

Application 2022-116 Auckland Surf Park Community Project

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 April 2023	

Ministry for the Environment contacts

Position	Name	Cell Phone	1 st Contact
Principal Author	Stephanie McNicholl		
Acting Manager	Madeline Berry	s 9(2)(a)	✓
Director	Caroline Hart	s 9(2)(a)	

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 regarding the application request to refer the Auckland Surf Park Community Project (project) to an expert consenting panel (panel).

Proposed project

3. The applicant (AW Holdings 2021 Limited) proposes to develop an approximately 42.62-hectare site into a surf park operation located at 1350 Dairy Flat Highway, Silverdale, Auckland region.
4. The project will involve the construction and operation of the surf park facility including ancillary buildings, 40 visitor accommodation units, a 20-unit wellness retreat, a restaurant, data centre and 7-hectare solar farm to provide power to the surf park.
5. A location map is in Attachment 1.

Essential information

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

FTCA Section	Information required	Detail
17(3)(a)	Relevant iwi authorities (11)	<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 Paoa Iwi Trust</p> <p>Ngāti Paoa Trust Board</p> <p>Te Ākitai Waiohua Iwi Authority</p> <p>Te Ara Rangatu o Te Iwi o Ngāti Te Ata Waiohua</p> <p>Te Rūnanga o Ngāti Whātua</p> <p>Ngaati Whanaunga Incorporated Society</p> <p>Ngāti Maru Rūnanga Trust</p> <p>Ngāti Tamaterā Treaty Settlement Trust</p> <p><i>Contact details are in Attachment 2</i></p>
17(3)(b)	Treaty settlements that relate to the project area (5)	<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 Paoā - deed of settlement 20 March 2021</p> <p>Te Ākitai Waiohua – deed of settlement 12 November 2021</p>
17(3)(a)	Relevant Treaty settlement entities (8)	<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 Paoa Iwi Trust</p> <p>Te Ākitai Waiohua Settlement Trust</p> <p>Ngaati Whanaunga Ruunanga Trust</p> <p>Ngāti Maru Rūnanga Trust</p> <p>Ngāti Tamaterā Treaty Settlement Trust</p> <p><i>Contact details are in Attachment 2</i></p>
17(3)(c)	Relevant principles and provisions of the Treaty settlements	See details in blue-shaded section below
17(3)(d)	Groups with a negotiation mandate recognised by the Crown which are yet to commence Treaty settlement negotiations	Ngāti Te Ata (Ngāti Te Ata Claims Support Whānau Trust)

FTCA Section	Information required	Detail
17(3)(d)	Current Treaty settlement negotiations	Ngaati Whanaunga (Ngaati Whanaunga Ruunanga Trust) Ngāti Maru (Hauraki) (Ngāti Maru Treaty Settlement Negotiators) Ngāti Tamatera (Ngāti Tamatera Negotiators) Ngāti Whatua (Te Rūnanga o Ngāti Whātua) Marutūāhu Iwi Collective
17(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	-

Supporting information

Project details

7. The project site covers approximately 42.62 hectares of characteristically rural land situated on 1350 Dairy Flat Highway, Silverdale. The site access will be gained from Dairy Flat Highway to the west and Postman Road to the east. North Shore Airport is directly across Postman Road from the site.
8. The project intends to provide for the surf park facilities and other activities as well as construction of infrastructure for three-waters services, roading, site access and parking, landscaping and planting, and revegetating a stream corridor. Attachment 3 shows the project layout.

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

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.

Iwi authorities

Methodology and information sources

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

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>

- c. Auckland Council³ as the sole relevant local authority.

Iwi authorities relevant to project

17. We consider the project site lies within the areas of interest of Ngāti Whātua o Kaipara, Te Kawerau ā Maki, Ngāi Tai ki Tāmaki, , Ngāti Paoa, Te Ākitai Waiohua, Ngāti Te Ata, Ngaati Whanaunga, Ngāti Maru (Hauraki), Ngāti Tamaterā, and Marutūāhu Iwi Collective.
18. Not all of these iwi or groups are represented by an iwi authority and some are represented by more than one iwi authority.
19. We have identified, via the TPK viewer, the TKM website and Auckland Council's databases, the relevant iwi authorities for the project area, as:
 - a. Ngā Maunga Whakahii o Kaipara Development Trust, representing Ngāti Whātua o Kaipara
 - b. Te Kawerau Iwi Settlement Trust, representing Te Kawerau ā Maki iwi
 - c. Ngāi Tai ki Tāmaki Tribal Trust, representing Ngāi Tai ki Tāmaki
 - d. Ngāti Paoa Iwi Trust and Ngāti Paoa Trust Board, representing Ngāti Paoa iwi
 - e. Te Ākitai Waiohua Iwi Authority, representing Te Ākitai Waiohua iwi
 - f. Te Ara Rangatu o Te Iwi o Ngāti Te Ata Waiohua, representing Ngāti Te Ata iwi Te Rūnanga o Ngāti Whātua, representing Ngāti Whātua iwi
 - g. Te Rūnanga o Ngāti Whātua, representing Ngāti Whatua
 - h. Ngaati Whanaunga Incorporated Society, representing Ngaati Whanaunga
 - i. Ngāti Maru Rūnanga Trust, representing Ngāti Maru (Hauraki) iwi
 - j. Ngāti Tamaterā Treaty Settlement Trust, representing Ngāti Tamaterā iwi
20. We note in their invited comments, Auckland Council identified 10 of the same relevant iwi authorities.

