

Application 2021-069 Whenuapai Business Park (Neil Construction 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: 27 January 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 Whenuapai Business Park project to an expert consenting panel (a panel).

Proposed project

3. The applicant proposes to subdivide a 23-hectare site at the southern edge of the New Zealand Defence Force Whenuapai Air Base in Auckland, and establish three-waters services, roads and other infrastructure to provide for future industrial and residential development.
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 (14)	<p>Ngā Maunga Whakahii o Kaipara Development Trust</p> <p>Ngāi Tai ki Tāmaki Tribal Trust</p> <p>Ngāti Maru Rūnanga Trust</p> <p>Ngāti Manuhiri Settlement 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 o Ōrākei Trust Board</p> <p>Te Ākitai Waiohūa Iwi Authority</p> <p>Te Ara Rangatu 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 Rūnanga o Ngāti Whātua</p> <p><i>Contact details are in Attachment 2</i></p>
s17(3)(b)	Treaty settlements that relate to the project area (6)	<p>Ngāti Whātua Ōrākei Claims Settlement Act 2012</p> <p>Ngāti Whātua o Kaipara Claims Settlement Act 2013</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 Ākitai Waiohūa Deed of Settlement – signed 12 November 2021</p>
s17(3)(a)	Relevant Treaty settlement entities (9)	<p>Ngāti Whātua o Ōrākei Trustee Limited</p> <p>Ngā Maunga Whakahii o Kaipara Development Trust</p> <p>Te Kawerau Iwi Settlement Trust</p> <p>Ngāi Tai ki Tāmaki Trust</p> <p>Ngāti Tamaoho Settlement 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><i>Contact details are in Attachment 2</i></p>
s17(3)(c)	Relevant principles and provisions of the Treaty settlements	<i>See below</i>

Section of the FTCA	Information required	Detail
s17(3)(d)	Negotiation mandates recognised by the Crown	Ngāti Te Ata Claims Support Whānau Trust Ngāti Koheriki Claims Committee
s17(3)(d)	Current Treaty settlement negotiations	Hako (Ngāti Hako Treaty Settlement Negotiators) Ngāti Maru (Hauraki) (Ngāti Maru Treaty Settlement Negotiators) Ngāti Tamaterā (Ngāti Tamaterā Negotiators) Marutūāhu Iwi Collective 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 material

Project details

6. The project site covers approximately 23 hectares of land that has been in horticultural use, lying on the southern side of Bringham Creek Road, at the southern end of the Whenuapai Air Base, as shown in Attachment 3. There is one residential property on the site.
7. The site drains to the Waiarohia Stream which flows into the Waitematā Harbour approximately one kilometre to the north-east.
8. As shown on Attachment 4, the project is to subdivide the site to create:
 - a. 21 lots for light industrial development (Lots 1-21)
 - b. four balance lots intended for future residential development (Lots 200 and 300, and areas between a stream and Bringham Creek Road)
 - c. roads and pedestrian accessways, which are intended to vest in Auckland Council.
9. The applicant also proposes to provide three-waters services to each lot.
10. Stormwater is to be discharged to on-site watercourses following appropriate treatment, existing streams and wetlands are to be retained within the development without significant disturbance and riparian margins are to be planted.

Statutory matters relating to this report

11. 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.

12. 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

13. This report must identify the relevant iwi authorities for a 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.
14. 'Area of interest' can mean different things depending on context and can be difficult to define precisely on a map, particularly on small scale maps depicting large geographical areas. For the purposes of this report, we have used information from the following sources as a basis for identifying iwi areas of interest:
- a. the Iwi Areas of Interest viewer, an online application managed by the Ministry of Māori Development - Te Puni Kōkiri (TPK)
 - b. 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
 - c. 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
 - d. area of interest maps in signed Treaty settlement deeds or other Treaty settlement documents
 - e. Auckland Council's online interactive map depicting tribal regions and iwi in the Auckland Region².
15. The FTCA does not define iwi authority, so under section 7(2) of the FTCA, it 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 the relevant iwi authorities for the identified areas of interest, we sourced and considered information from:
- 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.

