

Application 2020.031 Retirement Village Park Avenue Waikanae (Summerset Villages Waikanae Ltd)

To:	Required action:
Hon David Parker, Minister for the Environment	Consider this report prior to making a decision under section 24 of the FTCA

Ministry for the Environment contacts

Position	Name	Cell Phone	1 st Contact
Principal Author	Pip Lee		
Responsible Manager	Sara Clarke	s9(2)(a)	✓
Director	Keita Kohere	s9(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 making a decision under section 24 of the FTCA on whether to refer a project to an expert consenting panel.

Proposed project

3. The applicant proposes to develop a comprehensive care retirement village on land adjacent to State Highway 1 at Waikanae, on the Kāpiti Coast in the Wellington Region.
4. A location map is in Attachment 1.

Essential information

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

Section of the FTCA	Information required	Detail
s17(3)(a)	Relevant iwi authorities	Ātiawa ki Whakarongotai Charitable Trust Te Rūnanga o Toa Rangatira Incorporated Muaūpoko Tribal Authority Incorporated <i>Contact details are in Attachment 2</i>
s17(3)(b)	Relevant Treaty settlement	Ngāti Toa Rangatira Claims Settlement Act 2014
s17(3)(a)	Relevant Treaty settlement entity	Toa Rangatira Trust <i>Contact details are in Attachment 2</i>
s17(3)(c)	Relevant principles & provisions of the Treaty settlement	<i>See below</i>
s17(3)(d)	Negotiation mandates recognised by the Crown	Muaūpoko
s17(3)(d)	Current Treaty settlement negotiations	None
s17(3)(e)	Court orders recognising customary marine title or protected customary rights under the Marine & Coastal Area (Takutai Moana) Act 2011 or another Act	None relevant, and the project does not affect the coastal marine area.

Supporting material

Proposed project area

- The project site lies within a block of mostly undeveloped land covering approximately 25 hectares on the eastern side of the State Highway 1 Expressway at Waikanae. Access to the site is via Park Avenue.
- The site slopes towards the State Highway and is bounded at its southern end by the Waimeha Stream, and by an unnamed tributary of the Ngārara Stream at the northern boundary – see Attachment 3.
- No parts of the proposed project will occur in the coastal marine area, meaning it is unaffected by the provisions of the Marine & Coastal Area (Takutai Moana) Act 2011 (MACAA) or any other Act pertaining to the grant of protected customary rights or customary marine title. You are therefore the sole party required to consider this report.

Iwi and iwi authorities

Information sources

9. 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.
10. 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.
11. To identify the relevant iwi authorities, and to check if there were any groups that represent hapū, for RMA purposes, information was sourced from:
 - a. The Iwi Areas of Interest viewer, an online application managed by the Ministry of Māori Development - Te Puni Kōkiri
 - b. Te Kāhui Māngai (TKM), an online directory of iwi and Māori organisations maintained by the Ministry of Māori Development - Te Puni Kōkiri
 - c. Ministry for the Environment
 - d. Kāpiti District Council and Greater Wellington Regional Council, the relevant local authorities.

Iwi authorities relevant to project

12. The Te Puni Kōkiri websites show that the proposed project lies within the area of interest of four iwi:
 - a. Te Ātiawa ki Whakarongotai
 - b. Ngāti Toa Rangatira
 - c. Muaūpoko
 - d. Ngāti Raukawa ki te Tonga.
13. The respective iwi authorities representing the RMA interests of these iwi are:
 - a. Ātiawa ki Whakarongotai Charitable Trust
 - b. Te Rūnanga o Toa Rangatira Incorporated
 - c. Muaūpoko Tribal Authority Incorporated
 - d. Te Rūnanga o Raukawa Incorporated.
14. Kāpiti District Council advises it recognises Ātiawa ki Whakarongotai Charitable Trust, Te Rūnanga o Toa Rangatira Incorporated and Ngā Hapū o Ōtaki as iwi authorities, but it has identified only Ātiawa ki Whakarongotai Charitable Trust as relevant to the proposed project.
15. We agree that Ngā Hapū o Ōtaki is unlikely to be relevant to the project.
16. We also note that the applicant has engaged with Te Ātiawa ki Whakarongotai and Muaūpoko, and advised that following further discussions with representatives from Ngāti Toa Rangatira and Ngāti Raukawa ki te Tonga:
 - a. Ngāti Toa Rangatira has confirmed that they would defer to Te Ātiawa ki Whakarongotai due to the location of the project.

- b. Ngāti Raukawa ki te Tonga would not have any interest in the project as this iwi authority is concerned only with developments north of Peka Peka Road (which is approximately 5 kilometres north of the project site).
17. On that basis, we consider that the relevant iwi authorities for the project are listed in paragraph 13(a) – 13(c).

