

Application 2021-072 The Hill – Ellerslie (Auckland Thoroughbred Racing Incorporated and Fletcher Residential 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: 3 February 2022	

Ministry for the Environment contacts

Position	Name	Cell Phone	1 st Contact
Principal Author	Pip Lee		
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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 Hill – Ellerslie project to an expert consenting panel (a panel).

Proposed project

3. The applicant proposes to subdivide part of the Ellerslie Racecourse property in inner Auckland and establish a housing development providing approximately 370 residential units in a mix of detached, duplex and terrace houses 1–3 storeys high and five apartment buildings 6–7 storeys high.
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 (17)	<p>Makaurau Marae Māori Trust</p> <p>Ngā Maunga Whakahii o Kaipara Development Trust</p> <p>Ngaati Whanaunga Incorporated Society</p> <p>Ngāi Tai ki Tāmaki Tribal 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 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 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 – signed 7 Oct 2018</p> <p>Ngāti Paoa Deed of Settlement – signed 20 March 2021</p> <p>Te Ākitai Waiohūa Deed of Settlement – signed 12 November 2021</p> <p>Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014</p>
s17(3)(a)	Relevant Treaty settlement entities (11)	<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>

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 below</i>
s17(3)(d)	Groups with a negotiation mandate recognised by the Crown, but 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 (7)	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 material

Project details

6. The project site covers approximately 6.3 hectares at the eastern end of the Ellerslie Racecourse property at 100 Ascot Avenue, Ellerslie, Auckland – see Attachment 3.
7. The proposed project is a master-planned residential development on land no longer required for racecourse operation, as shown in Attachment 4. It comprises:
 - a. approximately 370 residential units in a mix of detached, duplex and terrace houses from 1–3 storeys high and five apartment buildings 6–7 storeys high
 - b. open space areas
 - c. pedestrian and cycle accessways, and roads intended to vest in Auckland Council
 - d. cycle parks and approximately 505 carparks (mostly in garages or enclosed basement parking areas)
 - e. landscaping (including the retention of selected Pohutukawa trees along Ladies Mile, where safe and appropriate).
8. Conceptual images of the development are in Attachment 5. The balance of the Ellerslie Racecourse property will remain unchanged from its current use as a racecourse.

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 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.
13. 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.
14. To identify the relevant iwi authorities for the identified areas of interest, we sourced and 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

15. The project site lies within or very close to³ the areas of interest, identified from one or more of the sources in paragraph 12, for the following 19 iwi or groups: 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 o Kaipara, Ngāti Whātua o Ōrākei, Te Ahiwaru o Waiohua, Te Ākitai Waiohua, Te Kawerau ā Maki, Te Patukirikiri, Waikato-Tainui, the Tāmaki Collective and the Marutūāhu Iwi Collective.
16. Not all of these iwi or groups are represented by an iwi authority, while Ngāti Paoa is represented by two. We have identified 17 iwi authorities as follows:
- a. Makaurau Marae Trust, representing Te Ahiwaru Waiohua
 - b. Ngā Maunga Whakahii o Kaipara Development Trust, representing Ngāti Whātua o Kaipara
 - c. Ngaati Whanaunga Incorporated Society, representing Ngaati Whanaunga
 - d. Ngāi Tai ki Tāmaki Tribal Trust, representing Ngāi Tai ki Tāmaki
 - e. Ngāti Maru Rūnanga Trust, representing Ngāti Maru
 - f. Ngāti Paoa Iwi Trust, representing Ngāti Paoa
 - g. Ngāti Paoa Trust Board, representing Ngāti Paoa
 - h. Ngāti Tamaoho Trust, representing Ngāti Tamaoho
 - i. Ngāti Tamaterā Treaty Settlement Trust, representing Ngāti Tamaterā
 - j. Ngāti Whātua o Ōrākei Trust Board, representing Ngāti Whātua o Ōrākei
 - k. Te Ākitai Waiohua Iwi Authority, representing Te Ākitai Waiohua
 - l. Te Ara Rangatu o Te Iwi o Ngāti Te Ata Waiohua, representing Ngāti Te Ata
 - m. Te Kawerau Iwi Settlement Trust, representing Te Kawerau ā Maki
 - n. Te Kupenga o Ngāti Hako Incorporated, representing Hako
 - o. Te Patukirikiri Iwi Trust, representing Te Patukirikiri
 - p. Te Rūnanga o Ngāti Whātua, representing Ngāti Whātua
 - q. Te Whakakitenga o Waikato, representing Waikato-Tainui.