Other iwi authorities which may have an interest in the project

21. Auckland Council comments and databases note Ngātiwai, Ngāti Manuhiri and Ngāti Whatua Ōrakei. We are unsure as to the reasons for this as it is not supported by any other available information. We have not identified these as relevant iwi authorities, instead we recommend inclusion as an 'other' iwi authority who may have an interest in the project.

Treaty settlements and Treaty settlement entities

22. This report must identify the Treaty settlements that relate to the project area and relevant Treaty settlement entities, in accordance with sections 17(3)(b) and 17(3)(a) respectively. We use information relevant to the project area from the iCat online database and [NZ Government Treaty settlements website](#), together with advice from the Office for Māori Crown Relations – Te Arawhiti.

Treaty settlements relating to the project area

23. 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.

³ Auckland Council is a Unitary local authority with regional and local government responsibilities.

24. The project site falls within the area of interest covered by Treaty settlements with the following 8 iwi:
 - a. Ngāti Whātua o Kaipara – settlement act
 - b. Te Kawerau ā Maki – settlement act
 - c. Ngāi Tai ki Tāmaki – settlement act
 - d. Ngāti Paoa – deed of settlement
 - e. Te Ākitai Waiohua – deed of settlement
 - f. Marutūāhu Iwi Collective – redress deed of settlement.
25. [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. [Ngāti Whātua o Kaipara deed of settlement documents](#) are on the NZ Government Treaty settlements website.
26. [Te Kawerau ā Maki Claims Settlement Act 2015](#) gives effect to certain provisions of the deed of settlement signed on 22 February 2014 and amendment deeds signed in August 2015 and October 2019. [Te Kawerau ā Maki deed of settlement documents](#) can be accessed on the NZ Government Treaty settlements website.
27. [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 amendments signed in 2016, 2017 and 2018. [Ngāi Tai ki Tāmaki deed of settlement documents](#) can be accessed on the NZ Government Treaty settlements website.
28. Ngāti Paoa, the Ngāti Paoa Iwi Trust and the Crown signed a deed of settlement on 20 March 2021. Legislation has not yet been enacted. [Ngāti Paoa deed of settlement documents](#) can be accessed on the NZ Government Treaty settlements website.
29. Te Ākitai Waiohua, Te Ākitai Waiohua Iwi Settlement Trust and the Crown signed a deed of settlement on 12 November 2021. Legislation has yet to be enacted. [Te Ākitai Waiohua deed of settlement documents](#) can be accessed on the NZ Government Treaty settlements website.
30. Marutūāhu Iwi Collective and the Crown signed the Marutūāhu Collective Redress deed on 28 July 2018. Legislation has yet to be enacted. [Marutūāhu Collective Redress deed documents](#) are accessible on the NZ Government Treaty settlements website.

Relevant Treaty settlement entities

Post-settlement governance entities

31. 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.
32. We have identified the following post-settlement governance entities associated with the Treaty settlements:
 - a. Ngāti Whātua o Kaipara under the [Ngāti Whātua o Kaipara Claims Settlement Act 2013](#)
 - b. Te Kawerau Iwi Settlement Trust under the [Te Kawerau ā Maki Claims Settlement Act 2015](#)

