

Application 2022-087 Kepa Road Apartments Project (Sanctum Projects 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: 28 July 2022	

Ministry for the Environment contacts

Position	Name	Cell Phone	1 st Contact
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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 Kepa Road Apartments Project (project) to an expert consenting panel (panel).

Proposed project

3. The applicant (Sanctum Projects Limited) proposes to redevelop three suburban sections at the corner of Kepa Road and Kurahaupo Street in Ōrākei, Auckland, by removing existing vegetation and buildings, and constructing a residential development consisting of two apartment buildings that will provide 45 residential units.
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 (15)	<p>Ngaati Whanaunga Incorporated Society</p> <p>Ngāi Tai ki Tāmaki Trust</p> <p>Ngāti Maru Rūnanga Trust</p> <p>Ngāti Paoa Iwi Trust</p> <p>Ngāti Paoa Trust Board</p> <p>Ngāti Tamaoho Trust</p> <p>Ngāti Tamaterā Treaty Settlement Trust</p> <p>Ngāti Whātua Ōrākei Trust Board</p> <p>Te Ākitai Waiohūa Iwi Authority</p> <p>Te Ara Rangatū o Te Iwi o Ngāti Te Ata Waiohūa</p> <p>Te Kawerau Iwi Settlement Trust</p> <p>Te Kupenga o Ngāti Hako Incorporated</p> <p>Te Patukirikiri Iwi Trust</p> <p>Te Rūnanga o Ngāti Whātua</p> <p>Te Whakakitenga o Waikato Incorporated</p> <p><i>Contact details are in Attachment 2</i></p>
s17(3)(b)	Treaty settlements that relate to the project area (8)	<p>Ngāti Whātua Ōrākei Claims Settlement Act 2012</p> <p>Te Kawerau ā Maki Claims Settlement Act 2015</p> <p>Ngāi Tai ki Tāmaki Claims Settlement Act 2018</p> <p>Ngāti Tamaoho Claims Settlement Act 2018</p> <p>Te Patukirikiri – deed of settlement 7 October 2018</p> <p>Ngāti Paoa – deed of settlement 20 March 2021</p> <p>Te Ākitai Waiohūa – deed of settlement 12 Nov 2021</p> <p>Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014</p>
s17(3)(a)	Relevant Treaty settlement entities (12)	<p>Ngāti Whātua Ōrākei Trustee Limited</p> <p>Te Kawerau Iwi Settlement Trust</p> <p>Ngāi Tai ki Tāmaki Trust</p> <p>Ngāti Tamaoho Settlement Trust</p> <p>Te Patukirikiri Iwi Trust</p> <p>Ngāti Paoa Iwi Trust</p> <p>Te Ākitai Waiohūa Settlement Trust</p> <p>Ngāti Maru Rūnanga Trust</p> <p>Ngāti Tamaterā Treaty Settlement Trust</p> <p>Hako Tūpuna Trust</p> <p>Ngaati Whanaunga Ruunanga Trust</p> <p>Ngāti Whātua Ōrākei Reserves Board</p>

Section of the FTCA	Information required	Detail
		<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>
s17(3)(d)	Groups with a negotiation mandate recognised by the Crown who are yet to commence Treaty settlement negotiations	Ngāti Te Ata Claims Support Whānau Trust Ngāti Koheriki Claims Committee
s17(3)(d)	Current Treaty settlement negotiations	Ngāti Maru (Hauraki) (Ngāti Maru Treaty Settlement Negotiators) Ngāti Tamaterā (Ngāti Tamaterā Negotiators) Hako (Ngāti Hako Treaty Settlement Negotiators) Ngaati Whanaunga (Ngaati Whanaunga Ruunanga Trust) Marutūāhu Iwi Collective Ngāti Whātua (Te Rūnanga o Ngāti Whātua) Waikato-Tainui – remaining claims (Negotiator - Rahui Papa)
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. As shown in Attachment 2, the project site is currently occupied by three residential dwellings, one of which is attached to a dwelling in an adjoining property. The dwellings within the site will be removed, along with existing vegetation and other buildings, structures and infrastructure.
7. Two new residential buildings providing a total of 45 residential units in a range of sizes will be constructed. The buildings will be 6 and 7 storeys respectively and will include two basement levels for car parking that will span beneath the two blocks. The proposed layout is shown in Attachment 4 and illustrated in Attachment 5.

