Ministry for the Environment
Manatū Mō Te Taiao

Report prepared in accordance with Section 17 Covid-19 (Fast-track Consenting) Act 2020

Application 2023-145 Holly Lea Village Buildings D and E 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: 20 April 2023	

Ministry for the Environment contacts

Position	Name	Cell Phone	1st Contact
Principal Author	Stephanie McNicholl		
Acting Manager	Rebecca Perrett	s 9(2)(a)	✓
Acting Director	Lorena Stephen	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 Holly Lea Village Buildings D and E Project (project) to an expert consenting panel (panel).

Proposed project

3. The applicant (Holly Lea Village Limited) proposes to develop an approximately 1.95-hectare site into an extension of a retirement village development located at 19, 19a, & 21 Tui Street, 121 & 123 Fendalton Road, and 2 & 8 Heathfield Avenue, Fendalton, Christchurch region.
4. The project will involve the construction of two three-storey apartment buildings, comprising a total of 30 units, to form part of the existing retirement village known as Holly Lea Village[1].
5. A location map is in Attachment 1.

[1] Redevelopment of the remainder of the retirement village (Buildings A – C) is currently underway.

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	**1**	Refer Iwi authorities section below. *Contact details are in Attachment 2*
17(3)(b)	Treaty settlements that relate to the project area	**1**	
17(3)(a)	Relevant Treaty settlement entities	**1**	
17(3)(c)	Relevant principles and provisions of the Treaty settlements	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	N/A	
17(3)(d)	Current Treaty settlement negotiations	N/A	
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	N/A – not in CMA	

Supporting information

Project details

7. The project site covers approximately 1.95-hectares of characteristically urban land. The site has frontage to Fendalton Road to the north, Tui Street to the west and Heathfield Avenue to the east. Existing access to the site is provided from Tui Street and from Heathfield Avenue.

8. The project will include activities such as construction of Building D (a three-storey building approximately 13.5 metres high, containing 10 independent living units; staff and administrative spaces) and Building E (a three-storey building approximately 14.2 metres high, containing 22 independent living units); construction of access, parking, circulation spaces, connections to existing three waters infrastructure, landscaping and planting.

9. The project layout is in Attachment 3.

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 no court orders granted under the MACAA or another Act to consider in your referral decision for this project.[2]

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 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.

14. 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)

    c. the Iwi Areas of Interest viewer, an online application managed by the Ministry of Māori Development – Te Puni Kōkiri (TPK)

    d. 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.

15. 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.

16. 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.

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[2] 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.

17. To identify iwi authorities associated with the identified areas of interest, we considered information from:

    a. the sources noted above including the TKM online directory

    b. Environment Canterbury Regional Council (ECAN) and Christchurch City Council (CCC) as relevant local authorities.

Iwi authorities relevant to project

18. We have identified Te Rūnanga o Ngāi Tahu representing Ngāi Tahu, via the information sources as the sole relevant iwi for the project area.

19. Both local authorities identified the same iwi authority. ECAN identified Te Rūnanga o Ngāi Tūāhuriri and CCC noted Mahaanui Kurataiao Limited, representing rūnanga for RMA purposes. Both parties are addressed below.

20. Te Rūnanga o Ngāi Tahu is made up of 18 Papatipu Rūnanga (rūnanga) to which Ngāi Tahu Whānui can belong. Along with Te Rūnanga o Ngāi Tahu, the rūnanga were established by Te Rūnanga o Ngāi Tahu Act 1996. Each rūnanga holds the rights, interests and responsibilities to defined areas of land and waters within the Ngāi Tahu rohe.

21. There are 6 rūnanga who have a shared interest in the project area, being:

    a. Ngāi Tūāhuriri Rūnanga
    b. Te Hapū o Ngāti Wheke
    c. Te Rūnanga o Koukourārata
    d. Wairewa Rūnanga
    e. Ōnuku Rūnanga
    f. Te Taumata Rūnanga.

22. Section 15 of the Te Rūnanga o Ngāi Tahu Act specifies that where any enactment requires consultation with any iwi or iwi authority in respect of matters affecting Ngāi Tahu Whānui, it will be held with Te Rūnanga o Ngāi Tahu.

23. When such consultation is undertaken, the Act requires that the views of the rūnanga and hapū be sought and considered should they wish to comment on the matter being consulted on.

24. We note the organisation that liaises between Te Rūnanga o Ngāi Tahu and the rūnanga of the region identified above, and who engages on their behalf with the local authorities in relation to RMA matters, is Mahaanui Kurataiao Limited – based in Christchurch.

Treaty settlements and Treaty settlement entities

25. 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.

26. 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.