Treaty settlements and Treaty settlement entities

18. Information from the first two sources listed in paragraph 11, the [NZ Government Treaty settlements website](#), and the Office for Māori Crown Relations – Te Arawhiti was used to identify relevant Treaty settlements and any associated Treaty settlement entities of relevance to the proposed project.

Relevant Treaty settlement

19. The Treaty settlement with Ngāti Toa Rangatira is the only settlement of relevance to the proposed project area. It applies to a wide area of interest extending over parts of the lower North Island, Cook Strait and the Marlborough Sounds, and much of the northern South Island, as shown in Attachment 4.
20. The Ngāti Toa Rangatira Claims Settlement Act 2014 gave effect to the deed of settlement signed on 7 December 2012. A summary of the settlement, the deed, an amendment deed and associated documents are available on the NZ Government Treaty settlement website.

Relevant Treaty settlement entities

21. Under the FTCA, a treaty settlement entity includes a post-settlement governance entity, which is 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.
22. Toa Rangatira Trust is the relevant post-settlement governance entity for the Ngāti Toa Rangatira Treaty settlement. Te Rūnanga o Toa Rangatira Incorporated is the trustee of this trust.
23. 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.
24. While a strategic advisory committee established for the Kāpiti Island reserves and a joint committee established for the Whitireia Recreation Reserve are also Treaty settlement entities associated with the settlement, they are not relevant to the proposed project.

Relevant principles and provisions of the Ngāti Toa Rangatira Treaty settlement

Crown acknowledgements and apologies

25. Apologies are offered as part of Treaty settlement redress in order for the Crown to atone for historical wrongs, restore its honour, and begin the process of healing.
26. The Crown apology to Ngāti Toa Rangatira 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.

27. 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.
28. Respect for Ngāti Toa Rangatira views on resource management matters and enabling effective involvement of the iwi as a Treaty partner in resource management decision-making within their area of interest are important ways in which the Crown can give effect to these statements and aspirations.

Other redress

29. No specific cultural or commercial redress provided to Ngāti Toa Rangatira under the settlement would be affected by the proposed project. The settlement did not create any new co-governance or co-management processes which would affect decision-making under the RMA for such projects.
30. Importantly however, cultural associations with ancestral lands, water, sites, wāhi tapu, and other taonga – regardless of whether or not they are 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

31. Muāupoko Tribal Authority has a Crown-recognised mandate that identifies an area of interest for settlement negotiations that includes the proposed project area. The Authority's mandate also notes a traditional area, extending from Rangitikei River to Sinclair Head and Turakirae in Wellington. Muāupoko Tribal Authority are not in active Treaty settlement negotiations.
32. Currently there are no other Crown-recognised mandates for negotiation of historical Treaty claims that cover the project area. However, Waikanae is a core part of the area of interest to Te Ātiawa ki Whakarongotai for their future Treaty settlement negotiations. Raukawa ki te Tonga also have interest in the area. A decision of the final make-up involving Raukawa ki te Tonga and its related hapū as a large natural group for future Treaty settlement negotiations is still to be confirmed.

Details in this report affect certain provisions of the FTCA

Notices of referral decision

33. Under section 25 of the FTCA, you must give notice of the decisions made on an application for referral to an expert consenting panel, and the reasons for your decisions, to the applicant and anyone invited to comment under section 21 of the FTCA.
34. You did not invite any iwi authorities or Treaty settlement entities to comment on this application.
35. If you decide to refer this project, the notice of decision 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.

36. Relevant iwi authorities and Treaty settlement entities for the project area are identified in paragraph 5 and Attachment 2.
37. No other iwi authorities or Treaty settlement entities have been identified as having an interest in the application, and there are no relevant joint management agreements or Mana Whakahono ā Rohe to consider.

Expert consenting panel membership

38. If a project is referred to an expert consenting 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.
39. 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 clause 3(6)(a) – 3(6)(e), which include matters unique to any relevant Treaty settlement Act.
40. Relevant iwi authorities for the proposed project are identified in paragraph 5 and Attachment 2.

Panel invitations to comment

41. An expert consenting panel must invite comments on a 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, and
 - 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.
42. The relevant iwi authorities and Treaty settlement entities for the proposed project are listed in paragraph 5 and Attachment 2.
43. The panel may also invite comments from any other person it considers appropriate.
44. We have not identified any further relevant parties.