Statutory matters relating to this report

8. 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.

9. 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

10. 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.
11. '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.
12. 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.
13. 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.
14. 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.
15. To identify iwi authorities associated with the identified areas of interest, we sourced and considered information from:
- a. the TKM online directory noted above

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>

- 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

- 16. We consider the project site lies within the areas of interest of Hako, Ngaati Whanaunga, Ngāi Tai ki Tāmaki, Ngāti Koheriki, Ngāti Maru (Hauraki), Ngāti Paoa, Ngāti Tamaoho, Ngāti Tamaterā, Ngāti Te Ata, Ngāti Whātua, Ngāti Whātua Ōrākei, Te Ākitai Waiohua, Te Kawerau ā Maki, Te Patukirikiri, Waikato-Tainui, the Tāmaki Collective and the Marutūāhu Iwi Collective.
- 17. Not all of these iwi or groups are represented by an iwi authority³ and some are represented by more than one iwi authority. We consider the following 15 iwi authorities associated with these iwi/groups to be the relevant iwi authorities for the project:
 - a. Te Kupenga o Ngāti Hako Incorporated, representing Hako
 - b. Ngaati Whanaunga Incorporated Society, representing Ngaati Whanaunga
 - c. Ngāi Tai ki Tāmaki Trust, representing Ngāi Tai ki Tāmaki
 - d. Ngāti Maru Rūnanga Trust, representing Ngāti Maru
 - e. Ngāti Paoa Iwi Trust, representing Ngāti Paoa
 - f. Ngāti Paoa Trust Board, representing Ngāti Paoa
 - g. Ngāti Tamaoho Trust, representing Ngāti Tamaoho
 - 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. Ngāti Whātua Ōrākei Trust Board, representing Ngāti Whātua o Ōrākei
 - 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
 - n. Te Rūnanga o Ngāti Whātua, representing Ngāti Whātua
 - o. Te Whakakitenga o Waikato Incorporated, representing Waikato-Tainui.

Other iwi authorities which may have an interest in the project

- 18. We note that the Hauraki Māori Trust Board also represents six of the above-named iwi as an iwi authority.⁴ 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.
- 19. The Auckland Council databases indicate that Ngāti Whātua o Kaipara and Te Ahiwaru Waiohua may have an interest in the project area. We are unsure as to the reasons for this as it is not supported by other available information.

³ Ngāti Koheriki, the Tāmaki Collective and the Marutūāhu Iwi Collective.

⁴ Ngaati Whanaunga, Ngāi Tai ki Tāmaki, Ngāti Maru (Hauraki), Ngāti Paoa, Ngāti Tamaterā and Te Patukirikiri.

20. We have therefore not identified the corresponding iwi authorities – Ngā Maunga Whakahii o Kaipara Development Trust and Makaurau Marae Māori Trust – 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 and take that into account in your decisions relating to project referral.

Treaty settlements and Treaty settlement entities

21. 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 12 and relevant documents on the [NZ Government Treaty settlements website](#), together with advice from and the Office for Māori Crown Relations – Te Arawhiti, for this task.

Treaty settlements relating to the project area

22. 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.
23. The project site falls within the areas of interest covered by Treaty settlements with the following eight iwi/groups:
- a. Ngāti Whātua Ōrākei
 - b. Te Kawerau ā Maki
 - c. Ngāi Tai ki Tāmaki
 - d. Ngāti Tamaoho
 - e. Te Patukirikiri
 - f. Ngāti Paoa
 - g. Te Ākitai Waiohū
 - h. the Tāmaki Collective.
24. The Ngāti Whātua Ōrākei Claims Settlement Act 2012 gives effect to certain provisions of the deed of settlement signed by Ngāti Whātua o Ōrākei, Ngāti Whātua Ōrākei Trustee Limited and the Crown on 5 November 2011. [A settlement summary, the deed and associated documents](#) are on the NZ Government Treaty settlements website.
25. Te Kawerau ā Maki Claims Settlement Act 2015 gives effect to certain provisions of the deed of settlement signed by Te Kawerau ā Maki, Te Kawerau Iwi Settlement Trust and the Crown on 22 February 2014, and amendment deeds signed in 2015 and 2019. [Relevant settlement documents](#) are on the NZ Government Treaty settlements website.
26. 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.
27. The Ngāti Tamaoho Claims Settlement Act 2018 gives effect to certain provisions of the deed of settlement signed by the Crown, Ngāti Tamaoho and the Ngāti Tamaoho Settlement Trust on 30 April 2017. [Relevant settlement documents](#) are on the NZ Government Treaty settlement website.
28. 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.