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>

Iwi authorities relevant to project

17. The project site lies within or very close to³ the areas of interest, identified from one or more of the sources in paragraph 14, for the following 15 iwi or groups: Hako, Ngāi Tai ki Tāmaki, Ngāti Koheriki, Ngāti Manuhiri, Ngāti Maru (Hauraki), Ngāti Paoa, Ngāti Tamaoho, Ngāti Tamaterā, Ngāti Te Ata, Ngāti Whātua, Ngāti Whātua o Kaipara, Ngāti Whātua o Ōrākei, Te Ākitai Waiohū, Te Kawerau ā Maki and the Marutūāhu Iwi Collective.
18. We have identified 14 iwi authorities associated with these groups; Ngāti Paoa is represented by two iwi authorities and all the remaining parties, with the exception of Ngāti Koheriki and the Marutūāhu Iwi Collective, have one representative iwi authority, as follows:
- a. Ngā Maunga Whakahii o Kaipara Development Trust, representing Ngāti Whātua o Kaipara
 - b. Ngāi Tai ki Tāmaki Tribal Trust, representing Ngāi Tai ki Tāmaki
 - c. Ngāti Manuhiri Settlement Trust, representing Ngāti Manuhiri
 - d. Ngāti Maru Rūnanga Trust, representing Ngāti Maru Rūnanga
 - e. Ngāti Paoa Iwi Trust, representing Ngāti Paoa
 - f. Ngāti Paoa Trust Board, also representing Ngāti Paoa
 - g. Ngāti Tamaoho Trust, representing Ngāti Tamaoho
 - h. Ngāti Tamaterā Treaty Settlement Trust, representing Ngāti Tamaterā
 - i. Ngāti Whātua o Ōrākei Trust Board, representing Ngāti Whātua o Ōrākei
 - j. Te Ākitai Waiohū Iwi Authority, representing Te Ākitai Waiohū
 - k. Te Ara Rangatu o Te Iwi o Ngāti Te Ata Waiohū, representing Ngāti Te Ata
 - l. Te Kawerau Iwi Settlement Trust, representing Te Kawerau ā Maki
 - m. Te Kupenga o Ngāti Hako Incorporated, representing Hako
 - n. Te Rūnanga o Ngāti Whātua, representing Ngāti Whātua.

Treaty settlements and Treaty settlement entities

19. 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. The Te Arawhiti i-Cat database listed in paragraph 14(c) and documents on the [NZ Government Treaty settlements website](#) were the primary information sources for our analysis.

Treaty settlements relating to the project area

20. 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.
21. The project site falls within the area of interest covered by Treaty settlements with the following six iwi/groups:
- a. Ngāti Whātua Ōrākei

³ The project site drains to the nearby Waitematā Harbour, which is within the area of interest of Ngāi Tai ki Tāmaki and is covered by a statutory acknowledgement provided by the Ngāi Tai ki Tāmaki Treaty settlement.

- b. Ngāti Whātua o Kaipara
 - c. Te Kawerau ā Maki
 - d. Ngāi Tai ki Tāmaki
 - e. Ngāti Tamaoho
 - f. Te Ākitai Waiohū.
22. 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.
 23. 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.
 24. 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 available on the NZ Government Treaty settlements website.
 25. 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 available on the NZ Government Treaty settlements website.
 26. 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 available on the NZ Government Treaty settlement website.
 27. 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 available on the NZ Government Treaty settlement website.