Attachment 1 - Location



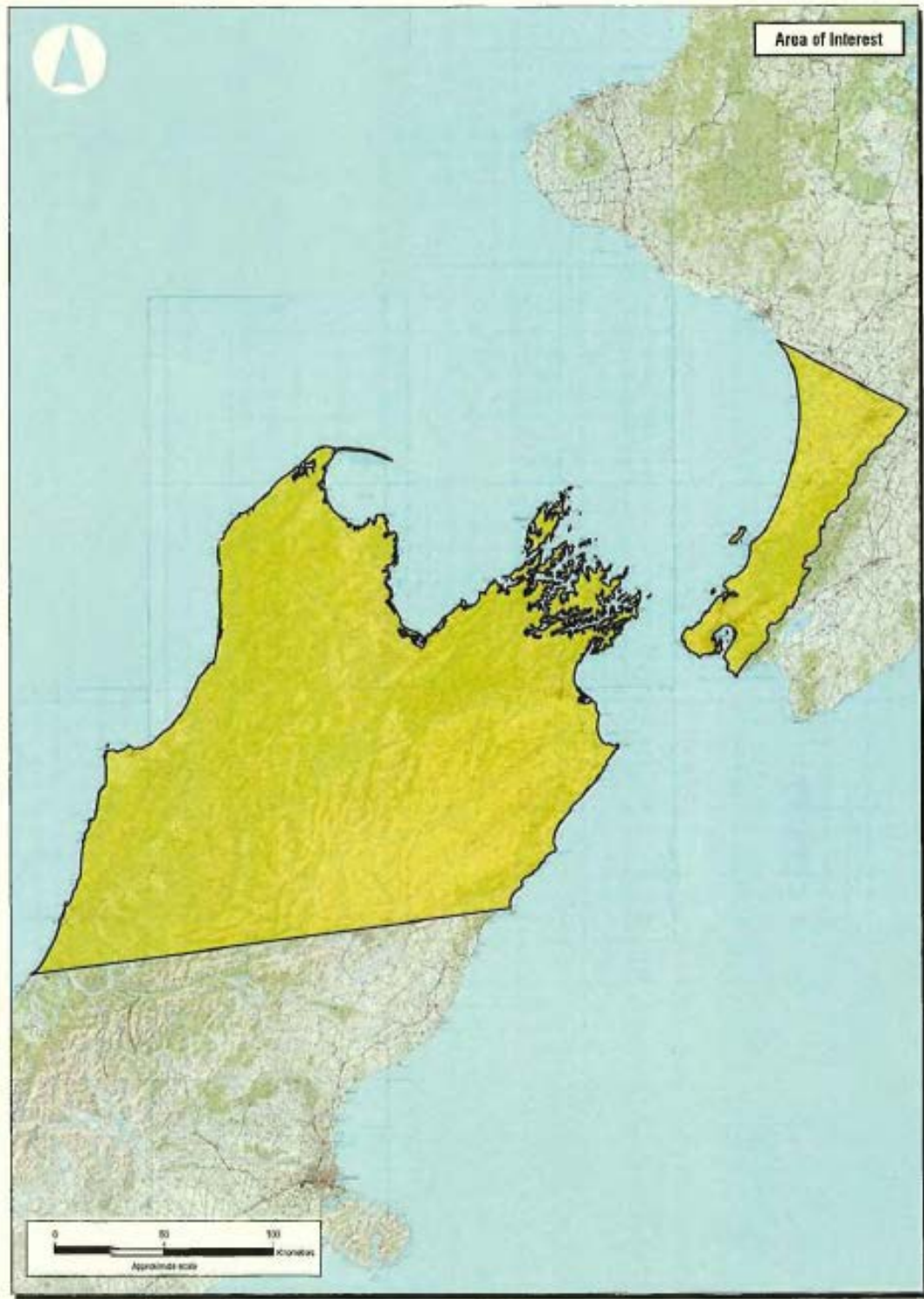
Attachment 2 - Contact information

Iwi/hapū	Representative body	Contact details	RMA Iwi authority	Treaty settlement entity	Other	Contact person	Copies to
Te Ātiawa ki Kāpiti	Ātiawa ki Whakarongotai Charitable Trust	PO Box 509 Waikanae 5250	Represents Te Ātiawa ki Whakarongotai as an iwi authority for RMA purposes	Not settled		Chair: Andre Baker admin@teatiawakikipiti.co.nz	
Muaūpoko	Muaūpoko Tribal Authority Incorporated	PO Box 1080 Levin 5510	Represents Muaūpoko as an iwi authority for RMA purposes	Not settled		CEO: Di Rump admin@muaupoko.iwi.nz	
Ngāti Toa Rangatira	Te Runanga o Toa Rangatira Inc	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 s9(2)(a)	RMA Contact: Naomi Solomon s9(2)(a)
	Toa Rangatira Trust			Post-settlement governance entity under Ngāti Toa Rangatira Claims Settlement Act 2014			

Attachment 3 – Waterways adjacent to project site



Attachment 4 – Ngāti Toa Rangatira Area of Interest



Source: Deed of Settlement of Historical Claims between Ngāti Toa Rangatira and Trustee of the Toa Rangatira Trust and the Crown, dated 7 December 2012: Attachments - Pt 1