29. 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.
30. Te Ākitai Waiohū, Te Ākitai Waiohū 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
31. Ngā Mana Whenua o Tāmaki Makaurau (the Tāmaki Collective) signed the Tāmaki Makaurau Collective Redress deed on 5 December 2012. An amendment deed was signed 23 August 2013, and the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 gives effect to certain provisions of the deeds. The FTCA defines this Act as a Treaty settlement Act for the purposes of the FTCA. [Relevant documents](#) are available on the NZ Government Treaty settlement website.

Relevant Treaty settlement entities

32. We have identified 12 relevant Treaty settlement entities for the project. These are listed in paragraph 5 and further explanation is provided below.

Post-settlement governance entities

33. 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.
34. The respective post-settlement governance entities associated with the five Treaty settlement Acts noted above are:
 - a. Ngāti Whātua Ōrākei Trustee Limited (in its capacity as trustee of the Ngāti Whātua Ōrākei Trust)
 - b. Te Kawerau Iwi Settlement Trust
 - c. Ngāi Tai ki Tāmaki Trust
 - d. Ngāti Tamaoho Settlement Trust
 - e. the following trusts and partnerships associated with the Tāmaki collective arrangements:
 - i. Whenua Haumi Roroa o Tāmaki Makaurau Limited Partnership, established on 12 June 2014 to receive specified commercial redress
 - ii. Tūpuna Taonga o Tāmaki Makaurau Trust, established on 6 June 2014 to receive specified cultural redress relating to the maunga and motu (including vesting of sites)
 - iii. Ngāti Whātua Rōpū Limited Partnership, representing three members of the Tāmaki Collective: Ngāti Whātua Ōrākei and Te Rūnanga o Ngāti Whātua (whose individual areas of interest include the project site) and Ngāti Whātua o Kaipara (whose individual area of interest may include the project site, as noted in paragraph 19)
 - iv. Waiohū-Tāmaki Rōpū Limited Partnership, representing five members of the Tāmaki Collective: Te Kawerau ā Maki, Ngāi Tai ki Tāmaki, Ngāti Tamaoho, Te Ākitai Waiohū and Ngāti Te Ata (all of whose individual areas of interest include the project site)
 - v. Marutūāhu Rōpū Limited Partnership, representing five members of the Tāmaki Collective: Ngāti Maru (Hauraki), Ngāti Paoa, Ngāti Tamaterā, Te Patukirikiri and

Ngaati Whanaunga (all of whose individual areas of interest include the project site).

35. As explained in paragraphs 59 to 61, we consider it unlikely that the project will directly affect any of the cultural or commercial redress provided to the entities in paragraph 34(e) under the Tāmaki collective arrangements. On this basis, we have not identified the Tāmaki Collective redress entities as relevant Treaty settlement entities for the project.
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. Hako Tūpuna Trust, which was ratified as the post-settlement governance entity for Hako on 26 August 2014
 - g. 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
 - h. the Marutūāhu Rōpū Limited Partnership, which was established to receive the collective commercial redress provided in the Marutūāhu Iwi Collective Redress Deed that was initialled by the Crown and the Marutūāhu Iwi Collective on 27 July 2018.
37. The Marutūāhu Iwi Collective represents Ngāti Maru (Hauraki), Ngāti Tamaterā, Ngāti Paoa, Te Patukirikiri and Ngaati Whanaunga. The Marutūāhu Iwi Collective area of interest⁵ covers parts of the Auckland, Waikato and Bay of Plenty Regions, and includes the project site.
38. 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.

⁵ The area of interest is shown on the map attached to the [Marutūāhu Collective Redress deed summary](#).