Relevant Treaty settlement entities

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

Post-settlement governance entities

29. Under the FTCA, a Treaty settlement entity includes a post-settlement governance entity, which is 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.
30. 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. Ngā Maunga Whakahii o Kaipara Development Trust
 - c. Te Kawerau Iwi Settlement Trust

- d. Ngāi Tai ki Tāmaki Trust
 - e. Ngāti Tamaoho Settlement Trust.
31. A post-settlement governance entity may exist ahead of finalisation of a deed of settlement and enactment of Treaty settlement legislation. The following post-settlement governance entities in this category are also relevant:
- a. 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 25) on 12 November 2021.
 - b. 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
 - c. 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
 - d. Hako Tūpuna Trust, which was ratified as the post-settlement governance entity for Hako on 26 August 2014.
32. The Marutūāhu Rōpū Limited Partnership 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, and thus meets the definition of a post-settlement governance entity under the FTCA.
33. The Marutūāhu Iwi Collective represents Ngaati Whanaunga, Ngāti Maru (Hauraki), Ngāti Paoa, Ngāti Tamaterā and Te Patukirikiri. The Marutūāhu Iwi Collective area of interest⁴ covers parts of the Auckland, Waikato and Bay of Plenty Regions, and includes the project site.
34. 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.
35. 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 Whenuapai Business Park project. On this basis, we have not identified the Marutūāhu redress entities as relevant Treaty settlement entities for the project.

Other bodies recognised or established under a Treaty settlement Act

36. 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.
37. No such entities established by any of the above-named Treaty settlement Acts are relevant to the proposed project.

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

Relevant principles and provisions of the Treaty settlements

Ngāti Whātua o Ōrākei, Ngāti Whātua o Kaipara, Te Kawerau ā Maki, Ngāi Tai ki Tāmaki, Ngāti Tamaoho and Te Ākitai Waiohua Treaty settlements

Crown acknowledgements and apologies

38. 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.
39. In the Ngāti Whātua o Ōrākei settlement, the Crown unreservedly apologises to Ngāti Whātua Ōrākei, to 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.
40. 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.
41. In the Te Kawerau ā Maki settlement, 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.
42. 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.
43. 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.
44. In the Te Ākitai Waiohua 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.

45. Affording respect to the views of each iwi on resource management matters and enabling meaningful participation of each iwi as Treaty partners in resource management decision-making within their areas of interest, are important ways in which the Crown can give effect to these acknowledgements and apologies.

Other redress

46. We noted in paragraph 7 that the project site is drained by waterways that flow to the upper Waitematā Harbour.

47. The Te Kawerau ā Maki and Ngāi Tai ki Tāmaki deeds of settlement both contain statements of the particular cultural, spiritual, historical and traditional association that each iwi respectively has with the Waitematā Harbour, including:

‘Te Kawerau ā Maki hold a long and enduring ancestral and customary relationship with the coastal marine area bordering the northern shores of the Manukau Harbour, the west coast of the Waitākere Ranges and the upper Waitematā Harbour.’⁵

...

‘Ngāi Tai Ki Tāmaki are a maritime people without boundaries and have been voyagers since ancient times. Ngāi Tai ki Tāmaki are acknowledged as being amongst the original inhabitants of Aotearoa. It is inevitable that some of the most significant sites of arrival, ritual, landmark and subsequent habitation, both seasonal and permanent, are now shared with others, others with whom we share close links through whakapapa and shared histories, others who through the passage of time and history hold ahi kaa in different places. Ngāi Tai hold fast to the knowledge of our associations to the places and the people as taonga tuku iho. 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.’⁶

48. The Crown’s formal acknowledgement of these statements of association are recognised in coastal statutory acknowledgements over specified areas⁷ in the Te Kawerau ā Maki and Ngāi Tai ki Tāmaki settlements.
49. The location of the project site in relation to part of the Te Kawerau ā Maki and Ngāi Tai ki Tāmaki coastal statutory acknowledgement areas is shown in Attachment 5. Te Kawerau Iwi Settlement Trust, Ngāi Tai ki Tāmaki Trust or any member of either iwi can cite the relevant statutory acknowledgement as evidence of their association with the area. Auckland Council, the Environment Court and Heritage New Zealand Pouhere Taonga must have regard to it, and Auckland Council must forward summaries of resource consent applications it receives for activities within, adjacent to or directly affecting the statutory area (or notices served on the council under section 145(10) of the RMA) to the two Trusts.
50. None of the six relevant settlements create new co-governance or co-management processes which would affect decision-making under the RMA for the Whenuapai Business Park project and

⁵ Pt 4 of Te Kawerau ā Maki Deed of Settlement - Documents Schedule

⁶ Pt 1 of Ngāi Tai ki Tāmaki Deed of Settlement - Documents Schedule

⁷ As shown on Deed Plan OTS-106-14 in Te Kawerau ā Maki Deed of Settlement - Attachments Schedule and Deed Plan OTS-403-128 in Ngāi Tai ki Tāmaki Deed of Settlement - Attachments Schedule

no other cultural or commercial redress provided by the settlements would be directly affected by the project.

