

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

Application 2023-165 Alabaster 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: 21 June 2023	

Ministry for the Environment contacts

Position	Name	Cell Phone	1 st 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 Alabaster Project (project) to an expert consenting panel (panel).

Proposed project

3. The applicant (Craig and Nicole Alabaster) proposes to develop a site of approximately 72 hectares into a residential development located at Cedar Drive and Camellia Avenue, Aramoto, Whanganui region.
4. The project will create approximately 176 allotments for residential purposes and 17 allotments for access, public open space and other uses, and will include new roads, footpaths and three-waters infrastructure.
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	2
17(3)(b)	Treaty settlements that relate to the project area	1
17(3)(a)	Relevant Treaty settlement entities	2
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	-
17(3)(d)	Current Treaty settlement negotiations	-
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

- The project site is located in a semi-rural setting and cover approximately 72 hectares. The site access will be gained from Camellia Avenue and Cedar Drive to the south.
- The project will involve activities such as subdividing land, clearing vegetation, carrying out earthworks, discharging stormwater and contaminants to land, constructing residential units, constructing infrastructure including roads, vehicle and pedestrian access and three waters services, and landscaping and planting.
- A site 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.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 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.

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.

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.
17. To identify iwi authorities associated with the identified areas of interest, we considered information from:
 - a. the TKM online directory noted above
 - b. Horizons Regional Council (HRC) and Whanganui District Council (WDC) as relevant local authorities.

Iwi authorities relevant to project

18. We have identified, via the TPK viewer, TKM website and Council information, the relevant iwi authorities for the project area, as:
 - a. Ngā Tangata Tiaki o Whanganui Trust, representing Whanganui iwi
 - b. Whanganui Land Settlement Negotiation Trust, representing Whanganui Land Settlement (Te Tomokanga ki te Matapihi)
19. HRC and WDC identified the same relevant iwi authorities.

Other iwi authorities, treaty settlement entities and parties which may have an interest in the project

20. We have not identified any other parties who may have an interest.

Treaty settlements and Treaty settlement entities

21. 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.
22. 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.
23. [Te Awa Tupua \(Whanganui River Claims Settlement\) Act 2017](#) is the settlement of historical Treaty claims relating to the project area. The Act gives effect to certain provisions of the deed of settlement signed by Ngā Tangata Tiaki o Whanganui Trust and the Crown on 5 August 2014. [Whanganui iwi deed of settlement documents](#) can be accessed on the NZ Government Treaty settlements website.
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. Ngā Tangata Tiaki o Whanganui Trust is the post-settlement governance entity under the [Te Awa Tupua \(Whanganui River Claims Settlement\) Act 2017](#).

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. The role of Te Pou Tupua, required to act in the interests of Te Awa Tupua, was established by the [Te Awa Tupua \(Whanganui River Claims Settlement\) Act 2017](#) and is identified as a relevant treaty settlement entity in relation to the proposed project. Te Karewao is an advisory committee that has been established under the settlement for the purposes of supporting Te Pou Tupua.

Relevant principles and provisions of the Whanganui Iwi (Whanganui River) Treaty settlement