- c. Ngāi Tai ki Tāmaki Trust under the [Ngāi Tai ki Tāmaki Claims Settlement Act 2018](#)
33. A post-settlement governance entity may exist ahead of finalisation of a deed of settlement and/or enactment of Treaty settlement legislation.
34. We have identified the following post-settlement governance entities in this category are also relevant:
- a. Ngāti Paoa Iwi Trust was ratified as the post-settlement governance entity for the Ngāti Paoa Treaty settlement on 25 September 2013
 - b. Ngaati Whanaunga Ruunanga Trust was ratified as the post-settlement governance entity for the Ngaati Whanaunga Treaty settlement in December 2017. Ngaati Whanaunga and the Crown initialled a deed of settlement on 25 August 2017
 - c. Ngāti Maru Rūnanga Trust was ratified as the post-settlement governance entity for the Ngāti Maru (Hauraki) Treaty settlement in August 2012. Ngāti Maru (Hauraki) and the Crown initialled a deed of settlement on 8 September 2017
 - d. Ngāti Tamaterā Treaty Settlement Trust was ratified as the post-settlement governance entity for the Ngāti Tamaterā Treaty settlement in August 2012. Ngāti Tamaterā and the Crown initialled a deed of settlement on 20 September 2017
 - e. Te Ākitai Waiohua Settlement Trust was ratified as the post-settlement governance entity for the Te Ākitai Waiohua Treaty settlement in June 2014. Te Ākitai Waiohua and the Crown signed a deed of settlement on 12 November 2021
35. We note the Marutūāhu Iwi Collective (which comprises Ngāti Paoa, Ngāti Maru (Hauraki), Ngāti Tamaterā, Ngaati Whanaunga and Te Patukirikiri) and the Crown initialled a Collective Redress Deed on 27 July 2018. The Marutūāhu Iwi Collective area of interest⁴ covers parts of the Auckland, Waikato and Bay of Plenty regions including the project site.
36. The Marutūāhu Rōpū Limited Partnership was established to receive the collective commercial redress provided in the Marutūāhu Iwi Collective Redress Deed, and therefore meets the definition of a post-settlement governance entity under the FTCA. The Marutūāhu Iwi Collective Redress Deed also provides for establishment of 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.
37. The cultural and commercial redress provided under the Marutūāhu Iwi Collective Redress Deed forms part of the individual settlements with each of the 5 iwi of the Collective. None of this redress, to be managed by the two redress entities identified (once the redress deed is signed and given effect through legislation), is affected by the project. We have not identified these redress entities as relevant Treaty settlement entities for the project.

Other bodies recognised or established under a Treaty settlements Act

38. 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.
39. No such entities established by any of the above Treaty Claims 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 settlement

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

Crown acknowledgements and apologies

40. As part of all of the identified Treaty settlements, 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.

Relevant principles and provisions of the Ngāti Whatua o Kaipara Treaty settlement

41. The Crown recognises that, from the signing of the Treaty of Waitangi, Ngati Whatua o Kaipara committed themselves to a close and positive relationship with the Crown and, through sales and other means, provided lands for European settlement.
42. The Crown deeply regrets that the benefits Ngati Whatua o Kaipara were led to expect from the relationship, including benefits from the sale of land, were slow to arrive or were not always realised.
43. The Crown profoundly regrets and unreservedly apologises for its actions, which have resulted in the virtual landlessness of Ngati Whatua o Kaipara. This state of landlessness has had devastating consequences for the social, cultural, economic, spiritual and physical well-being of Ngati Whatua o Kaipara that continue to be felt today.
44. With this apology and settlement the Crown intends to improve and strengthen its historically close relationship with Ngati Whatua o Kaipara based on the Treaty of Waitangi and its principles so as to create a solid foundation for the future.

Relevant principles and provisions of the Te Kawerau ā Maki Treaty settlement

45. The Crown recognises the grievances of Te Kawerau ā Maki are long-held and acutely felt. For too long the Crown has failed to appropriately respond to claims for redress and justice. The Crown apology is to Te Kawerau ā Maki, their ancestors and descendants.
46. The Crown profoundly regrets its breaches of the [Treaty of Waitangi](#) and its principles, which alienated much Te Kawerau ā Maki land by 1856. The Crown is deeply sorry for its failure to protect land reserved for Te Kawerau ā Maki. The loss of the land and other traditional lands has had devastating consequences for the spiritual, cultural, social, economic, and physical well-being of Te Kawerau ā Maki, that continue to be felt today.
47. The Crown unreservedly apologises for not having honoured its obligations to Te Kawerau ā Maki under the Treaty of Waitangi. Through this apology and this settlement the Crown seeks to atone for its wrongs and lift the burden of grievance so that the process of healing can begin. By the same means the Crown 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.

Relevant principles and provisions of the Ngāi Tai ki Tāmaki Treaty settlement

48. The Crown apologises to Ngāi Tai ki Tāmaki, to their tūpuna, and to their mokopuna.
49. Ngāi Tai ki Tāmaki sought to establish mutually beneficial relationships with European settlers and the Crown by welcoming them into their rohe and offering land, but the

Crown did not honour this gesture. The Crown's acts and omissions undermined relationships that should have been based on good will and mutual benefit. The Crown broke its promise to protect your interests, confiscated your whenua, and promoted policies which had devastating economic, social, and cultural consequences for Ngāi Tai ki Tāmaki.