51. 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. Additionally, statutory acknowledgments are not indications of exclusive interest in a site, and areas subject to statutory acknowledgments may also hold importance for other iwi. Local tangata whenua and their representatives would be best placed to advise on such matters in the first instance.

Current negotiation mandates and settlement negotiations

52. 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.
53. As noted in paragraphs 31 and 32, Treaty settlement negotiations have commenced but are yet to be concluded with Ngāti Maru (Hauraki), Ngāti Tamaterā, Hako and the Marutūāhu Iwi Collective. The Crown is also negotiating a final settlement with Te Rūnanga o Ngāti Whātua, whose area of interest includes the project site.
54. The project area also falls within the area of interest for Ngāti Te Ata and Ngāti Koheriki.
55. 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 have yet to establish a post-settlement governance entity to receive redress under their settlement.
56. The Treaty settlement negotiation mandate of Ngāti Koheriki Claims Committee gained Crown recognition in June 2013. Negotiations have yet to commence, but the Crown has not withdrawn its recognition of the mandate. Ngāti Koheriki have 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 decision

57. 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.
58. 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 decision 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.
59. The relevant iwi authorities and Treaty settlement entities for receipt of the notice are identified in paragraph 5; contact details are in Attachment 2.

60. The Minister for Treaty for Waitangi Negotiations has requested that the notice of decisions and a copy of the referral application is also forwarded to Te Kupenga o Ngāti Hako Incorporated, Ngaati Whanaunga Incorporated Society and the Ngāti Koheriki Claims Committee. We note Te Kupenga o Ngāti Hako Incorporated is included in the relevant iwi authorities identified in this report and therefore must receive the notice of decision if you decide to refer the project. Contact details for the other two groups (should you agree to the Minister's request) are provided in Attachment 2.
61. There are no relevant joint management agreements or Mana Whakahono ā Rohe to consider.

Expert consenting panel membership

62. 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.
63. 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.
64. Relevant iwi authorities for the project are identified in paragraph 5.

Panel invitations to comment

65. 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.
66. The relevant iwi authorities and Treaty settlement entities for the proposed project are listed in paragraph 5.
67. A panel may also invite comments from any other person it considers appropriate.
68. The Minister for Treaty for Waitangi Negotiations has requested that you direct a panel to invite comments from Te Kupenga o Ngāti Hako Incorporated, Ngaati Whanaunga Incorporated Society and the Ngāti Koheriki Claims Committee as additional parties. We note that no direction is needed in the case of Te Kupenga o Ngāti Hako Incorporated as a panel must consult this entity in accordance with clause 17(6)(b), Schedule 6 of the FTCA, because this report identifies it as a relevant iwi authority. A direction to the panel under section 24(2)(e) of the FTCA would be required to ensure the other two parties were invited to comment.

Provision of Cultural Impact Assessment

69. 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.⁸ 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.

⁸ Clause 9(5) of Schedule 6 of the FTCA.

70. 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 Whenuapai Business Park project are listed in paragraph 5.