27. The Ngāi Tahu Claims Settlement Act 1998 is the only settlement of historical Treaty claims relating to the project area. The Act gives effect to certain provisions of the deed of settlement signed by Ngāi Tahu and her Majesty the Queen on 21 November 1997, and amendment deeds signed in September 1998 and November 1999. Ngāi Tahu deed of settlement documents can be accessed on the NZ Government Treaty settlements website.

Relevant Treaty settlement entities

Post-settlement governance entities

28. 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.

29. We have identified Te Rūnanga o Ngāi Tahu as the sole post-settlement governance entity associated with the Treaty settlement under the Ngāi Tahu Claims Settlement Act 1998.

Other bodies recognised or established under a Treaty settlement Act

30. 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.

31. No such entity established by the Claims Settlement Act noted above is relevant to the proposed project.

Relevant principles and provisions of the Ngāi Tahu Treaty settlement

Crown acknowledgements and apologies

32. 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.

33. The Crown hereby acknowledges the work of the Ngāi Tahu ancestors and makes this apology to them and to their descendants.

34. The Crown acknowledges that it acted unconscionably and in repeated breach of the principles of the Treaty of Waitangi in its dealings with Ngāi Tahu in the purchases of Ngāi Tahu land. The Crown further acknowledges that in relation to the deeds of purchase it has failed in most material respects to honour its obligations to Ngāi Tahu as its Treaty partner, while it also failed to set aside adequate lands for Ngāi Tahu's use, and to provide adequate economic and social resources for Ngāi Tahu.

35. The Crown acknowledges that, in breach of Article Two of the Treaty, it failed to preserve and protect Ngāi Tahu's use and ownership of such of their land and valued possessions as they wished to retain.

36. The Crown recognises that it has failed to act towards Ngāi Tahu reasonably and with the utmost good faith in a manner consistent with the honour of the Crown and recognises that its failure always to act in good faith deprived Ngāi Tahu of the opportunity to develop and kept the tribe for several generations in a state of poverty.

37. The Crown recognises that Ngāi Tahu has been consistently loyal to the Crown, and that the tribe has honoured its obligations and responsibilities under the Treaty of Waitangi and duties as citizens of the nation, especially, but not exclusively, in their active service in all of the major conflicts up to the present time to which New Zealand has sent troops. The Crown pays tribute to Ngāi Tahu's loyalty and to the contribution made by the tribe to the nation.

38. The Crown expresses its profound regret and apologises unreservedly to all members of Ngāi Tahu Whānui for the suffering and hardship caused to Ngāi Tahu, and for the harmful effects which resulted to the welfare, economy and development of Ngāi Tahu as a tribe. The Crown acknowledges that such suffering, hardship and harmful effects resulted from its failures to honour its obligations to Ngāi Tahu under the deeds of purchase whereby it acquired Ngāi Tahu lands, to set aside adequate lands for the tribe's use, to allow reasonable access to traditional sources of food, to protect Ngāi

Tahu's rights to pounamu and such other valued possessions as the tribe wished to retain, or to remedy effectually Ngāi Tahu's grievances.

39. The Crown apologises to Ngāi Tahu for its past failures to acknowledge Ngāi Tahu rangatiratanga and mana over the South Island lands within its boundaries, and, in fulfilment of its Treaty obligations, the Crown recognises Ngāi Tahu as the tāngata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui.

40. Accordingly, the Crown seeks on behalf of all New Zealanders to atone for these acknowledged injustices, so far as that is now possible, and, with the historical grievances finally settled as to matters set out in the Deed of Settlement signed on 21 November 1997, to begin the process of healing and to enter a new age of co-operation with Ngāi Tahu.

Redress within the Treaty settlements

Resource management matters

41. Affording respect to the views of 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.

Other redress of the Treaty settlements

42. The Treaty settlements do not create 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.

43. 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.

44. Importantly, 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 – 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

45. There are no recognised mandates for negotiation of any further historical Treaty claims, or any current or anticipated negotiations for settlement of historical Treaty claims, affecting the proposed project site.

Details in this report affect certain provisions of the FTCA

Notices of referral decisions

46. 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.

47. 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.

48. We have identified Te Rūnanga o Ngāi Tahu as the sole relevant iwi authority and Treaty settlement entity for receipt of the notice of decisions. Contact details are in Attachment 2.

49. If you decide to refer this project to a panel, we recommend copying the notice of decisions to the relevant rūnanga through their agents (Mahaanui Kurataiao Limited) to facilitate these parties' preparedness for engagement in the panel process. Contact details are in Attachment 2.

50. There are no relevant joint management agreements or Mana Whakahono ā Rohe to consider.

Expert consenting panel membership and invitation to comment

51. 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.

52. 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.

53. 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).

54. We have identified Te Rūnanga o Ngāi Tahu as the sole relevant iwi authority and Treaty settlement entity for the proposed project.

