breached te Tiriti o Waitangi/the Treaty of Waitangi and its principles and caused significant prejudice and suffering for Te Ākitai Waiohua. The Crown apologises that its actions have not only separated Te Ākitai Waiohua from their wāhi tapu but hindered the socio-economic development of their people and the ability of Te Ākitai Waiohua to grow as an iwi. The Crown says it hopes the settlement marks the beginning of a new relationship with Te Ākitai Waiohua based on partnership, trust and mutual respect for te Tiriti o Waitangi/the Treaty of Waitangi and its principles.
51. Affording respect to the individual views of each iwi on resource management matters and enabling meaningful participation of Treaty partners in decision-making relating to the management and use of natural and physical resources are important ways in which the Crown can give effect to these statements and aspirations, and uphold its relationship with each iwi.

Cultural redress

52. The project site drains to the Ōrewa River, which flows into the Hauraki Gulf/Tīkapa Moana on the northern side of the Whangaparaoa Peninsula. The Ngāti Manuhiri, Te Kawerau ā Maki, Ngāi Tai ki Tāmaki and Te Ākitai Waiohūa deeds of settlement contain statements of the particular cultural, spiritual, historical and traditional association that each iwi respectively has with the area. These include:

Ngāti Manuhiri

The coastal marine area and the coastal environment adjoining are central to the origins, mana and identity of Ngāti Manuhiri as an iwi, and as part of the ocean-focused tribal grouping Ngāti Wai ki te Moana ...

The southern boundary of the Ngāti Manuhiri coastal statutory acknowledgement area extends from the south western extremity of Aotea (Great Barrier Island) through the seas known traditionally as Taitumata and Te Awanui o Hei, to Takapou (Channel Island). It then runs westward through the seaway known as Moana Te Rapu, to the south of the Whangaparaoa Peninsula, to reach the eastern coastline of the Auckland region at Okura. There are places of spiritual, historical, cultural and economic importance to Ngāti Manuhiri along the entire coastline between Okura and Paepae o Tu (Bream Tail) ...

The importance of the coastal area to Ngāti Manuhiri over many generations is reflected by ancient whakataukī and waiata, traditions associated with the ocean, the sailing and navigational skills of the tribe, and the adornment of Omaha Marae as the present day focal point of the iwi today ...

The coastline extending between the Whangaparaoa Peninsula and Paepae o Tu (Bream Tail) includes a wide range of rocky, sandy and estuarine marine habitats, once rich in a variety of inshore fish species, koura and shellfish. Ngāti Manuhiri were traditionally reliant on this kaimoana resource, which was harvested seasonally according to strict customary practices until the alienation of most of the Ngāti Manuhiri tribal domain by the late nineteenth century.

Te Kawerau ā Maki

Te Kawerau ā Maki have an important shared ancestral and customary relationship with Te Whenua roa ō Kahu (the North Shore) extending from Maunga ā Uika (North Head) to the Whāngaparāoa Peninsula ...

The wider coastal environment lying between Ōrewa and the Mahurangi River is known traditionally as Mahurangi. It takes its name from the small island pā located off the mouth of Awa Waiwerawera (the Waiwera River). Te Kawerau ā Maki have a shared ancestral and customary interest in this locality, which was named by the ancestor Rakataura, and which was occupied by Maki and his descendants ...

The seaways to the south and north of the Whāngaparāoa Peninsula are known respectively as Moana Te Rapu and Whānga-paraoa, because of their traditional association with the annual whale migration that took place through Te Moana nui ō Toi (the Hauraki Gulf).

Ngāi Tai ki Tāmaki

From Te Arai out to Hauturu out to Aotea and throughout Hauraki and Tāmaki Makarau and all the islands within, Ngāi Tai have significant multiple, and many layered associations ...

In April 1841 Ngāi Tai ki Tāmaki leaders Te Tara, Nuku, and Te Haua participated alongside others in the original transaction for the Mahurangi and Omaha Block, which [sic] boundaries extended from Takapuna to Te Arai reinforcing the knowledge that Ngāi Tai ki Tāmaki share joint interests over lands and waters as far north as Te Arai ...