Attachment 1 – Location



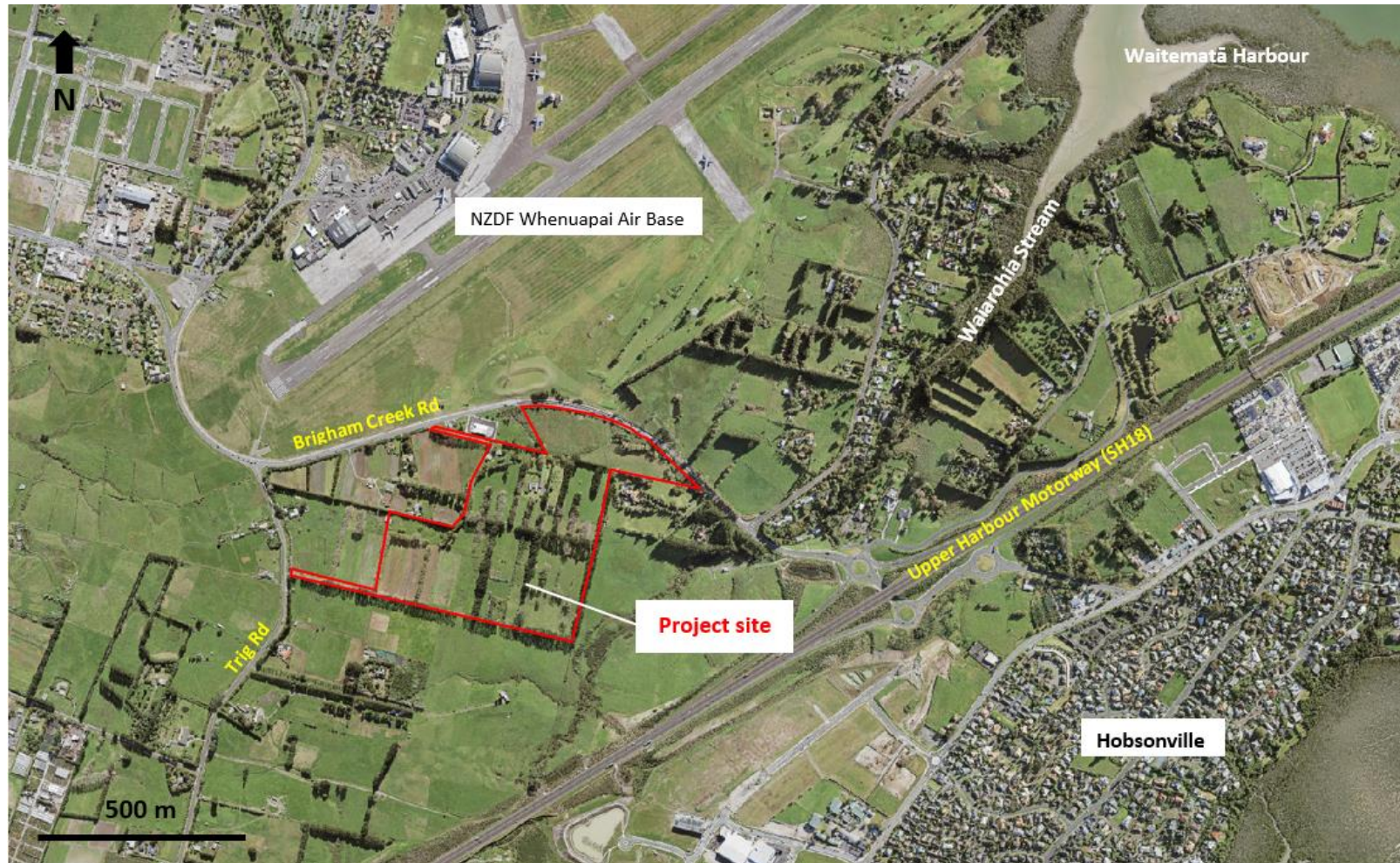
Attachment 2 – Contact information

Iwi/hapū	Representative body	Contact details	Relevant RMA Iwi authority	Relevant Treaty settlement entity	Other	Contact person	Copies to
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 [ratified 26 August 2014]	In Treaty settlement negotiations	Contact: Josie Anderson hako@xtra.co.nz	
Ngaati Whanaunga	Ngaati Whanaunga Incorporated Society					Boni Renata General Manager s9(2)(a)	
Ngāi Tai ki Tāmaki	Ngāi Tai ki Tāmaki Tribal Trust	PO Box 141 Clevedon Auckland 2248	Represents Ngāi Tai ki Tāmaki as an iwi authority for RMA purposes			Chairperson: James Brown c/- s9(2)(a) (office manager)	Kaitiaki Unit kaitiaki@ngaitaitamaki.iwi.nz
	Ngāi Tai ki Tāmaki Trust			Post-settlement governance entity under the Ngāi Tai ki Tāmaki Claims Settlement Act 2018			
Ngāti Koheriki	Ngāti Koheriki Claims Committee	PO Box 250 Whitianga 3542			Mandate recognised by the Crown for Treaty settlement negotiations	Chair: Joe Johnson s9(2)(a)	Kiwi Johnson s9(2)(a)
Ngāti Manuhiri	Ngāti Manuhiri Settlement Trust	PO Box 117 Warkworth 1910	Represents Ngāti Manuhiri as an iwi authority for RMA purposes			Chair: Terrence (Mook) Hohneck info@ngatimanuhiri.iwi.nz	RMA Kaitiaki kaitiaki@ngatimanuhiri.iwi.nz

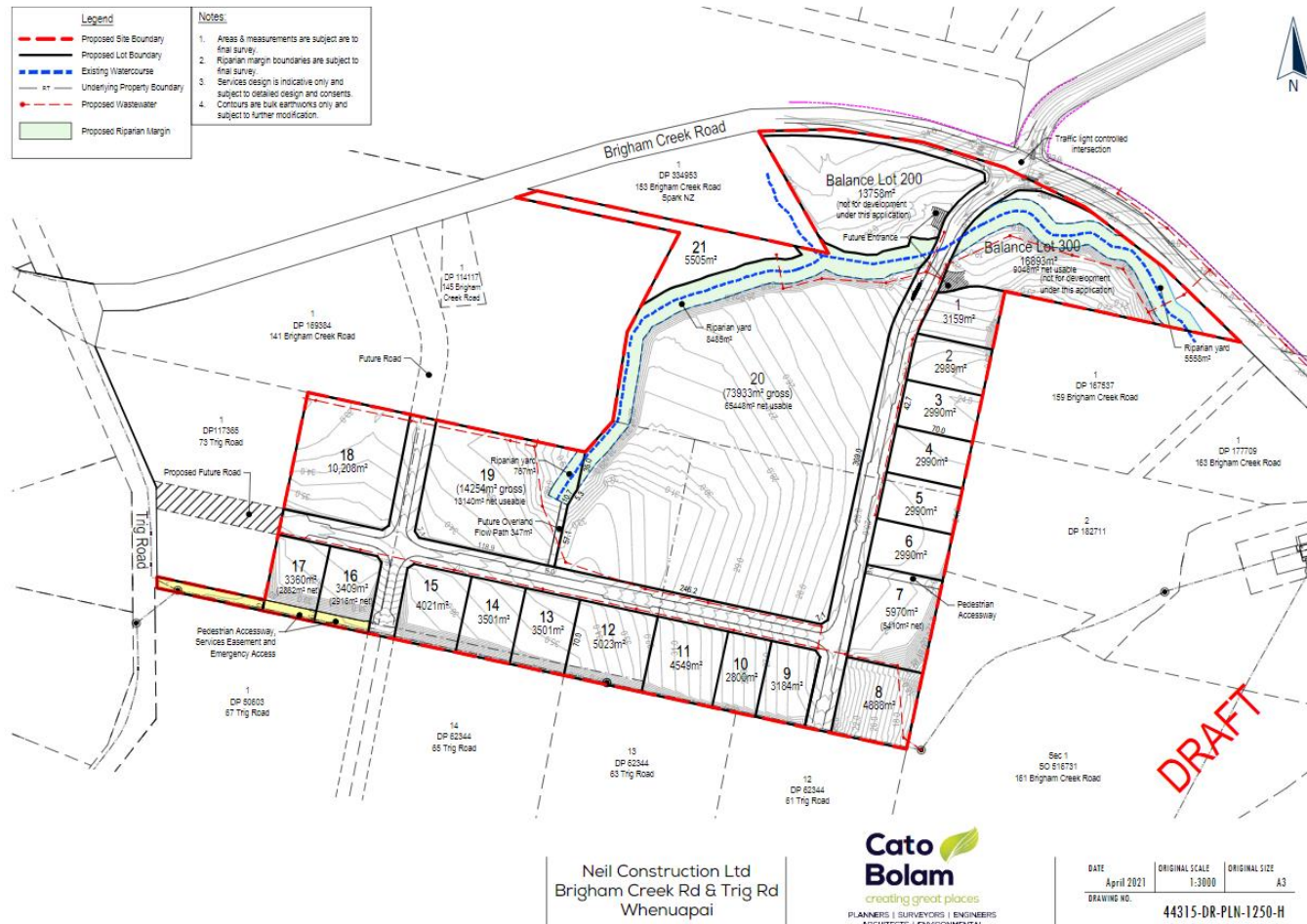