50. 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 Ngāi Tai ki Tāmaki, the Crown unreservedly apologises. The Crown hopes this settlement will lead to a new relationship that fulfils the expectations of your tūpuna and mokopuna, a relationship marked by cooperation, partnership, and respect for Te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

Relevant principles and provisions of the Ngāti Paoa Treaty settlement

51. The Crown acknowledges until now it has failed to deal with the long-standing grievances of Ngāti Paoa and recognition of and redress for these grievances is long overdue; and Ngāti Paoa rangatira sought to establish a relationship with the Crown in 1840 by signing te Tiriti o Waitangi/the Treaty of Waitangi; and the Crown did not always honour its part in that relationship.
52. The Crown acknowledges that the lands Ngāti Paoa provided for settlement purposes contributed to the establishment of the settler economy and the development of New Zealand. The Crown acknowledges that it took 78,000 acres of land in the Tāmaki block including land in which Ngāti Paoa had interests; and a large portion of the "surplus lands" in the Tāmaki block were lands that the settler who made the transaction agreed would return to Māori ownership and this has long been a source of grievance for Ngāti Paoa; and it never compensated Ngāti Paoa for their interests in the "surplus lands" in the Tāmaki block as it did several other iwi involved in this transaction; and it did not provide reserves for Ngāti Paoa or other Marutūāhu iwi within the bounds of the Tāmaki purchase; and thereby breached te Tiriti o Waitangi / the Treaty of Waitangi and its principles.
53. The Crown acknowledges it failed to require any assessment of whether Ngāti Paoa retained adequate lands for their needs which was compounded by flaws in the way the Crown implemented the policy in further breach of te Tiriti o Waitangi / the Treaty of Waitangi and its principles.
54. The Crown acknowledges its representatives and advisers acted unjustly and in breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles in sending its forces across the Mangatāwhiri in July 1863, invading and occupying land in which Ngāti Paoa had interests; and it intimidated Ngāti Paoa by using heavily armed gunboats to blockade Hauraki Gulf/Tīkapa Moana, and destroying waka; and it caused the deaths of Ngāti Paoa individuals when its forces shelled an unfortified village at Pūkorokoro in November 1863; and attacked a number of Ngāti Paoa without warning in December 1863.
55. The Crown apologises to Ngāti Paoa for the suffering it has inflicted through its acts and omissions, and for the laws and policies enacted in Aotearoa/New Zealand that have led to the loss of Ngāti Paoa whenua and taonga te reo Māori. The Crown unreservedly apologises to the tūpuna and mokopuna of Ngāti Paoa for its failure to uphold its obligations under te Tiriti o Waitangi/the Treaty of Waitangi and its principles.
56. 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.

Relevant principles and provisions of the Te Ākitai Waiohua Treaty settlement

57. The Crown offers this apology to Te Ākitai Waiohua, to their tūpuna, and to their mokopuna. 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.
58. The Crown is profoundly sorry for the manner in which it conducted purchases of Te Ākitai Waiohua land, and for the tens of thousands of acres of land it took as 'surplus' from transactions between Te Ākitai Waiohua and private settlers. The Crown recognises that Te Ākitai Waiohua welcomed Pākeha into their rohe, seeking friendly and cooperative relations with settlers and the Crown, and that the willingness of Te Ākitai Waiohua to participate in land transactions contributed significantly to the development of the city of Auckland.
59. The Crown repaid this manaakitanga by treating members of Te Ākitai Waiohua as rebels, confiscating their lands and forcing them from their kāinga, and for this the Crown is truly sorry. In particular, the Crown sincerely regrets its treatment of rangatira, Ihaka Takaanini and his father Pepene Te Tihi, and the 21 others it imprisoned without good cause, without charge or trial. The Crown recognises that Ihaka Takaanini and Pepene Te Tihi were skilled and respected leaders, and the loss of these totara haemata was a significant blow to Te Ākitai Waiohua.
60. The cumulative effect of the Crown's purchasing and confiscations have left Te Ākitai Waiohua virtually landless. The Crown apologises that its actions have not only separated Te Ākitai Waiohua from their wāhi tapu, but also hindered the socio-economic development of their people and the ability of Te Ākitai Waiohua to grow as an iwi. The Crown hopes that this settlement marks the beginning of a new relationship with Te Ākitai Waiohua, one based on partnership, trust, and mutual respect for te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