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. The Ngāti Whātua Ōrākei Reserves Board was established by the Ngāti Whātua Ōrākei Claims Settlement Act 2012 to co-govern the Pourewa Creek recreation reserve, which lies opposite the project site on the south side of Kepa Road, as shown in Attachment 6. The Board is comprised of equal representatives from Ngāti Whātua Ōrākei and Auckland Council including one member of the local board. It is chaired by a representative elected by Ngāti Whātua Ōrākei and the deputy chair is elected by Auckland Council. We consider the Board to be a relevant settlement entity for the project, on account of the proximity of the reserve it administers to the project site.
42. The Tūpuna Maunga o Tāmaki Makaurau Authority (Maunga Authority) was established under the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 as a statutory co-governance authority which oversees the administration and management of 13 of the 14 Tāmaki maunga vested in the Tūpuna Taonga o Tāmaki Makaurau Trust. As noted in paragraph 59, we do not consider the project likely to directly affect any of the Tūpuna Maunga. On this basis we have not identified the Maunga Authority as a relevant Treaty settlement entity for the project.

Relevant principles and provisions of the Treaty settlements

Ngāti Whātua o Ōrākei, Te Kawerau ā Maki, Ngāi Tai ki Tāmaki, Ngāti Tamaoho, Te Patukirikiri, Ngāti Paoa and Te Ākitai Waiohū Treaty settlements

Crown acknowledgements and apologies

43. 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.
44. In the Ngāti Whātua o Ōrākei settlement, the Crown unreservedly apologises to Ngāti Whātua Ōrākei, their ancestors and descendants, for not having honoured its obligations to them under the Treaty of Waitangi. The Crown also says it looks forward to repairing its relationship with Ngāti Whātua Ōrākei based on mutual trust, co-operation and respect for the Treaty of Waitangi and its principles.
45. In the Te Kawerau ā Maki settlement, the Crown unreservedly apologises for not having honoured its obligations to the people of Te Kawerau ā Maki 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.
46. 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.
47. The Crown states, in the Ngāti Tamaoho settlement, that its acts and omissions and its promotion of injurious laws and policies have harmed Ngāti Tamaoho, undermined their rangatiratanga and contributed to the loss of Ngāti Tamaoho autonomy. The Crown apologises to the iwi of Ngāti Tamaoho, their tūpuna and mokopuna for its failure to honour its obligations under te Tiriti o Waitangi/the Treaty of Waitangi and recognises that this failure has harmed successive generations of Ngāti Tamaoho. The Crown says it looks forward to building a new relationship with

Ngāti Tamaoho based on co-operation, mutual trust, 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 tupuna 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 Waiohū settlement, the Crown acknowledges its failure to deal with long-standing grievances of Te Ākitai Waiohū. 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 Waiohū. The Crown apologises that its actions have not only separated Te Ākitai Waiohū from their wāhi tapu but hindered the socio-economic development of their people and the ability of Te Ākitai Waiohū to grow as an iwi. The Crown says it hopes the settlement marks the beginning of a new relationship with Te Ākitai Waiohū based on partnership, trust and mutual respect for te Tiriti o Waitangi/the Treaty of Waitangi and its principles.
51. Affording respect for the individual views of each iwi on resource management matters and enabling their meaningful participation as 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 acknowledgements and uphold its relationship with each iwi.

Cultural redress

52. We noted above that Pourewa Creek recreation reserve lies immediately to the south of the project site. Under the Ngāti Whātua Ōrākei Treaty settlement, ownership of the reserve was transferred to Ngāti Whātua Ōrākei Trustee Limited and a co-governance authority, Ngāti Whātua Ōrākei Reserves Board, was established to jointly administer the reserve with Auckland Council. We have identified Ngāti Whātua Ōrākei Trustee Limited and Ngāti Whātua Ōrākei Reserves Board as relevant settlement entities for the project. If the project is referred, we would also expect that a panel would invite comments on consent applications for the project from Ngāti Whātua Ōrākei Trustee Limited as an adjacent landowner (under clause 17(6)(g) of Schedule 6 of the FTCA).

Other redress

53. 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.
54. No other cultural or commercial redress would be directly affected by the project.
55. We note 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 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.
56. 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.