Ngāti Maru (Hauraki)	Ngāti Maru Rūnanga Trust		Represents Ngāti Maru (Hauraki) as an iwi authority for RMA purposes	Post-settlement governance entity [deed of settlement initialled 8 September 2017]	In Treaty settlement negotiations	CEO: David Taipari office@ngatimaru.iwi.nz	RMA Contact: William Peters
Ngāti Paoa	Ngāti Paoa Iwi Trust	Level 12 Britomart Place Auckland	Represents Ngāti Paoa as an iwi authority for RMA purposes			Kaiarahi: Haydn Solomon kaiarahi@ngatipaoaiwi.co.nz	Taiao Manager: Crystal Cherrington kaitiaki@ngatipaoaiwi.co.nz environment@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: Dave Roebeck nptb@ngatipaoatrustboard.co.nz	
Ngāti Tamaoho	Ngāti Tamaoho Trust	PO Box 272 1652 Papakura Auckland 2244	Represents Ngāti Tamaoho as an iwi authority for RMA purposes			CEO: Geneva Harrison info@tamaoho.maori.nz	RMA Contact: Lucie Rutherford rmaofficer@tamaoho.maori.nz
	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]	In Treaty settlement negotiations	Chair: Antony Royal chair@tamatera.iwi.nz	RMA Kaitiaki rma@tamatera.iwi.nz
Ngāti Te Ata	Te Ara Rangatu o Te Iwi o Ngāti Te Ata Waiohua		Represents Ngāti Te Ata as an iwi authority for RMA purposes		Mandate recognised by the Crown for Treaty settlement negotiations	Manager: Karl Flavell	RMA Kaitiaki taiao@ngatiteata.iwi.nz
Ngāti Whātua	Ngā Maunga Whakahii o		Represents Ngāti Whātua o Kaipara	Post-settlement governance entity		Interim CEO: Helen Woods admin@kaiparamoana.com	RMA Contact: Shona Oliver