Crown acknowledgements and apologies

28. The text of the apology offered by the Crown to Whanganui Iwi, as set out in Ruruku Whakatupua—Te Mana o Te Iwi o Whanganui, is as follows: The Crown makes this apology in respect of the Whanganui River to the iwi and hapū of Whanganui, their tūpuna, and their uri.
29. The Crown recognises through this settlement that Te Awa Tupua embodies the Whanganui River as an indivisible whole from the mountains to the sea and the inalienable interconnection between the iwi and hapū of Whanganui and the Whanganui River, as expressed in the Whanganui pepeha “E rere kau mai te Awa nui, mai i te Kāhui Maunga ki Tangaroa. Ko au te awa, ko te awa ko au” (“The Great River flows from the mountains to the sea. I am the River and the River is me”).
30. The Crown unreservedly apologises for its actions and omissions that have breached the Treaty of Waitangi and its principles and damaged the special relationship between the iwi and hapū of Whanganui and the Whanganui River.
31. The Crown deeply regrets that it undermined the ability of Whanganui Iwi to exercise their customary rights and responsibilities in respect of the Whanganui River, and consequently the expression of their mana. The Crown further regrets that this compromised the physical, cultural, and spiritual well-being of the iwi and hapū of Whanganui Iwi.
32. The Crown recognises that for generations the iwi and hapū of Whanganui have tirelessly pursued justice in respect of the Whanganui River. The Crown recognises and sincerely regrets the opportunities it has missed, until now, to adequately address those grievances. Redress, through this settlement (Ruruku Whakatupua) and the Te Awa Tupua framework (Te Pā Auroa nā Te Awa Tupua), is long overdue.
33. With this apology the Crown seeks to atone for its past wrongs, and begin the process of healing. This settlement marks the beginning of a renewed and enduring relationship between Whanganui Iwi and the Crown that has Te Awa Tupua at its centre and is based on mutual trust and cooperation, good faith, and respect for the Treaty of Waitangi and its principles.

Resource management matters

34. 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

35. The Treaty settlement does not create any new co-governance or co-management processes which would affect decision-making under the RMA for the project.
36. 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.

37. 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

38. 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.
39. We have identified the recognised negotiation mandate that relates to the project area for Whanganui Land Settlement Negotiation Trust. The Crown recognised the mandate to negotiate a Treaty settlement in June 2017 and signed an Agreement in principle August 2019. Negotiations have not yet commenced. The Crown recognition of the mandate has not been withdrawn, and a post-settlement governance entity is yet to be established to receive redress under their settlement.

Details in this report affect certain provisions of the FTCA

Notices of referral decisions

40. 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.
41. 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.
42. We have identified two relevant iwi authorities and two relevant Treaty settlement entities for receipt of the notice of decisions. Contact details are in Attachment 2.
43. If you decide to refer this project to a panel, we recommend copying the notice of decisions to the advisory committee supporting Te Pou Tupua (being Te Karewao) to facilitate these parties' preparedness for engagement in the panel process. Contact details are in Attachment 2.
44. We have not identified any 'other' parties 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 and invitation to comment

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.