55. If you decide to refer this project to a panel, we recommend you instruct the panel to invite comments from the relevant rūnanga within the Ngāi Tahu rohe through their agents (Mahaanui Kurataiao Limited). Contact details are in Attachment 2.

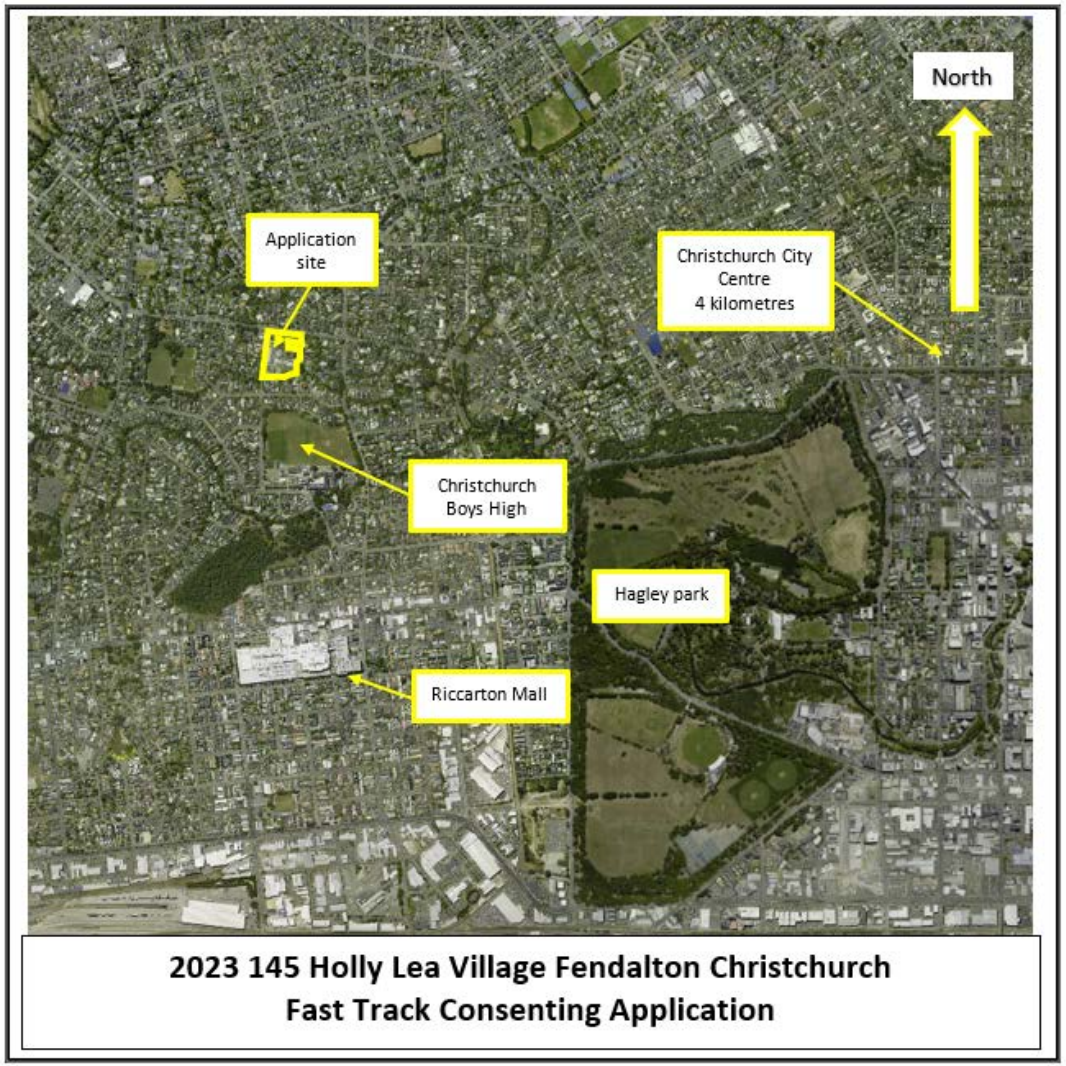
56. A panel may also invite comments from any other person it considers appropriate.