Cultural redress of the Treaty settlements

61. We have noted the project site drains to, flows into and could potentially affect, the Rangitopuni Stream and tributaries.
62. We have identified deeds of settlements that contain statements of the particular cultural, spiritual, historical and traditional association that each iwi respectively has with the area, that is recognised within a river catchment statutory acknowledgement for Te Kawerau ā Maki:

Te Kawerau ā Maki

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

Several places on the eastern coastline of the North Shore are of particular importance to Te Kawerau ā Maki as they are directly associated with the ancestor Maki, his warrior sons, and their descendant the ancestress Kahu. These places include: ...Karepiro (a battle site at Karepiro Bay, Weiti) ...

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

The Crown's formal acknowledgement of these statements of association are recognised in the river catchment statutory acknowledgement over specified areas in the Te Kawerau ā Maki settlement. The location of the project site in relation to the river catchment statutory acknowledgement area is shown in Attachment 4.

63. Te Kawerau ā Maki or any member of the associated iwi can cite their statutory acknowledgements as evidence of their association with the area. Auckland Council, the Environment Court and Heritage New Zealand Pouhere Taonga must have regard to them, and Auckland Council must forward to the relevant Trusts summaries of resource consent applications it receives (or notices served on the council under section 145(10) of the RMA) for activities within, adjacent to or directly affecting a statutory area.
64. We note that statutory acknowledgments are not indications of exclusive interest in a site, and sites subject to them may also hold importance for other iwi.

Other redress of the Treaty settlements

65. Affording respect to the views of each iwi on resource management matters and enabling iwi to meaningfully participate as a Treaty partner in resource management decision-making within their takiwā/area of interest are important ways in which the Crown can give effect to these acknowledgements and apologies.
66. We note none of the Treaty settlements creates any new co-governance or co-management processes which would affect decision-making under the RMA for the project. The proposed project does not directly affect any specific commercial or cultural redress provided by the Treaty settlements.
67. As a general principle, an absence of specific settlement redress does not indicate the absence of an iwi 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.
68. Importantly, cultural associations with ancestral lands, water, sites, wāhi tapu, and other taonga – irrespective of whether or not they are specifically identified in a Treaty settlement – 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

69. Section 17(3)(d) of the FTCA requires this report to identify any recognised negotiation mandates for, or current negotiations for, Treaty settlements relating to the project area.
70. We have identified Treaty settlement negotiations have commenced with Ngaati Whanaunga, Ngāti Maru (Hauraki), Ngāti Tamaterā, and the Marutūāhu Iwi Collective. In addition, the Crown is negotiating a final settlement with Te Rūnanga o Ngāti Whātua on behalf of Ngāti Whātua. The project site lies within the areas of interest for each of these settlement negotiations.
71. We have identified the recognised negotiation mandates relating to the project area for:
 - a. Ngāti Te Ata.
72. 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. Although negotiations have paused, the Crown-recognition of the

mandate has not been withdrawn. Ngāti Te Ata has yet to establish a post-settlement governance entity to receive redress under their settlement.

Details in this report affect certain provisions of the FTCA

Notices of referral decisions

73. 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.
74. 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.
75. We have identified 11 relevant iwi authorities and 8 relevant Treaty settlement entities for receipt of the notice of decisions. Contact details are in Attachment 2.
76. We have identified Ngātiwai, Ngāti Manuhiri and Ngāti Whatua Ōrakei as an 'other' iwi authority or Treaty settlement entity who may have an interest in the project, for receipt of the notice of decisions, if you decide to refer the project.
77. There are no relevant joint management agreements or Mana Whakahono ā Rohe to consider.

Expert consenting panel membership and invitation to comment

78. 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.
79. 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.
80. A panel must invite comments on a resource consent application or notice of requirement for a referred project from the parties listed in clause 17(6) of Schedule 6 of the FTCA. This includes:
 - a. the relevant iwi authorities, including those identified in this report
 - b. a Treaty settlement entity relevant to the referred project, including an entity that has an interest under a Treaty settlement in an area where a referred project is to occur, and an entity identified in this report
 - c. any applicant group under the MACAA identified in the report obtained under section 17(1).
81. We have identified 15 relevant iwi authorities and 8 relevant Treaty settlement entities for the proposed project.
82. A panel may also invite comments from any other person it considers appropriate.

