

Report on Section 17 Covid-19 Recovery (Fast-track Consenting) Act 2020 requirements

Application 2020.005 – The Vines Affordable Subdivision (J & A Mudgway)

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

Contacts

Position	Name	Organisation	Cell phone	1 st contact
Principal Author	Pip Lee	Ministry for the Environment		
Responsible Manager	Sara Clarke	Ministry for the Environment	s9(2)(a)	✓
Director	Liz Moncrieff	Ministry for the Environment	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 Act).
2. To satisfy obligations under section 6 of the Act, you must consider this report before making a decision under section 24 of the Act on whether to refer a project to an expert consenting panel.

Proposed project

3. The applicants are seeking to subdivide the proposed project site at Hope, on the Waimea Plains near Nelson, into 48 residential allotments of varying sizes, as well as roads, a recreation reserve and a walkway reserve.
4. The project aims to provide for development of affordable homes for first home buyers and those with modest funds.
5. It includes land use consent for dwellings and associated servicing infrastructure only; building consents and house construction will be the responsibility of those who purchase the sections.
6. The subdivision will be reticulated for sewer and claims to have a low impact design for stormwater management.

Essential information

7. The following information is required under section 17(3) of the Act for the proposed project area.

Section of the Act	Information required	Detail
s17(3)(a)	Relevant iwi authorities	Ngāti Apa ki Te Rā Tō Charitable Trust Te Runanga o Ngāti Kuia Trust Rangitāne o Wairau Settlement Trust Te Pātaka a Ngāti Koata Ngāti Rārua Settlement Trust Ngāti Tama ki Te Waipounamu Trust Te Atiawa o Te Waka-a-Māui Trust Te Rūnanga o Toa Rangatira Inc. <i>Contact details are in Attachment 1</i>
s17(3)(b)	Relevant Treaty settlements	Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014, Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014, and Ngāti Toa Rangatira Claims Settlement Act 2014
s17(3)(a)	Relevant Treaty settlement entities	Ngāti Apa ki Te Rā Tō Post Settlement Trust and Te Runanga o Ngāti Kuia Trust Rangitāne o Wairau Settlement Trust Te Pātaka a Ngāti Koata Ngāti Rārua Settlement Trust Ngāti Tama ki Te Waipounamu Trust Te Atiawa o Te Waka-a-Māui Trust Te Rūnanga o Toa Rangatira Inc. <i>Contact details are in Attachment 1</i>
s17(3)(c)	Relevant principles & provisions of the Treaty settlements	<i>See below</i>
s17(3)(d)	Negotiation mandates recognised by the Crown	None
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	None, and the project does not affect the coastal marine area.

Supporting material

Proposed project area

8. The project site is approximately 3.7 ha in area and is located at 115 Main Rd (State Highway 6), Hope. It lies approximately 1.5 km southwest of the town of Richmond, in the Tasman District.
9. None of the project affects the coastal marine area, meaning:
 - a. it is unaffected by the provisions of the Marine & Coastal Area (Takutai Moana) Act 2011 (MACAA),
 - b. there are thus no court orders recognising customary marine title or protected customary rights under MACAA of relevance to consider, and
 - c. the Minister for the Environment is the sole party required to consider this report.

Iwi and iwi authorities

Information sources

10. Under section 7(1) of the Act, a relevant iwi authority means an iwi authority whose area of interest includes the area in which a project will occur. The Act does not define iwi authority, so under section 7(2) of the Act, it has the same meaning as in the Resource Management Act 1991 (RMA).
11. Therefore, iwi authority means the authority which represents an iwi and which is recognised by that iwi as having authority to do so.
12. Information sourced from:
 - a. Te Kāhui Māngai (TKM), an online directory of iwi and Māori organisations maintained by the Ministry of Māori Development - Te Puni Kōkiri,
 - b. Te Arawhiti,
 - c. Ministry for the Environment, and
 - d. the relevant local authority (Tasman District Council),has been used to identify:
 - a. the relevant mandated bodies recognised by the Crown for Treaty of Waitangi settlement purposes, including Treaty negotiations and post-settlement governance entities, and
 - b. the relevant iwi authorities, and any groups that represent hapū, for RMA purposes.