Tāmaki Collective Redress Act

57. The Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 and its associated deed provide collective redress for the shared interests of the 13 iwi and hapū of the Tāmaki Collective in maunga, motu and lands within Tāmaki Makaurau (Auckland). These provisions do not settle any historical Treaty claims; this is addressed instead through the specific settlements with each iwi/hapū. The redress provided through the Act is provided ‘on account’ of those individual Treaty settlements.
58. A significant part of the collective redress is concerned with governance and management arrangements over the maunga of central Auckland and some of the islands of Tīkapa Moana (the Hauraki Gulf). Tūpuna Maunga are vested in the Tūpuna Taonga o Tāmaki Makaurau Trust and the Maunga Authority is responsible for their day-to-day administration and management.
59. The closest Tūpuna Maunga to the project site are Ōhinerau/Mt Hobson, Maungarei/Mt Wellington and Maungauika/North Head, approximately four kilometres to the southwest, southeast and north respectively. We consider it unlikely that the project will directly affect either of these, or any other, Tūpuna Maunga.
60. Some commercial redress is also included in the Tāmaki collective arrangements, in the form of rights of first refusal (RFR) over Crown properties over a wide area of Auckland⁶, and second rights to purchase deferred selection properties not selected or acquired by iwi/hapū under their individual settlements.
61. Although the proposed project site lies within the RFR area, none of the land within it is Crown-owned. Therefore, the project would not affect any commercial redress available to Ngā Mana Whenua o Tāmaki Makaurau under the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014, which is managed by the Whenua Haumi Roroa o Tāmaki Makaurau Limited Partnership.

Current negotiation mandates and settlement negotiations

62. 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.
63. Treaty settlement negotiations have commenced but are yet to be concluded with Ngāti Maru (Hauraki), Ngāti Tamaterā, Hako, Ngaati Whanaunga and the Marutūāhu Iwi Collective.
64. Additionally, the Crown is negotiating a final settlement with Te Rūnanga o Ngāti Whatua, on behalf of Ngāti Whātua, and a settlement of remaining historical Treaty claims with the mandated Waikato-Tainui negotiator, Rahui Papa, on behalf of Waikato-Tainui. The project site lies within the areas of interest for each of these settlements.
65. Te Runanga o Ngāti Whātua and the Crown signed an Agreement in Principle on 18 August 2017, while the Waikato-Tainui Negotiator and the Crown signed Terms of Negotiation on 14 December 2020. The entities that will receive redress under these settlements have yet to be determined.
66. The project area also falls within the areas of interest of:
 - a. Ngāti Te Ata

⁶ Part 3 of [Attachments to Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed](#).

b. Ngāti Koheriki.

67. 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.
68. The Crown recognised the Treaty settlement negotiation mandate of Ngāti Koheriki Claims Committee in June 2013. Negotiations have yet to commence, but Crown-recognition of the mandate has not been withdrawn. Ngāti Koheriki 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

69. 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.
70. You invited the iwi authority for Ngāti Whātua Ōrākei, the Ngāti Whātua Ōrākei Trust Board, to comment on the referral application for the project.
71. If you decide to refer this project to a panel, the notice of decisions and associated reasons must also be given to:
- a. the other 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.
72. The relevant iwi authorities and Treaty settlement entities for receipt of the notice are identified in paragraph 5; contact details are in Attachment 2.
73. As explained in paragraphs 18 to 20, we recommend that you consider the Hauraki Māori Trust Board, Ngā Maunga Whakahii o Kaipara Development Trust and Makaurau Marae Māori Trust as iwi authorities which may have an interest in the project and provide them with a copy of the notice of decision if you decide to refer the project.
74. There are no relevant joint management agreements or Mana Whakahono ā Rohe to consider.
75. The Minister for Treaty for Waitangi Negotiations has requested that the notice of decisions and a copy of the referral application is forwarded to Ngāti Koheriki Claims Committee, the mandated entity for Ngāti Koheriki Treaty settlement negotiations. This is because the project site lies in the Ngāti Koheriki area of interest and the iwi is not currently represented by either an iwi authority or a Treaty settlement entity recognised under the FTCA – meaning it is not covered by notification requirements prescribed by the FTCA. Contact details (if you agree to the Minister’s request) are in Attachment 2.

Expert consenting panel membership

76. 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.

77. 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.
78. Relevant iwi authorities for the project are identified in paragraph 5.