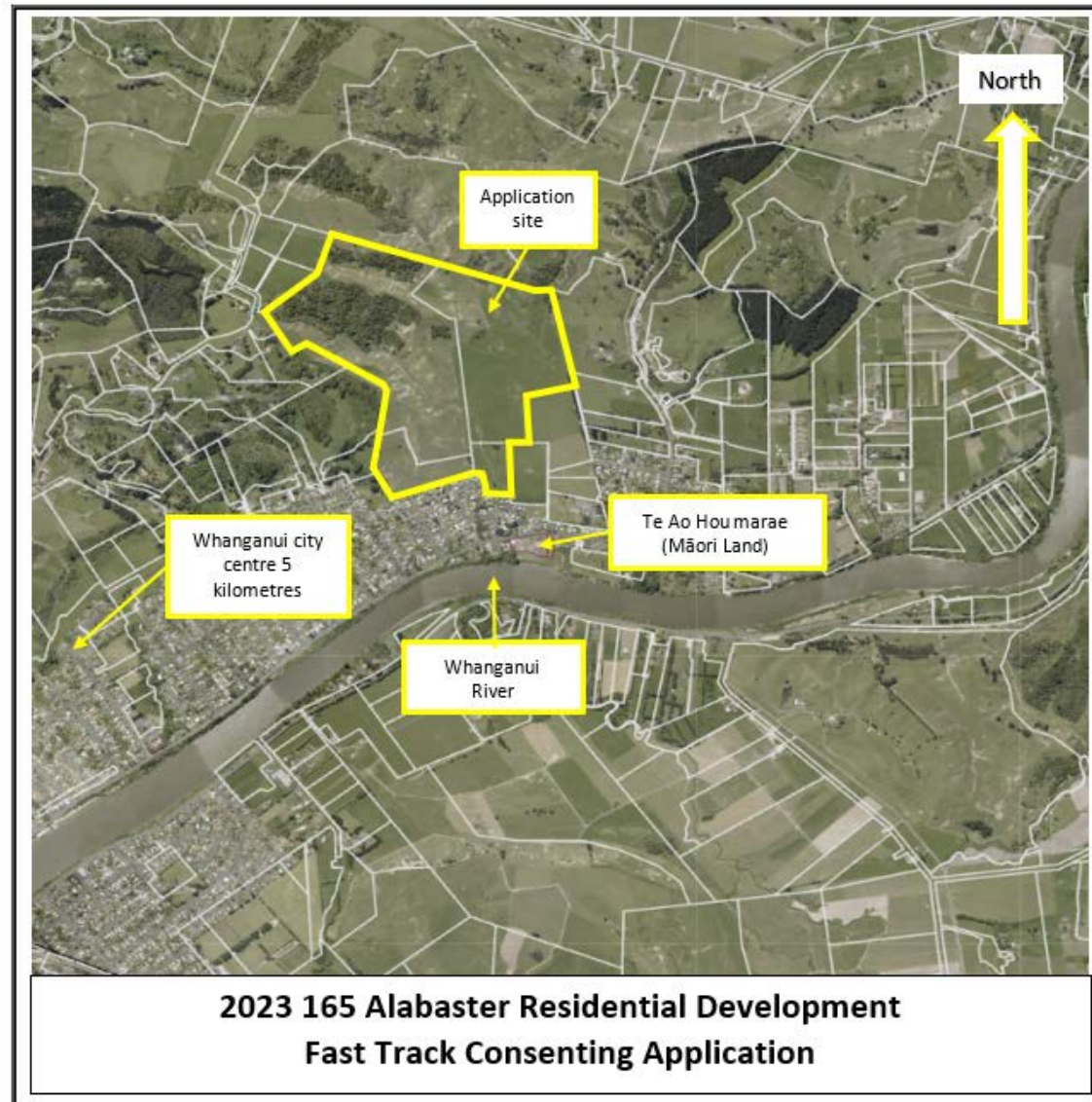
46. In the event iwi authorities nominate more than one person, the panel convener must decide which nominee to appoint. The panel convener has discretion to increase the panel membership to accommodate the matters specified in clauses 3(6)(a) – 3(6)(e) of Schedule 5 of the FTCA, which include matters unique to any relevant Treaty settlement Act.
47. 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).
48. We have identified two relevant iwi authorities and two relevant Treaty settlement entities.
49. If you decide to refer this project to a panel, we recommend you instruct the panel to invite comments from the advisory committee supporting Te Pou Tupua (being Te Karewao). Contact details are in Attachment 2.
50. We note a panel may also invite comments from any other person it considers appropriate.

Provision of cultural impact assessment

51. 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.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 is satisfied.
52. 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. Relevant iwi authorities are listed in Attachment 2.

² Clause 9(5), 13(1)(k) and 13(1)(l) of Schedule 6 of the FTCA.

Attachment 1 – Project Location



Attachment 2 – Contact information

Iwi/hapū	Settlement documents / Status	Representative body	RMA relevant iwi authority	Treaty settlement entity	Other Party	Contact person
Whanganui iwi	Te Awa Tupua (Whanganui River Claims Settlement) Act 2017	Ngā Tangata Tiaki o Whanganui Trust	Iwi authority for RMA purposes			Chair: Sheena Maru office@ngatangatatiaki.co.nz
		Te Pou Tupua		Post-settlement governance entity		Turama Hawira and Keria Ponga office@tepotupua.co.nz
		Te Karewao			Advisory committee to advise and support Te Pou Tupua, who may also delegate functions to Te Karewao	Annette Main, Wiari Rauhina & Siani Walker office@tepotupua.co.nz
Whanganui Land Settlement (Te Tomokanga ki te Matapihi)		Whanganui Land Settlement Negotiation Trust	Iwi authority for RMA purposes		Mandated negotiators	Kaiwhakahaere: Tracey Waitokia info.wlsnt@gmail.com

Attachment 3 – Planned Layout