Te Ākitai Waiohūa

Te Ākitai Waiohūa maintains an enduring association with the coastal marine area, incorporating the western coast of Hikurangi from Woodhill in the north, to Whatipu in the south, through to the Manukau Harbour in its entirety, across to the Waitematā Harbour and out to the Hauraki Gulf, from Whangaparaoa in the north to Orere Point in the south (the 'Coastal Area') ...

The waters of the Coastal Area are also seen as a living entity with its own mauri (life force) and mana (prestige), representative of the iwi associated with these waters. The life sustaining waters of the Coastal Area are a sacred resource with cleansing, purifying and healing properties that must be nurtured and protected ...

Te Ākitai Waiohūa hold an ancient customary association with the coastal marine area, which has eternally sustained the existence of the people of Tāmaki Makaurau, as a means of transport, by obtaining food and other basic necessities of life. There is a corresponding cultural perspective that such a crucial relationship demands ongoing respect and recognition. Thus the historical and spiritual connection of Te Ākitai Waiohūa with the coastal marine area is viewed as essential to the preservation of its very existence and an affirmation of its identity as a people.

53. The Crown's formal acknowledgement of these statements of association are recognised in coastal statutory acknowledgements covering specified areas in the Ngāti Manuhiri, Te Kawerau ā Maki, Ngāi Tai ki Tāmaki and Te Ākitai Waiohūa settlements.
54. Ngāti Manuhiri Settlement Trust, Te Kawerau Iwi Settlement Trust, Ngāi Tai ki Tāmaki Trust, Te Ākitai Waiohūa Settlement Trust or any member of the relevant iwi can cite their statutory acknowledgements as evidence of their association with the area. Auckland Council, the Environment Court and Heritage New Zealand Pouhere Taonga must have regard to the statutory acknowledgements, and Auckland Council must forward to the relevant Trust summaries of resource consent applications it receives (or notices served on the council under section 145(10) of the RMA) for activities within, adjacent to or directly affecting a statutory area.
55. We note that statutory acknowledgments are not indications of exclusive interest in a site, and sites subject to statutory acknowledgments may also hold importance for other iwi.

Other redress

56. No other cultural or commercial redress would be directly affected by the project and none of the above settlements create co-governance or co-management processes which would affect decision-making under the RMA for projects such as the one proposed.
57. As a general principle, an absence of specific settlement redress does not indicate the absence of an iwi's cultural association with ancestral lands, sites, wāhi tapu or other taonga within an area. Local tangata whenua and their representatives would be best placed to advise on such matters in the first instance.
58. We note too that cultural associations with ancestral lands, water, sites, wāhi tapu, and other taonga – regardless of whether or not they are specifically identified in a Treaty settlement or affected by a statutory acknowledgement or other settlement redress – are deemed to be matters

of national importance that must be recognised and provided for in decision-making under Part 2 section 6(e) of the RMA.

Current negotiation mandates and settlement negotiations

59. Section 17(3)(d) of the FTCA requires this report to identify any recognised negotiation mandates for, or current negotiations for, Treaty settlements that relate to the project area.
60. As noted in paragraphs 36 and 37, Treaty settlement negotiations have commenced but are yet to be concluded with Ngāti Maru (Hauraki), Ngāti Tamaterā, Ngaati Whanaunga and the Marutūāhu Iwi Collective. Additionally, the Crown is negotiating a final settlement with Te Rūnanga o Ngāti Whātua, on behalf of Ngāti Whātua. The project site lies within the areas of interest for each of these settlement negotiations.
61. The project site also falls within the area of interest for Ngāti Te Ata. The Crown recognised the mandate of the Ngāti Te Ata Claims Support Whānau Trust to negotiate a Treaty settlement in May 2011, and signed terms of negotiation with the Trust in June 2011. Negotiations have paused, but Crown-recognition of the mandate has not been withdrawn. Ngāti Te Ata has yet to establish a post-settlement governance entity to receive redress under their settlement.