Treaty settlements and Treaty settlement entities

17. 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

³ Both TPK's area of interest viewer and i-Cat show the project site lying very close to the area of interest for Te Patukirikiri; Auckland Council's viewer indicates the site is within the Te Patukirikiri area of interest.

i-Cat database listed in paragraph 12(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

18. 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.
19. The project site falls within or very close to⁴ the area 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. Ngā Mana Whenua o Tāmaki Makaurau.
20. 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.
21. 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.
22. 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.
23. 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.
24. 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 available on the NZ Government Treaty settlement website.
25. 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 available on the NZ Government Treaty settlement website.

⁴ The project site lies very close to the area of interest for Te Patukirikiri shown on i-Cat and the area of interest in [Part 1 of the Attachments to the Te Patukirikiri Deed of Settlement September 2017](#).

26. 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.
27. 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

28. We have identified 11 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, 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. 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 3 members of the Tāmaki Collective: Ngāti Whātua Ōrākei, Te Rūnanga o Ngāti Whātua and Ngāti Whātua o Kaipara (whose individual areas of interest include the project site)
 - iv. Waiohū-Tāmaki Rōpū Limited Partnership, representing 5 members of the Tāmaki Collective: Te Kawerau ā Maki, Ngāi Tai ki Tāmaki, Ngāti Tamaoho, Te Ākitai Waiohū and Ngāti Te Ata (whose individual areas of interest include the project site)
 - v. Marutūāhu Rōpū Limited Partnership, representing Ngāti Maru (Hauraki), Ngāti Paoa, Ngāti Tamaterā, Te Patukirikiri and Ngaati Whanaunga (whose individual areas of interest include the project site).
31. As explained further in paragraphs 53 to 55, we consider it unlikely that the project will directly affect any of the cultural or commercial redress provided to the entities in paragraph 30(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.

32. As a post-settlement governance entity includes a body corporate or trustees of a trust established by a claimant group for receiving redress, it 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.
33. The Marutūāhu Iwi Collective represents the iwi noted in paragraph 30(e)(v). The Marutūāhu Iwi Collective area of interest⁵ 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 project. On this basis, we have not identified the Marutūāhu redress entities as relevant Treaty settlement entities for 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

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. 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 53, we do not consider the project likely to directly affect any of the Tūpuna Maunga.

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

38. The Crown offers acknowledgements and an apology as part of Treaty settlement redress to atone for historical wrongs, restore its 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 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.
41. 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.
42. 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.
43. 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.

44. 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 Maori. 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.
45. 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.
46. 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.

Other Redress

47. None of the above settlements create co-governance or co-management processes that would affect decision-making under the RMA for projects such as the one proposed.
48. No areas covered by a statutory acknowledgement or any other form of cultural or commercial redress in any of the settlements would be directly affected by the proposed project.
49. 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.
50. We note also 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 – 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.

Tāmaki Collective Redress Act

51. 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.
52. 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). The nearest Tūpuna Maunga to the project site is Maungakiekie/One Tree Hill, approximately two kilometres to the south-east.