Panel invitations to comment

79. 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.
80. The relevant iwi authorities and Treaty settlement entities for the proposed project are listed in paragraph 5.
81. A panel may also invite comments from any other person it considers appropriate.
82. As we have identified that the Hauraki Māori Trust Board, Ngā Maunga Whakahii o Kaipara Development Trust and Makaurau Marae Māori Trust may have an interest in the project area, we recommend that you direct a panel to seek comment from these parties if you decide to refer the project.
83. The Minister for Treaty of Waitangi Negotiations has requested that you direct a panel to invite comments from the Ngāti Koheriki Claims Committee, as this body is not covered by the panel consultation requirements prescribed by the FTCA. If you decide to refer the project, your direction to the panel under section 24(2)(e) of the FTCA would be required to give effect to this request.

Provision of cultural impact assessment

84. 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.⁷ The Environmental Protection Authority (which provides support services to a panel) will not confirm an application as complete and ready for consideration by a panel until this requirement has been satisfied.
85. 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.

⁷ Clause 9(5) of Schedule 6 of the FTCA.

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
Hauraki	Hauraki Māori Trust Board	PO Box 33 Paeroa 3640			Iwi authority which may have an interest in the matter	CEO/GM: John McEnteer general@hauraki.iwi.nz	
Hako	Te Kupenga o Ngāti Hako Incorporated		Represents Hako as an iwi authority for RMA purposes			CEO & RMA Contact: Pauline Clarkin hako@xtra.co.nz	
	Hako Tūpuna Trust			Post-settlement governance entity [confirmed 26 August 2014]		Contact: Josie Anderson hako@xtra.co.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 Koheriki	Ngāti Koheriki Claims Committee	PO Box 250 Whitianga 3542			Mandate recognised by the Crown for Treaty settlement negotiations	Chair: Joe Johnson s 9(2)(a)	Kiwi Johnson s 9(2)(a)
Ngāti Maru (Hauraki)	Ngāti Maru Rūnanga Trust		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 kaiarahi@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 Tamaoho	Ngāti Tamaoho Trust	PO Box 272-1652	Represents Ngāti Tamaoho			CEO: Geneva Harrison info@tamaoho.maori.nz	RMA Contact: Lucie Rutherford rmaofficer@tamaoho.maori.nz

		Papakura Auckland 2244	as an iwi authority for RMA purposes				
	Ngāti Tamaoho Settlement Trust			Post- settlement governance entity under the Ngāti Tamaoho Claims Settlement Act 2018			
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
Ngāti Whātua	Ngāti Whātua Ōrākei Trust Board	PO Box 90465 Victoria Street, Auckland 1142	Represents Ngāti Whātua Ōrākei as an iwi authority for RMA purposes			CEO: Lisa Davis s 9(2)(a)	RMA contact: Andrew Brown tokitaiao@ngatiwhatuorakei.com
	Ngāti Whātua Ōrākei Trustee Limited			Post- settlement governance entity under Ngāti Whātua Ōrākei Claims			