Provision of cultural impact assessment

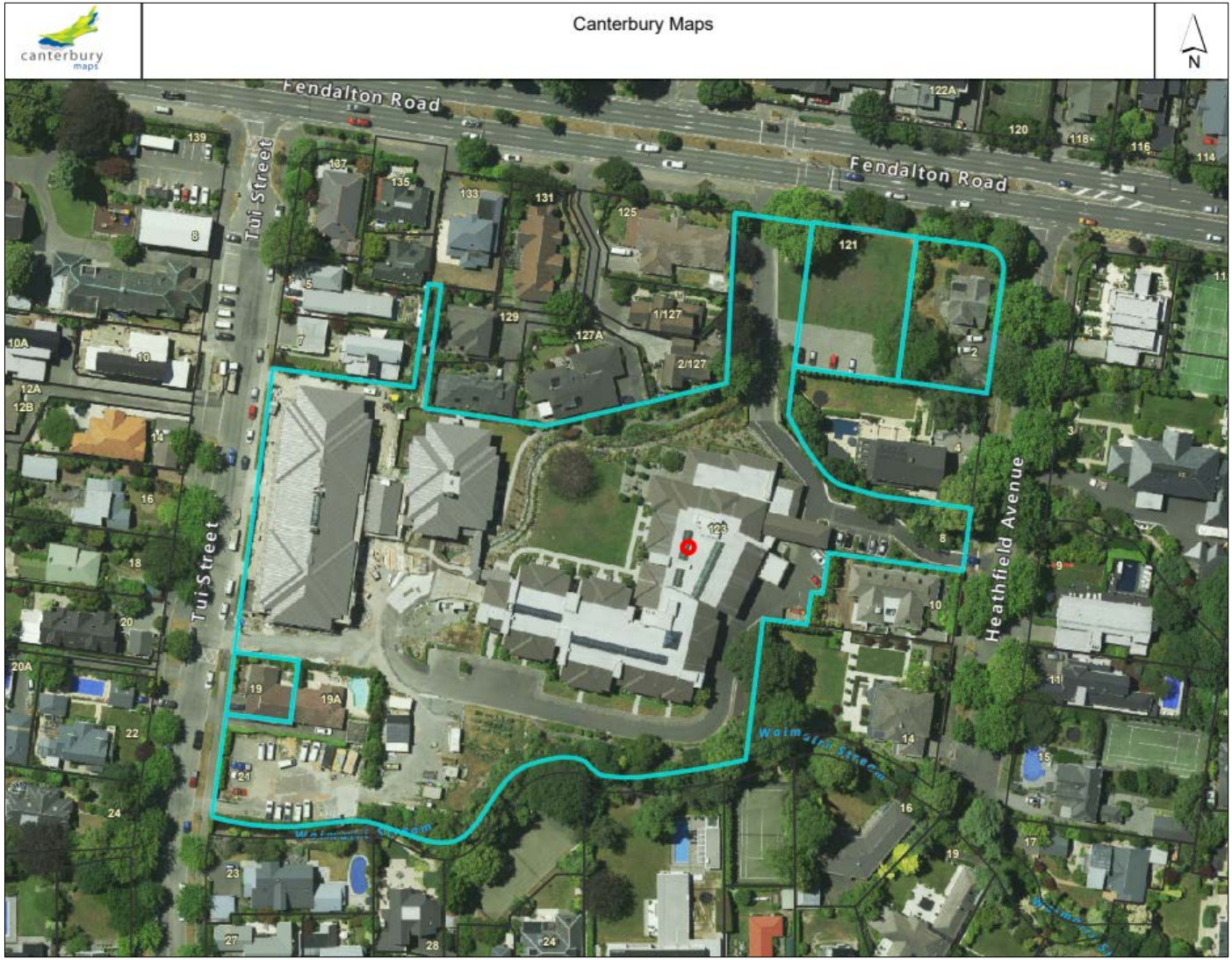
Any resource consent application submitted to a panel for determination must include a cultural impact assessment prepared by or on behalf of the relevant iwi authorities, or a statement of any reasons given by the relevant iwi authorities for not providing that assessment.[3] The Environmental Protection 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.

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

Attachment 1 – Project Location – Surrounding Area



Attachment 1 – Project Location – Site



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
Ngāi Tahu	Ngāi Tahu Claims Settlement Act 1998	Te Rūnanga o Ngāi Tahu	Iwi authority for RMA purposes	Post-settlement governance entity		CEO/Kaihautū – Arihia Bennett cc: Ngāi Tahu fast-track team: TTW@ngaitahu.iwi.nz
Papatipu Rūnanga of Te Tai o Mahaanui (for Ngāi Tūāhuriri Tūnanga, Te Hapū o Ngāti Wheke (Rāpaki) Rūnanga, Te Rūnanga o Koukourārata, Ōnuku Rūnanga, Wairewa Rūnanga, and Te Taumata Rūnanga)		Mahaanui Kurataiao Limited is an advisory company which represents Papatipu Rūnanga of Te Tai o Mahaanui			Other iwi authority who may have an interest	General Manager, Henrietta Carroll Mahaanui.admin@ngaitahu.iwi.nz

Attachment 3 – Planned Layout – Perspectives (Buildings D and E)

Street view

Attachment 3 – Planned Layout