53. 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. We consider it unlikely that the project will directly affect Maungakiekie/One Tree Hill, or any other of the Tūpuna Maunga, and note the applicant has advised that three potentially relevant overlays in the Auckland Unitary Plan (Overlay Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay - O1 One Tree Hill, O2 One Tree Hill and W26 Mount Wellington) do not apply to the project site. In any event, the cultural impact assessments from the relevant iwi authorities (named in this report) that must accompany the applicant's resource consent applications to a panel will provide each of the iwi of the Tāmaki Collective with specific opportunity to individually address this issue further if they consider it necessary.
54. 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.
55. 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

56. 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.
57. 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.
58. Additionally, the Crown is negotiating a final settlement with Te Rūnanga o Ngāti Whātua, 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.
59. 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.
60. The project area also falls within the areas of interest for:
- a. Ngāti Te Ata
 - b. Ngāti Koheriki.
61. 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.

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

62. 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.
63. The Crown is also currently negotiating a Treaty settlement with the mandated Waikato-Tainui negotiator, who signed terms of negotiation on 14 December 2020 for the settlement of the remaining historical Treaty of Waitangi claims of Waikato-Tainui. The project area lies within the indicative area of interest for this Treaty settlement.

Details in this report affect certain provisions of the FTCA

Notices of referral decision

64. 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.
65. 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.
66. The relevant iwi authorities and Treaty settlement entities for receipt of the notice are identified in paragraph 5; contact details are in Attachment 2.
67. We have not identified any other relevant iwi authorities or Treaty settlement entities who may have an interest in the project, and there are no relevant joint management agreements or Mana Whakahono ā Rohe to consider.
68. 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 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.

Expert consenting panel membership

69. 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.
70. 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.
71. Relevant iwi authorities for the project are identified in paragraph 5.

Panel invitations to comment

72. 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.
73. The relevant iwi authorities and Treaty settlement entities for the proposed project are listed in paragraph 5.
74. A panel may also invite comments from any other person it considers appropriate.
75. 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.

Provision of Cultural Impact Assessment

76. 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.
77. 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 Hill – Ellerslie project are listed in paragraph 5.
78. The applicant has advised it has requested the Ngāi Tai ki Tāmaki Tribal Trust, the iwi authority representing Ngāi Tai ki Tāmaki, to prepare a cultural values assessment for the project. It would be advisable for the Environmental Protection Authority to check with all relevant iwi authorities noted in paragraph 5 of this report whether this cultural impact assessment satisfactorily represents their interests.

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

Attachment 1 – Location



Attachment 2 – Contact information

Iwi/hapū	Representative body	Contact details	RMA Iwi authority	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 [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 s9(2)(a)	
	Ngaati Whanaunga Ruunanga Trust			Post-settlement governance entity [deed of settlement initialled 25 Aug 2017]			
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		Jacquie Lindsay s9(2)(a)	

				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 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	Level 12 Britomart Place Auckland	Represents Ngāti Paoa as an iwi authority for RMA purposes	Post-settlement governance entity [deed of settlement signed 20 March 2021]		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]		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			Manager: Karl Flavell	RMA Kaitiaki taiao@ngatiteata.iwi.nz
Ngāti Whātua	Ngā Maunga Whakahii o Kaipara Development Trust		Represents Ngāti Whātua o Kaipara as an iwi authority for RMA purposes			Interim CEO: Helen Woods admin@kaiparamoana.com	RMA Contact: Shona Oliver
	Ngāti Whātua 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 Ahiwaru - Waiohua	Makaurau Marae Māori Trust		Represents Te Ahiwaru Waiohua an iwi authority for RMA purposes			Kowhai Olsen s9(2)(a)	
Te Ākitai Waiohua	Te Ākitai Waiohua Iwi Authority	PO Box 59 185 Māngere Bridge Auckland 2151	Represents Te Ākitai Waiohua as an iwi authority for RMA purposes			Chairperson: Karen Wilson tawia@teakitai.com	RMA Contact: Nigel Denny kaitiaki@teakitai.com
	Te Ākitai Waiohua 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)
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: William Peters s9(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: Marae Tukere s9(2)(a)