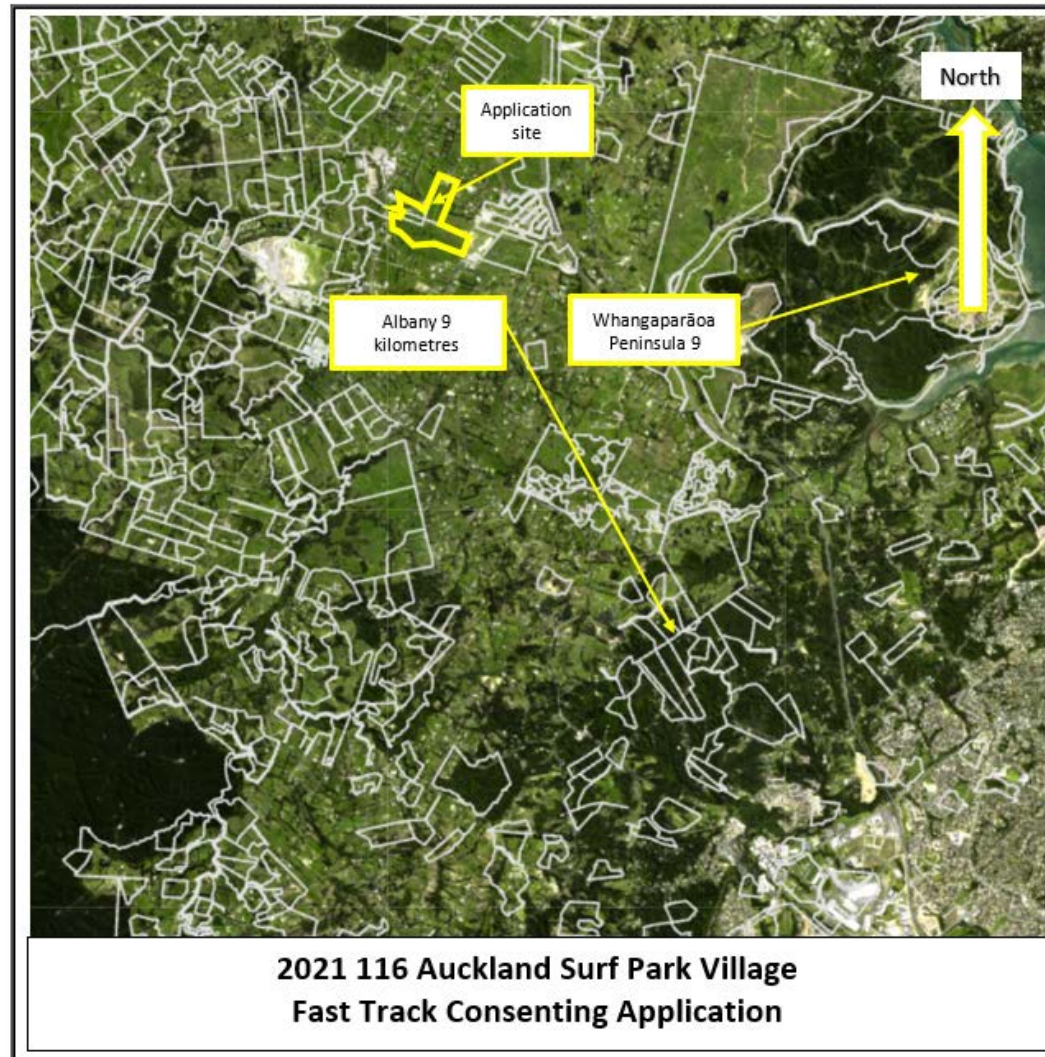
83. We have identified Ngātiwai, Ngāti Manuhiri and Ngāti Whatua Ōrakei may have an interest in the project area. We recommend you direct a panel under section 24(2)(e) of the FTCA to invite comment from these iwi authorities if you decide to refer the project.

Provision of cultural impact assessment

84. Any resource consent application submitted to a panel for determination must include a cultural impact assessment prepared by or on behalf of the relevant iwi authorities, or a statement of any reasons given by the relevant iwi authorities for not providing that assessment.⁵ 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 is satisfied.
85. There is more than one relevant iwi authority. The project applicant will need to engage with each iwi authority 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. Relevant iwi authorities are listed in Attachment 2.

⁵ Clause 9(5), 13(1)(k) and 13(1)(l) of Schedule 6 of the FTCA.

Attachment 1 – Project Location



Attachment 1 – Project Location – Surrounding Area

The 42-hectare site for the proposal is located in Dairy Flat within a future growth area in northern Auckland.

The site is located a short distance from State Highway 1 and is easily accessible and well served by existing roading connections. It is also well serviced by surrounding residential centres being just an 8-minute drive to Silverdale and a 30-minute drive to central Auckland.