	Kaipara Development Trust		as an iwi authority for RMA purposes	under the Ngāti Whātua o Kaipara Claims Settlement Act 2013			
	Ngāti Whātua o Ōrākei Trust Board	PO Box 42 045 Ōrākei Auckland 1745	Represents Ngāti Whātua o Ōrākei as an iwi authority for RMA purposes			CEO: Jamie Sinclair s9(2)(a)	RMA Contact: Andrew Brown tokitaiao@ngatiwhatuaorakei.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	RMA Contact: Antony Thompson s9(2)(a)
Te Ākitai Waiohūa	Te Ākitai Waiohūa Iwi Authority	PO Box 59 185 Māngere Bridge Auckland 2151	Represents Te Ākitai Waiohūa as an iwi authority for RMA purposes			Chairperson: Karen Wilson tawia@teakitai.com	RMA Contact: Nigel Denny kaitiaki@teakitai.com
	Te Ākitai Waiohūa 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 authority for RMA purposes	Post-settlement governance entity under Te Kawerau ā Maki Claims Settlement Act 2015		Executive Chair: Te Warena Taua s9(2)(a)	Kaitiaki: Robin Taua-Gordon s9(2)(a)

Attachment 3 – Project site detail



Attachment 4 – Project layout



Attachment 5 – Coastal statutory acknowledgement area