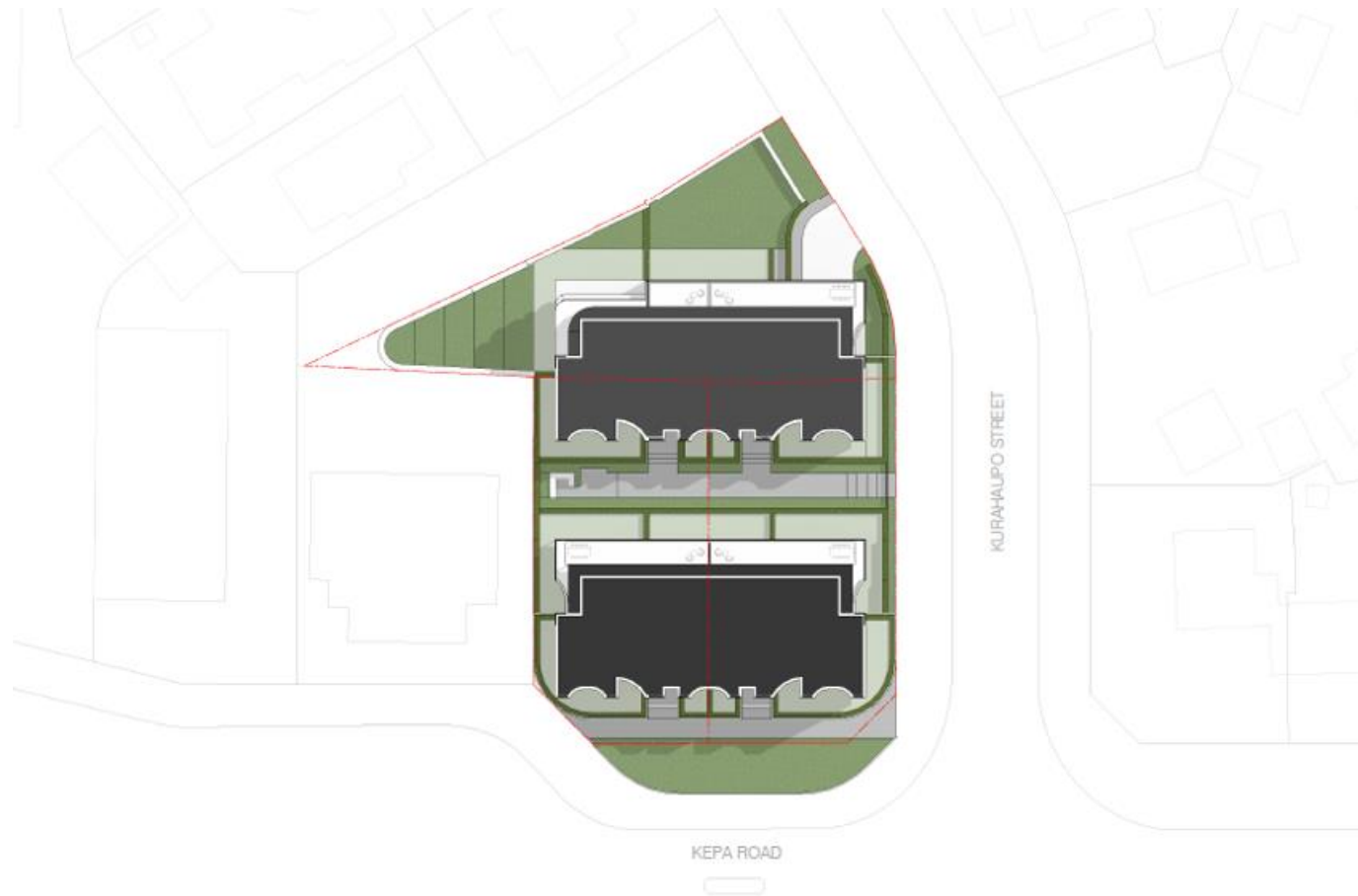
				Settlement Act 2012			
	Te Rūnanga o Ngāti Whātua	PO Box 1784 Whangarei 0140	Represents Ngāti Whātua as an iwi authority for RMA purposes			Manahautū / CE: Alan Riwaka runanga@ngatiwhatua.iwi.nz	RMA Contact: Antony Thompson s 9(2)(a)
	Ngā Maunga Whakahii o Kaipara Development Trust	PO Box 41 Helensville 0840			Iwi authority which may have an interest in the matter	CEO: Sarah Ihaia-Chapman admin@kaiparamoana.com	RMA Contact: Savanna Steele s 9(2)(a)
Te Ahiwaru - Waiohū	Makaurau Marae Māori Trust				Iwi authority which may have an interest in the matter	Kowhai Olsen 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		Represents Te Kawerau ā Maki as an iwi	Post-settlement governance entity under Te		Executive Chair: Te Warena Taua s 9(2)(a)	Kaitiaki: Edward Ashby s 9(2)(a)

			authority for RMA purposes	Kawerau ā Maki Claims Settlement Act 2015			
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)	
Waikato-Tainui	Te Whakakitenga o Waikato	PO Box 648 Waikato Mail Centre Hamilton 3240	Represents Waikato-Tainui as an iwi authority for RMA purposes			CEO: Donna Flavell secretariat@tainui.co.nz	RMA contact: Manaaki Nepia s 9(2)(a)

Attachment 3 – Project site detail



Attachment 4 – Project layout



Attachment 5 – Visual concepts



View from Kepa Rd looking north-east



View from corner of Kepa Rd and Kurahaupo St, looking north-west

Attachment 6 – Pourewa Creek redress site