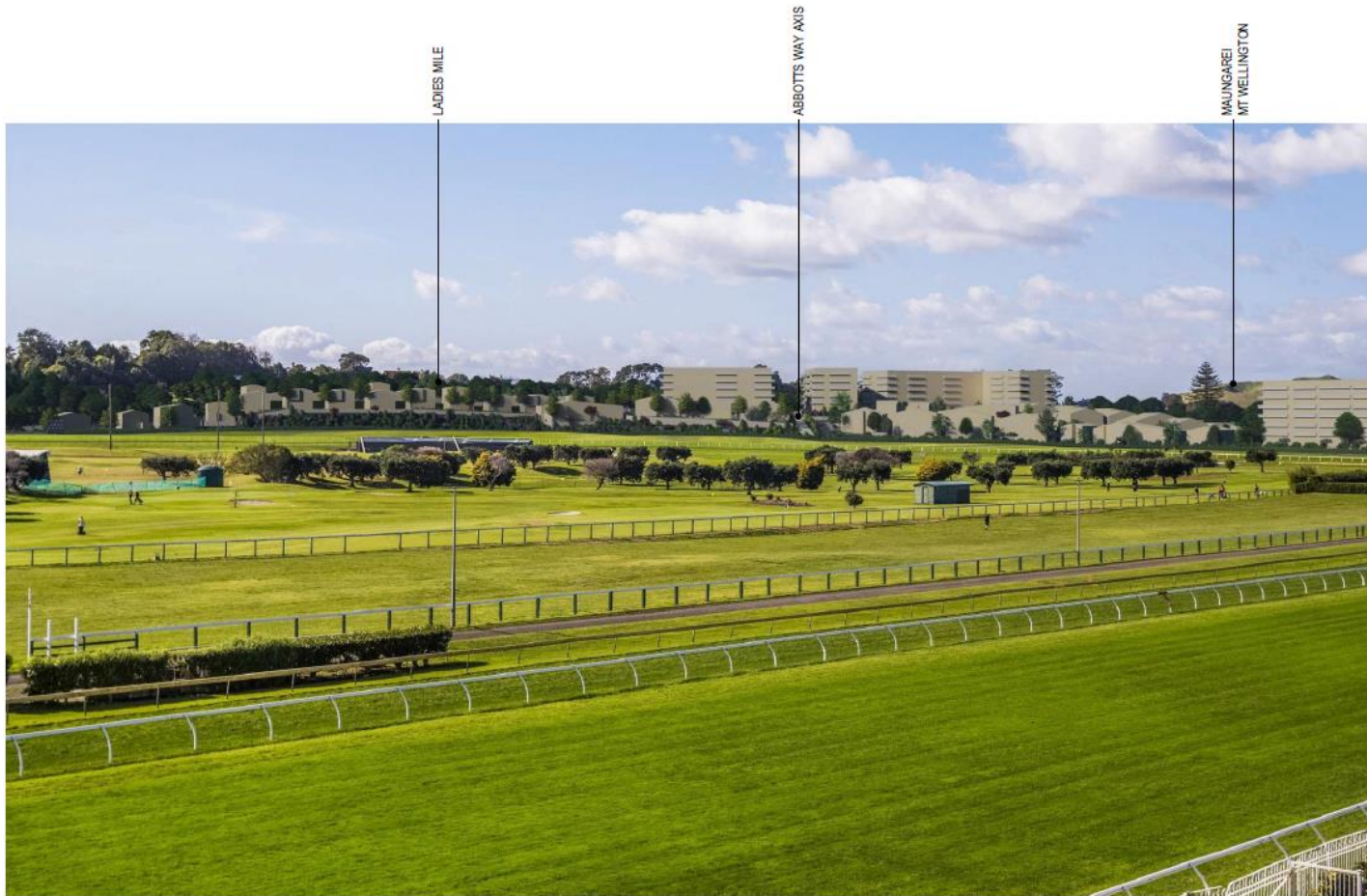
Attachment 3 – Project site



Attachment 4 – Project layout



Attachment 5 – Visuals



View from the Auckland Racing Club Ellerslie Stand (Public Stand) looking North East across the racetrack infield towards The Hill from a height of 10m above the ground.



View looking southwest towards Maungakiekie / One Tree Hill; (Maungawhau / Mt Eden is at far right)