Details in this report affect certain provisions of the FTCA

Notices of referral decisions

62. Under section 25 of the FTCA, you must give notice of the decisions made on an application for referral of a project to a panel, and the reasons for your decisions, to the applicant and anyone invited to comment under section 21 of the FTCA.
63. You did not invite comment on the referral application from iwi authorities or other Māori groups. However, if you decide to refer this project to a panel, the notice of decisions and associated reasons must be given to:
 - a. the relevant iwi authorities and Treaty settlement entities identified in this report
 - b. any other iwi authorities or Treaty settlement entities you consider have an interest in the matter
 - c. any group that is or party to either a joint management agreement or Mana Whakahono ā Rohe under the RMA that relates to the project area.
64. The relevant iwi authorities and Treaty settlement entities for receipt of the notice are identified in paragraph 5; contact details are in Attachment 2.
65. As explained in paragraphs 19 to 22, we recommend that you consider Ngātiwai Trust, Ngāti Whātua Ōrākei Trust Board, Te Kupenga o Ngāti Hako and Hauraki Māori Trust Board as iwi authorities which may have an interest in the project. Pursuant to this, we recommend that you provide them with a copy of the notice of decision if you decide to refer the project.
66. There are no relevant joint management agreements or Mana Whakahono ā Rohe to consider.
67. The Minister for Treaty for Waitangi Negotiations has requested that the notice of decisions and a copy of the referral application is forwarded to the groups seeking customary marine title or protected customary rights in the Ōrewa River estuary under the MACAA. Further detail on these groups is provided in paragraph 73. We recommend you agree to the Minister's request.

Expert consenting panel membership

68. If a project is referred to a panel, the appointed panel must include one person nominated by the relevant iwi authorities under clause 3(2)(b) of Schedule 5 of the FTCA.
69. In the event iwi authorities nominate more than one person, the panel convener must decide which nominee to appoint. The panel convener has discretion to increase the panel membership to accommodate the matters specified in clauses 3(6)(a) – 3(6)(e) of Schedule 5 of the FTCA, which include matters unique to any relevant Treaty settlement Act.
70. Relevant iwi authorities for the project are identified in paragraph 5.

Panel invitations to comment

71. A panel must invite comments on a resource consent application or notice of requirement for a referred project from the parties listed in clause 17(6) of Schedule 6 of the FTCA. This includes:
- a. the relevant iwi authorities, including those identified in this report
 - b. a Treaty settlement entity relevant to the referred project, including an entity that has an interest under a Treaty settlement in an area where a referred project is to occur, and an entity identified in this report
 - c. any applicant group under the MACAA identified in the report obtained under section 17(1).
72. The relevant iwi authorities and Treaty settlement entities for the proposed project are listed in paragraph 5.
73. A MACAA applicant group means one or more iwi, hapū, or whānau groups that seek recognition under Part 4 of the MACAA of their protected customary rights or customary marine title by either a recognition order granted by the High Court; or an agreement negotiated with the Crown (through The Office for Māori Crown Relations – Te Arawhiti). The groups which have applications under the MACAA in the common marine and coastal area of the Orewa River (which lies downstream of the project site, and which could potentially be affected by runoff from the project) are listed in Attachment 6.
74. The Minister for Treaty of Waitangi Negotiations has requested that you direct a panel to invite comments from these MACAA applicants. The requirement for a panel to seek comment from these parties is provided by clause 17(6)(f) of Schedule 6 of the FTCA pursuant to their identification in this report as applicant groups under the MACAA, so your specific direction to a panel on this matter is not required.
75. A panel may also invite comments from any other person it considers appropriate.
76. We have identified that Ngātiwai Trust, Ngāti Whātua Ōrākei Trust Board, Te Kupenga o Ngāti Hako and Hauraki Māori Trust Board may have an interest in the project area. We therefore recommend that you direct a panel to seek comment from these parties if you decide to refer the project.

Provision of cultural impact assessment

77. Any resource consent application that is submitted to a panel for determination must include a cultural impact assessment prepared by or on behalf of the relevant iwi authority, or a statement of any reasons given by the relevant iwi authority for not providing that assessment.⁵ The Environmental Protection Authority (which provides support services to a panel) will not confirm

⁵ Clause 9(5) of Schedule 6 of the FTCA.

an application as complete and ready for consideration by a panel until this requirement has been satisfied.

