

Application 2021-081 One Tasman Pukeahu Park (One Tasman Development Limited Partnership)

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: 29 March 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 One Tasman Pukeahu Park project to an expert consenting panel (a panel).

Proposed project

3. The applicant, One Tasman Development Limited Partnership, proposes to redevelop two suburban properties at the north-east corner of Tasman and Buckle Streets, Mount Cook, Wellington, adjacent to the former Dominion Museum site (now part of the Massey University campus) and the Pukeahu National War Memorial Park, for residential housing and some other uses.
4. The project will replace existing vacant residential buildings with two tall apartment buildings and three other buildings up to 3 storeys high that will provide approximately 218 residential units and space for a range of other activities including offices or retailing. 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 (3) <i>Contact details are in Attachment 2</i>	Port Nicholson Block Settlement Trust Te Rūnanga o Toa Rangatira Incorporated Muaūpoko Tribal Authority Incorporated
s17(3)(b)	Treaty settlements that relate to the project area (2)	Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009 Ngāti Toa Rangatira Claims Settlement Act 2014
s17(3)(a)	Relevant Treaty settlement entities (2) <i>Contact details are in Attachment 2</i>	Port Nicholson Block Settlement Trust Toa Rangatira Trust
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 who are yet to commence Treaty settlement negotiations	Ngāti Tama ki Te Upoko o Te Ika Muaūpoko Tribal Authority Incorporated
s17(3)(d)	Current Treaty settlement negotiations	None
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

- The project proposes a comprehensive redevelopment of properties at 1 and 23 Tasman Street, at the suburban interface of Te Aro (at the southern end of the Wellington Central Business District) and Mount Cook. The site covers approximately 5000 square metres and, as shown in Attachment 3, is adjacent to the Pukeahu National War Memorial Park on its northern boundary. The former Dominion Museum (now part of the Massey University campus), former (privately-owned) Buckle Street Police Station and the National War Memorial and (51-metre-high) Carillon lie immediately to the west.
- The project site is currently occupied by the now-vacant (earthquake-prone) Tasman Gardens Apartments buildings and a vacant two-storey villa previously occupied by the Tasman Street Veterinary Clinic.

8. The development will provide:
 - a. approximately 218 residential units contained within -
 - i. one 10-storey building and one 9-storey building (both excluding basement levels that are partly or fully below ground level), respectively up to 37 metres and 33 metres high above ground level (excluding the top of lift overrun), that will also provide communal space for residents and space for retail and/or commercial purposes
 - ii. three buildings up to 3 storeys high (excluding any basement levels that are partly or fully below ground level), that will also provide space for retail and/or commercial purposes, and ancillary uses such as bike storage, waste management and car parking
 - b. outdoor communal spaces.
9. Attachment 4 shows the proposed project layout and a visual representation is in Attachment 5. The applicant plans to deliver the project in two stages and complete construction by the end of 2025.

Statutory matters relating to this report

10. 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.
11. 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

12. 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.
13. '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)

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.

- 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.
14. 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.
15. 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. the relevant local authorities – Greater Wellington Regional Council and Wellington City Council – in response to your request for comment on the referral application under section 21(2)(a) of the FTCA.

Iwi authorities relevant to project

16. The project site lies within the areas of interest, identified from one or more of the sources in paragraph 13, for the following four iwi or groups: Taranaki Whānui ki Te Upoko o Te Ika, Ngāti Tama ki Te Upoko o Te Ika, Ngāti Toa Rangatira and Muaūpoko.
17. We have identified three representative iwi authorities as follows:
- a. Port Nicholson Settlement Block Trust, representing Taranaki Whānui ki Te Upoko o Te Ika and Ngāti Tama ki Te Upoko o Te Ika
 - b. Te Runanga o Toa Rangatira Incorporated, representing Ngāti Toa Rangatira
 - c. Muaūpoko Tribal Authority Incorporated.

Treaty settlements and Treaty settlement entities

18. 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 13(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

19. 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.
20. The project site falls within the area of interest covered by Treaty settlements with:
- a. Taranaki Whānui ki Te Upoko o Te Ika
 - b. Ngāti Toa Rangatira.
21. The Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009 gives effect to certain provisions of the deed of settlement signed by Taranaki Whānui ki Te Upoko o Te Ika, the Port Nicholson Block Settlement Trust and the Crown on 19 August 2008, and an

amendment deed signed in December 2018. The [deeds and other relevant documents](#) are available on the NZ Government Treaty settlement website.

22. The Ngāti Toa Rangatira Claims Settlement Act 2014 gives effect to certain provisions of the deed of settlement signed by Ngāti Toa Rangatira, Trustee of the Toa Rangatira Trust and the Crown on 7 December 2012 and an amendment deed signed in November 2013. The [deeds and associated documents](#) are available on the NZ Government Treaty settlement website.

Relevant Treaty settlement entities

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

Post-settlement governance entities

24. 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.
25. The respective post-settlement governance entities associated with the Treaty settlement Acts noted above are:
- a. Port Nicholson Settlement Block Trust
 - b. Toa Rangatira Trust. Te Rūnanga o Toa Rangatira Incorporated is the trustee of this trust.