Te Tupu Ngātahi Supporting Growth is a collaboration between Auckland Transport and Waka Kotahi NZ Transport Agency that outlines a long-term strategic transport network to keep up with Auckland's growth over the next 30 years. A key aspect of the strategy is well-designed transport connections that are safe, accessible and sustainable for Auckland's new growth areas, which includes Silverdale, Dairy Flat, Wainui and Orewa.

KEY

-  Site Extent
-  State Highway 1
-  Future Urban Zone
-  Residential Centres

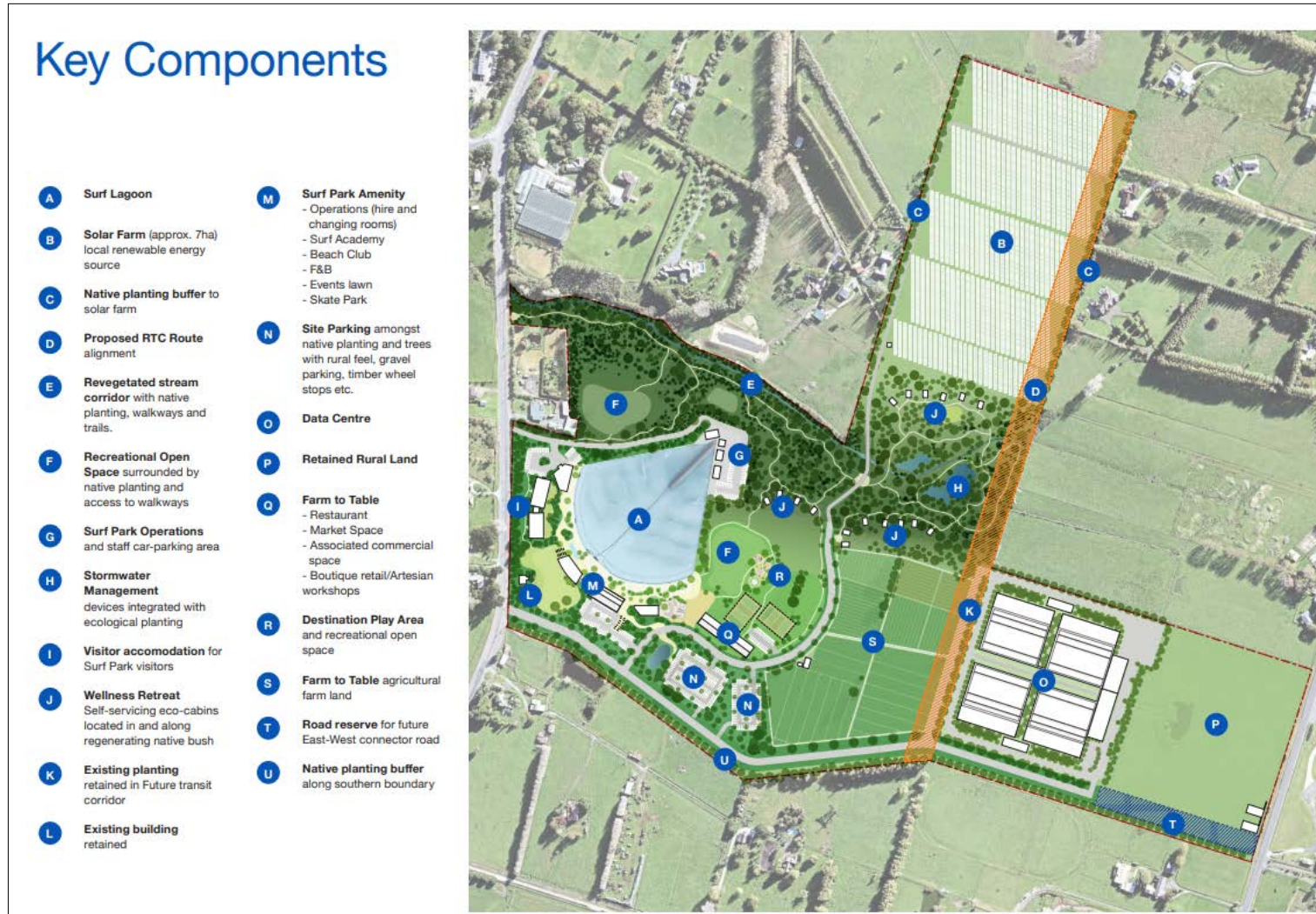


Attachment 2 – Contact information

Iwi/hapū	Settlement documents / Status	Representative body	RMA relevant iwi authority	Treaty settlement entity (PSGE)	Other Iwi authority interest	Contact person
Ngāti Whātua o Kaipara	Ngāti Whātua o Kaipara Claims Settlement Act 2013	Ngā Maunga Whakahii o Kaipara Development Trust	Iwi authority for RMA purposes	Post-settlement governance entity		CEO: Sarah Ihaia-Chapman admin@kaiparamoana.com cc: RMA Contact - Savanna Steele s 9(2)(a)
Te Kawerau ā Maki	Te Kawerau ā Maki Claims Settlement Act 2015	Te Kawerau Iwi Settlement Trust	Iwi authority for RMA purposes	Post-settlement governance entity		Executive Chair: Te Warena Taua s 9(2)(a) cc: Kaitiaki - Edward Ashby s 9(2)(a)
Ngāi Tai ki Tāmaki	Ngāi Tai ki Tāmaki Claims Settlement Act 2018	Ngāi Tai ki Tāmaki Trust	Iwi authority for RMA purposes	Post-settlement governance entity		Tumu Whakahaere: Lynette Penrose admin@ngaitaitamaki.iwi.nz cc: RMA contact - Jacquie Lindsay s 9(2)(a)
Ngāti Paoa	Deed of settlement signed 20 March 2021	Ngāti Paoa Iwi Trust	Iwi authority for RMA purposes	Post-settlement governance entity		Tumuaki (Chair): Tania Tarawa kaiarahi@ngatipaoaiwi.co.nz
		Ngāti Paoa Trust Board	Iwi authority for RMA purposes			Principal/RMA contact: Dave Roebeck nptb@ngatipaoatrustboard.co.nz
Te Ākitai Waiohū	Deed of settlement signed 12 Nov 2021	Te Ākitai Waiohū Iwi Authority	Iwi authority for RMA purposes			Chairperson: Karen Wilson tawia@teakitai.com