78. Where there is more than one relevant iwi authority, the project applicant will need to engage with each to determine their requirements for a cultural impact assessment, including whether they wish to prepare one individually or jointly, or whether they may wish to defer to another iwi in respect of the matter. The relevant iwi authorities for the project are listed in paragraph 5.

Attachment 1 – Location



Attachment 2 – Contact information

Iwi/hapū	Representative body	Contact details	Relevant RMA Iwi authority	Relevant Treaty settlement entity	Other party	Contact person	Copies to
Hako	Te Kupenga o Ngāti Hako				Iwi authority which may have an interest in the matter	CEO & RMA Contact: Pauline Clarkin hako@xtra.co.nz	
Hauraki	Hauraki Māori Trust Board <i>represents Hako, Ngaati Whanaunga, Ngāi Tai ki Tāmaki, Ngāti Maru Hauraki, Ngāti Paoa and Te Patukirikiri</i>	PO Box 33 Paeroa 3640			Iwi authority which may have an interest in the matter	CEO/GM: John McEnteer general@hauraki.iwi.nz	
Ngaati Whanaunga	Ngaati Whanaunga Incorporated Society		Represents Ngaati Whanaunga as an iwi authority for RMA purposes			Boni Renata General Manager hrenata@ngaatiwhanaunga.maori.nz	
	Ngaati Whanaunga Ruunanga Trust			Post-settlement governance entity [deed of settlement initialled 25 Aug 2017]			
Ngāi Tai ki Tāmaki	Ngāi Tai ki Tāmaki Trust	PO Box 141 Clevedon Auckland 2248	Represents Ngāi Tai ki Tāmaki as an iwi authority for RMA purposes	Post-settlement governance entity under the Ngāi Tai ki Tāmaki Claims Settlement Act 2018		Tumu Whakahaere: Lynette Penrose admin@ngaitaitamaki.iwi.nz	RMA contact: Jacquie Lindsay s 9(2)(a)
Ngāti Manuhiri	Ngāti Manuhiri Settlement Trust	PO Box 117 Warkworth 1910	Represents Ngāti Manuhiri as an iwi	Post-settlement governance entity under the Ngāti		CEO: Nicola MacDonald info@ngatimanuhiri.iwi.nz	RMA Kaitiaki: kaitiaki@ngatimanuhiri.iwi.nz

			authority for RMA purposes	Manuhiri Claims Settlement Act 2012			
Ngāti Maru (Hauraki)	Ngāti Maru Rūnanga Trust	PO Box 37 Thames 3540	Represents Ngāti Maru (Hauraki) as an iwi authority for RMA purposes	Post-settlement governance entity [deed of settlement initialled 8 September 2017]		CEO: David Taipari office@ngatimaru.iwi.nz	RMA Contact: William Peters
Ngāti Paoa	Ngāti Paoa Iwi Trust	PO Box 106-153 Auckland 1010	Represents Ngāti Paoa as an iwi authority for RMA purposes	Post-settlement governance entity [deed of settlement signed 20 March 2021]		Tumuaki (Chairperson): Tania Tarawa kaiairahi@ngatipaoaiwi.co.nz	
	Ngāti Paoa Trust Board	PO Box 204-144 Highbrook Auckland 2161	Represents Ngāti Paoa as an iwi authority for RMA purposes			Principal Officer/RMA contact: Dave Roebeck nptb@ngatipaoatrustedboard.co.nz	
Ngāti Tamaterā	Ngāti Tamaterā Treaty Settlement Trust	PO Box 28 Thames 3540	Represents Ngāti Tamaterā as an iwi authority for RMA purposes	Post-settlement governance entity [deed of settlement initialled 20 Sep 2017]		General Manager & RMA contact: s 9(2)(a)	
Ngāti Te Ata	Te Ara Rangatu o Te Iwi o Ngāti Te Ata Waiohū		Represents Ngāti Te Ata as an iwi authority for RMA purposes			Manager: Karl Flavell	RMA Kaitiaki taiao@ngatiteata.iwi.nz
Ngātiwai	Ngātiwai Trust	PO Box 1332 Whangārei 0140			Iwi authority which may have an interest in the matter	CEO: Hūhana Lyndon ngatiwai@ngatiwai.iwi.nz	RMA contact: Kata Tamaki s 9(2)(a)
Ngāti Whātua	Ngāti Whātua Ōrākei Trust Board	PO Box 90465 Victoria Street, Auckland 1142			Iwi authority which may have an interest in the matter	CEO: Lisa Davis s 9(2)(a)	RMA contact: Andrew Brown tokitaiao@ngatiwhatuorakei.com