Other bodies recognised or established under a Treaty settlement Act

26. 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.
27. No such entities established by the above-named Treaty settlement Acts are relevant to the proposed project.

Relevant principles and provisions of the Treaty settlements

Taranaki Whānui and Ngāti Toa Treaty settlements

Crown acknowledgements and apologies

28. 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.
29. The Taranaki Whānui ki Te Upoko o Te Ika Deed of Settlement contains the Crown's apology to Taranaki Whānui and their ancestors and descendants. This apology was delivered publicly by the then prime minister, Rt. Hon John Key, on 30 July 2009. It includes the following statements:

The Crown is deeply sorry that it has not always lived up to its Treaty of Waitangi obligations and that it has breached the Treaty of Waitangi, and its principles, in its dealings with Taranaki Whānui.

The Crown profoundly regrets that over the generations to the present day its breaches of the Treaty of Waitangi have significantly impacted on your social and traditional structures, your autonomy, your ability to exercise your customary rights and responsibilities, your capacity for economic and social development and your physical, cultural and spiritual well-being.

Through this settlement the Crown is seeking to atone for its past wrongs towards you, restore its honour which has been tarnished by its actions, and to begin the process of healing. It is the Crown's hope that this apology will mark a pivotal point in the rebuilding and enhancement of our relationship with you. We look forward to building a relationship of mutual trust and co-operation that can flourish in the future.

30. The Crown apology to Ngāti Toa expresses (among other things) deep regret for the cumulative effect of Crown actions and omissions, which severely damaged the iwi's social and traditional tribal structures, their autonomy and ability to exercise customary rights and responsibilities, their capacity for economic and social development and their physical, cultural and spiritual well-being.
31. The Crown says it hopes that the apology and settlement will mark the beginning of a new, positive and enduring relationship with Ngāti Toa Rangatira founded on mutual trust and co-operation and respect for Te Tiriti o Waitangi / the Treaty of Waitangi and its principles.
32. Respect for the 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 within their areas of interest are important ways in which the Crown can give effect to these acknowledgements and uphold its relationship with the iwi.

Other redress

33. No other cultural or commercial redress provided under the two settlements would be directly affected by the project. Neither of the settlements create new co-governance or co-management processes that would affect decision-making under the RMA.
34. 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.
35. 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 settlement redress - are deemed to be matters of national importance that must be recognised and provided for in decision-making under Part 2 section 6(e) of the RMA.

Current negotiation mandates and settlement negotiations

36. 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.
37. Ngāti Tama ki Te Upoko o Te Ika are part of the Taranaki Whānui settlement but have the option to have their historical claims settled by another group holding a Crown-recognised mandate. Ngāti Tama Mandate Ltd (NTML) was established in 2009 to represent Ngāti Tama iwi members wishing to engage in direct negotiations with the Crown and had their mandate to negotiate a Treaty settlement recognised by the Crown in 2013.
38. NTML signed Terms of Negotiation with the Crown in 2014, however the process stalled before achieving any significant negotiation milestone. According to information available online, this company was dissolved on 9 September 2016. Ngāti Tama ki Te Upoko o Te Ika would need to renew its mandate before re-entering Treaty settlement negotiations.
39. The Crown recognised the mandate of Muaūpoko Tribal Authority Incorporated to negotiate a settlement of the Muaūpoko historical Treaty claims in 2013. Treaty settlement negotiations have

yet to commence. Muaūpoko has a traditional area of interest extending from the Rangitikei River to Sinclair and Turakirae Heads in Wellington.

40. There are no current Treaty settlement negotiations affecting the project site or surrounding area.

Details in this report affect certain provisions of the FTCA

Notices of referral decision

41. 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.

42. 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.

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

44. We have not identified any other 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.

Expert consenting panel membership

45. 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.

46. 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.

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

Panel invitations to comment

48. 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.

49. The relevant iwi authorities and Treaty settlement entities for the proposed project are listed in paragraph 5.

Provision of Cultural Impact Assessment

50. 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.² 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.
51. 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 One Tasman Pukeahu Park project are listed in paragraph 5.
52. The applicant has advised that the Wellington Tenths Trust has already prepared a cultural impact assessment for the project. We note that this entity is not identified as a relevant iwi authority in this report. It would be advisable for the Environmental Protection Authority to check with the relevant iwi authorities listed in paragraph 5 of this report whether this cultural impact assessment satisfactorily represents their interests, before confirming any resource consent applications for the project as complete.

² Clause 9(5) of Schedule 6 of the FTCA.