		Te Ākitai Waiohū Settlement Trust		Post-settlement governance entity		
Ngaati Whanaunga	Deed of settlement initialled 25 Aug 2017	Ngaati Whanaunga Incorporated Society	Iwi authority for RMA purposes			GM: Boni Renata s 9(2)(a)
		Ngaati Whanaunga Ruunanga Trust		Post-settlement governance entity		
Ngāti Maru (Hauraki)	Deed of settlement initialled 8 Sept 2017	Ngāti Maru Rūnanga Trust	Iwi authority for RMA purposes	Post-settlement governance entity		CEO: David Taipari office@ngatimaru.iwi.nz cc: RMA Contact - William Peters
Ngāti Tamaterā	Deed of settlement initialled 20 Sep 2017	Ngāti Tamaterā Treaty Settlement Trust	Iwi authority for RMA purposes	Post-settlement governance entity		General Manager & RMA contact: s 9(2)(a)
Ngāti Te Ata		Te Ara Rangatū o Te Iwi o Ngāti Te Ata Waiohū	Iwi authority for RMA purposes			Manager: Karl Flavell cc: RMA Kaitiaki taiao@ngatiteata.iwi.nz
Ngāti Whātua		Te Rūnanga o Ngāti Whātua	Iwi authority for RMA purposes			Manahautū / CE: Alan Riwaka runanga@ngatiwhatua.iwi.nz cc: RMA Contact - Antony Thompson s 9(2)(a)

Iwi/hapū	Settlement documents / Status	Representative body	RMA relevant iwi authority	Treaty settlement entity (PSGE)	Other Iwi authority interest	Contact person
<i>Other Iwi who may have an interest</i>						
Ngāti Whātua o Ōrakei	Ngāti Whātua Ōrakei Claims Settlement Act 2012	Ngāti Whātua Ōrakei Trust Board			Other Iwi authority who may have an interest	CEO: Lisa Davis lisa@nwo.iwi.nz cc: RMA contact: Andrew Brown tokitaiao@ngatiwhatuaorakei.com
		Ngāti Whātua Ōrakei Trustee Limited				
Ngāti Manuhiri	Ngāti Manuhiri Claims Settlement Act 2012	Ngāti Manuhiri Settlement Trust			Other Iwi authority who may have an interest	CEO: Nicola MacDonald info@ngatimanuhiri.iwi.nz cc: RMA Kaitiaki kaitiaki@ngatimanuhiri.iwi.nz
Ngātiwai		Ngātiwai Trust			Other Iwi authority who may have an interest	CEO: Hūhana Lyndon ngatiwai@ngatiwai.iwi.nz cc: Kata Tamaki kataraina@ngatiwai.iwi.nz

Attachment 3 – Planned Layout



Attachment 4 – River Catchment statutory acknowledgement – Te Kawerau ā Maki