	Te Rūnanga o Ngāti Whātua	PO Box 1784 Whangarei 0140	Represents Ngāti Whātua as an iwi authority for RMA purposes			Manahautū / CE: Alan Riwaka runanga@ngatiwhatua.iwi.nz	RMA Contact: Antony Thompson s 9(2)(a)
	Ngā Maunga Whakahii o Kaipara Development Trust	PO Box 41 Helensville 0840	Represents Ngāti Whātua o Kaipara as an iwi authority for RMA purposes	Post-settlement governance entity under Ngāti Whātua o Kaipara Claims Settlement Act 2013		CEO: Sarah Ihaia-Chapman admin@kaiparamoana.com	RMA Contact: Savanna Steele s 9(2)(a)
Te Ākitai Waiohū	Te Ākitai Waiohū Iwi Authority	PO Box 59 185 Māngere Bridge Auckland 2151	Represents Te Ākitai Waiohū as an iwi authority for RMA purposes			Chairperson: Karen Wilson tawia@teakitai.com	RMA Contact: Nigel Denny kaitiaki@teakitai.com
	Te Ākitai Waiohū Settlement Trust			Post-settlement governance entity [deed of settlement signed 12 November 2021]			
Te Kawerau ā Maki	Te Kawerau Iwi Settlement Trust	PO Box 59-243 Māngere Bridge Auckland 2151	Represents Te Kawerau ā Maki as an iwi authority for RMA purposes	Post-settlement governance entity under Te Kawerau ā Maki Claims Settlement Act 2015		Executive Chair: Te Warena Taua tewarena.taua@tekawerau.iwi.nz	Kaitiaki: Edward Ashby s 9(2)(a)
Te Patukirikiri	Te Patukirikiri Iwi Trust	103 Herewaka Street Thames 3500	Represents Te Patukirikiri as an iwi authority for RMA purposes	Post-settlement governance entity [deed of settlement signed 07 Oct 2018]		CEO/RMA contact: William Peters s 9(2)(a)	

Attachment 3 – Project area



Attachment 4 – Project layout



Attachment 5 – Examples of proposed residential units



Attachment 6 – Applicants for customary marine title and protected customary rights (Orewa River Estuary)

No	Application No	Applicant	Contact details	Track	Application status
1	MAC-01-01-023	Ihaia Paora Weka Tuwhera Gavala Murray Mahinepua Reserve Trust Ngātirua Iti Ngāti Muri Nagatirumahue Ngāti Kawau Ngāti Haiti Ngāitupango Ngāpuhi Ngāti Kahu Te Auopouri	Representative: Tahua Murray Email: taraire.cottage@xtra.co.nz	Crown engagement	Active
2	MAC-01-01-050	Ngāpuhi nui toni, Ngāti Rahiri, Ngāti Awa, Ngā Tahuhu and Ngāitawake	Representative: Joseph Robert Kingi Email: s 9(2)(a)	Crown engagement	Active
	CIV-2017-404-537			High Court	Active
3	MAC-01-01-053	Ngāpuhi Nui Tonu (Maungarei Marae)	Representative: Joseph Robert Kingi Email: s 9(2)(a)	Crown engagement	Active
4	MAC-01-01-056	Ngāpuhi Nui Tonu (Te Kotahitanga Marae)	Representative: Joseph Robert Kingi Email: s 9(2)(a)	Crown engagement	Active
5	MAC-01-01-058	Ngāpuhi Nui Tonu (Waitangi Marae)	Representative: Joseph Robert Kingi Email: s 9(2)(a)	Crown engagement	Active
6	MAC-01-01-073	Ngāti Kawau and Te Waiariki Korora	Representative: Louisa Te Matekino Collier Email: mason@phoenixlaw.expert	Crown engagement	Active
	CIV-2017-485-398			High Court	Active
7	MAC-01-01-079	Ngāti Manuhiri	Representative: Merehora Taurua Trustees of the Ngāti Manuhiri Settlement Trust Email: tauruaamerehora@gmail.com	Crown engagement	Active
	CIV-2017-404-545			High Court	Active
8	MAC-01-01-080	Ngāti Maraeariki and its Hapū	Representative: Michael Beazley Email: linda@lyallthornton.com	Crown engagement	Active
	CIV-2017-485-378			High Court	Active
9	MAC-01-01-084	Ngāti Rehua	Representative: Trustees of the Ngāti Rehua Ngātiwai ki Aotea Trust Email: roimata@smail.nz	Crown engagement	Active
	CIV-2017-404-546			High Court	Active
10	MAC-01-01-085	Ngāti Rongo o Mahurangi	Representative: Arapeta Hamilton Email: s 9(2)(a) Legal Counsel email: s 9(2)(a)	Crown engagement	Active
	CIV-2017-485-276			High Court	Active
11	MAC-01-01-091	Ngāti Whānaunga	Representative: Mike Baker (Chairperson); Email: s 9(2)(a)	Crown engagement	Active
12	MAC-01-01-105	Reti Whānau	Representative: Elvis Shayne Reti	Crown engagement	Active