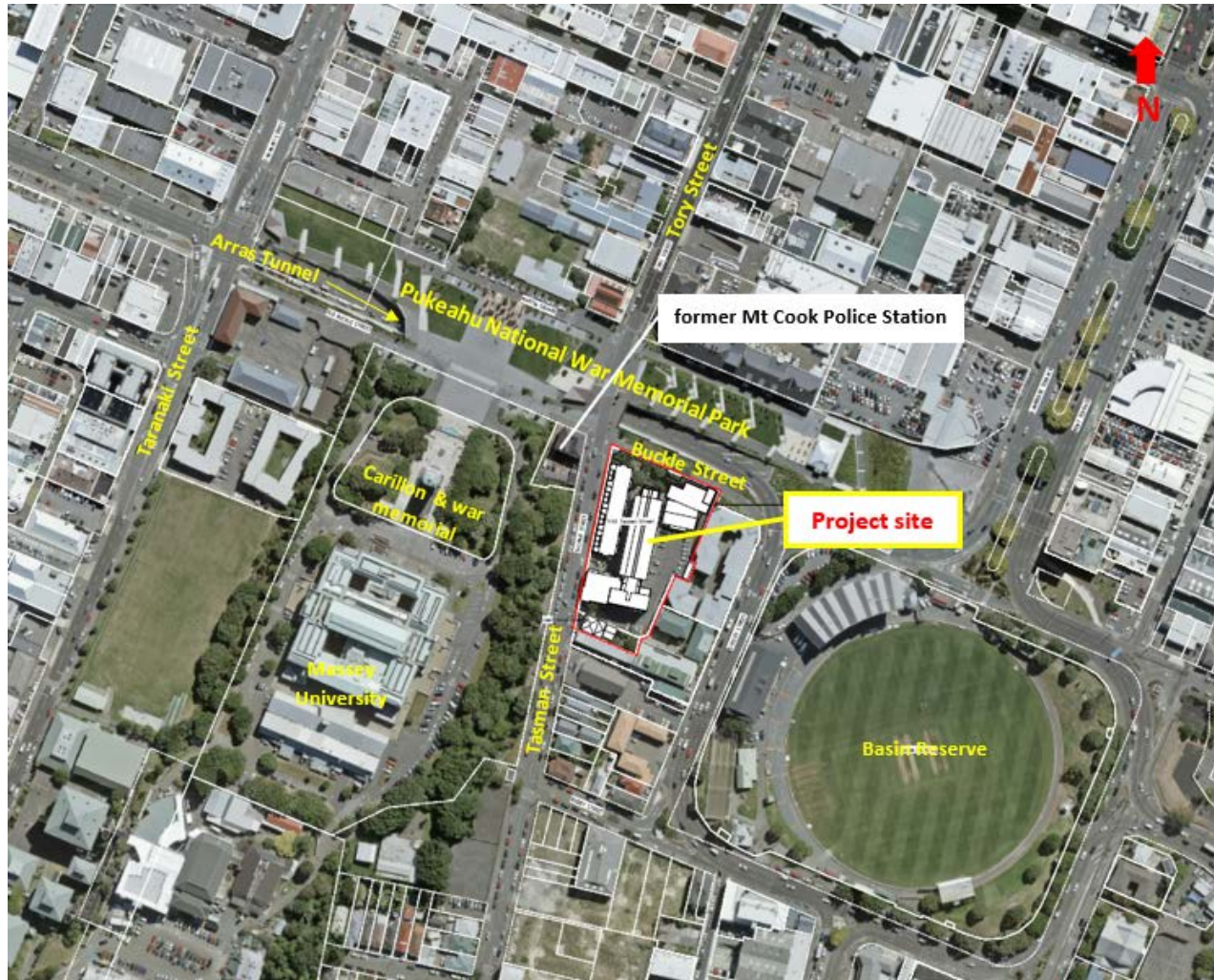
Attachment 1 – Location



Attachment 2 – Contact information

Iwi/hapū	Representative body	Contact details	RMA Iwi authority	Treaty settlement entity	Other	Contact person	Copies to
Taranaki Whānui ki te Upoko o te Ika	Port Nicholson Block Settlement Trust	PO Box 12-164 Wellington 6144	Represents Taranaki Whānui as an iwi authority for RMA purposes	Post-settlement governance entity under Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009		GM Kaiwhakahaere Pakihi: Kirsty Tamanui reception@portnicholson.org.nz	
Ngāti Toa Rangatira	Te Rūnanga o Toa Rangatira Incorporated	PO Box 50355 Porirua 5240	Represents Ngāti Toa Rangatira as an iwi authority for RMA purposes	Trustee of post-settlement governance entity under Ngāti Toa Rangatira Claims Settlement Act 2014		CEO: Helmut Modlik s 9(2)(a)	RMA Contact: Naomi Solomon s 9(2)(a)
	Toa Rangatira Trust			Post-settlement governance entity under Ngāti Toa Rangatira Claims Settlement Act 2014			
Muaūpoko	Muaūpoko Tribal Authority Incorporated	PO Box 1080 Levin 5510	Represents Muaūpoko as an iwi authority for RMA purposes			CEO: Di Rump admin@muaupoko.iwi.nz	

Attachment 3 – Project site and surrounding area



Attachment 4 – Project layout



Attachment 5 – Project concept



Proposed east elevation (from Buckle Street, looking west)