	CIV-2017-485-515		Email: S 9(2)(a)	High Court	Active
13	MAC-01-01-120	Te Hikutu Whānau and Hapū	Representative: Anania Wikaira; Jane Hotere; Rosaria Hotere	Crown engagement	Active
	CIV-2017-404-570		Email S 9(2)(a)	High Court	Active
14	MAC-01-01-133	Ngāitawake	Representative: Rihari Dargaville	Crown engagement	Active
	CIV-2017-404-558		Email: S 9(2)(a)	High Court	Active
15	MAC-01-01-140	Ngāti Whātua	Representative: Alan Riwaka	Crown engagement	Active
	CIV-2017-404-563		Email S 9(2)(a)	High Court	Active
16	MAC-01-01-144	Te Uri o Hikihiki hapū	Representative: Anania Wikaira; Jane Hotere; Rosaria Hotere Email: S 9(2)(a)	Crown engagement	Active
17	MAC-01-01-148	Mahurangi, Ngāti Awa, Ngāpuhi	Representative: Kiharoa Menehira Gilbert Parker	Crown engagement	Active
	CIV-2017-404-524		Email S 9(2)(a)	High Court	Active
18	MAC-01-02-003	Ngāi Tai ki Tāmaki	Representative: James Brown	Crown engagement	Active
	CIV-2017-404-564		Email: S 9(2)(a)	High Court	Active
19	MAC-01-02-004	Ngāti Taimanawaiti	Representative: Jasmine Whakaarahia Cotter-Williams	Crown engagement	Active
	CIV-2017-404-518		Email: S 9(2)(a)	High Court	Active
20	MAC-01-02-005	Ngāti Te Ata	Representative: Roimata Minhinnick	Crown engagement	Active
	CIV-2017-404-569		Email: S 9(2)(a)	High Court	Active
21	MAC-01-02-007	Te Kawerau a Maki	Representative: Te Kawerau Iwi Settlement Trust Email: S 9(2)(a)	Crown engagement	Active
22	MAC-01-03-001	Hauraki Māori Trust Board	Representative: Terrence John McEnteer Email: S 9(2)(a)	Crown engagement	Active
23	MAC-01-03-006	Ngāti Maru	Representative: Ngāti Maru Runanga Trust Email: S 9(2)(a)	Crown engagement	Active
24	MAC-01-03-011	Ngāti Tamatera	Representative: Ngāti Tamatera Treaty Settlement Trust Email: S 9(2)(a)	High Court	Active
25	CIV-2017-404-567	Te Taou	Representative: Marama Stead Email: S 9(2)(a)	High Court	Active
26	CIV-2017-404-573	Ngāi Tahu, Ngāti Tuu, Ngāti Kūkeke	Representative: Maia Nova Email: S 9(2)(a)	High Court	Active

Source: Kōrero Takutai (Te Kete Kōrero a Te Takutai Moana Information Hub – Te Arawhiti) & the Office for Māori Crown Relations – Te Arawhiti