Iwi authorities in Te Tau Ihu

13. There are 8 iwi and 8 corresponding iwi authorities which have overlapping areas of interest in the northern region of the South Island/Te Waipounamu, which is known as Te Tau Ihu o Te Waka-a-Māui (the prow of Māui's canoe):
 - a. Ngāti Apa ki te Rā Tō, represented by Ngāti Apa ki te Rā Tō Charitable Trust,
 - b. Ngāti Kuia, represented by Te Runanga o Ngāti Kuia Trust,
 - c. Rangitāne o Wairau, represented by Rangitāne o Wairau Settlement Trust,

- d. Ngāti Koata, represented by Te Pātaka a Ngāti Koata,
- e. Ngāti Rārua, represented by Ngāti Rārua Settlement Trust,
- f. Ngāti Tama ki Te Tau Ihu, represented by Ngāti Tama ki Te Waipounamu Trust,
- g. Te Ātiawa o Te Waka-a-Māui, represented by Te Ātiawa o Te Waka-a-Māui Trust, and
- h. Ngāti Toa Rangatira, represented by Te Runanga o Toa Rangatira Inc.

Treaty settlements and Treaty settlement entities

- 14. Eight Treaty settlements, outlined in individual deeds of settlement with each of the 8 iwi named above, are relevant to the proposed project area.
- 15. Legislation to enact these settlements is contained in 3 Acts:
 - a. Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014,
 - b. Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014, and
 - c. Ngāti Toa Rangatira Claims Settlement Act 2014
- 16. Under the Act, a Treaty settlement entity includes a post-settlement governance entity established to receive Treaty settlement redress.
- 17. The iwi authorities listed in paragraphs 17b - 17h above are also the post-settlement governance entities for their corresponding iwi.
- 18. For Ngāti Apa ki te Rā Tō, the post-settlement governance entity is the Ngāti Apa ki Te Rā Tō Post-Settlement Trust.
- 19. A Treaty settlement entity is also defined for the purposes of the Act as including a board, trust, committee, authority, or other body, recognised in, or established under a Treaty settlement Act. The three Te Tau Ihu Treaty settlement Acts established a River & Freshwater Advisory Committee, to enable iwi input into RMA planning and decision making in relation to the management of rivers and fresh water under the RMA by Marlborough District Council, Nelson City Council and Tasman District Council.
- 20. The Tasman District Council advises that to date, apart from some initial meetings, iwi appear not to be actively operating this group.

Relevant principles and provisions in the Te Tau Ihu Treaty settlements

Crown apologies and acknowledgements

- 21. Apologies are offered as part of settlements in order for the Crown to atone for historical wrongs, restore its honour, and begin the process of healing.
- 22. In its apologies to Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau the Crown acknowledged a long-standing failure to appropriately acknowledge the mana and rangatiratanga of each of the 3 iwi.
- 23. In its apologies to Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui the Crown acknowledged that it had failed to properly respect the rangatiratanga of each iwi, which had undermined social and traditional structures, and autonomy, and ability of iwi to exercise customary rights and responsibilities.

24. The Crown apology to Ngāti Toa Rangatira also expressed 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, and their capacity for economic and social development and physical, cultural and spiritual well-being.
25. An intention of the settlements is mutually acknowledged as to enhance the ongoing relationship between the iwi and the Crown in terms of the Treaty of Waitangi, its principles, and otherwise.
26. Respect for both the individual views of each iwi on resource management matters and their rights as iwi authorities and settlement entities to be involved in the expert consenting panel processes and decision-making, are important ways in which the Crown can give effect to these acknowledgements, and uphold its relationship with each iwi.

No redress is affected by the proposed project

27. The settlements did not create any new co-governance or co-management processes which would affect decision-making under the RMA for this application.
28. The River and Freshwater Advisory Committee which is provided for in the settlements would be able to comment on resource consent applications under usual RMA processes if both the Committee and the relevant local authority were to agree in writing. While an expert consenting panel could invite the Committee to provide comment on the application, we have been advised that this Committee is not currently active.
29. No areas covered by a statutory acknowledgement in the settlements would be directly affected by the proposed project.
30. Importantly however, cultural associations with ancestral lands, water, sites, wāhi tapu, and other taonga – regardless of whether or not they are specifically identified in a Treaty settlement or affected by a statutory acknowledgement - 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.
31. The contacts listed in Attachment 1 would be best placed in the first instance to advise on any such matters pertaining to the land and water resources of the Waimea River Plains, where the project area is located.

Current negotiation mandates and settlement negotiations

32. 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 area.

Details in this report affect certain provisions of the Act

Notices of decision

33. Under section 25 of the Act, the Minister must give notice of the decisions made on an application for referral, and the reasons for them, to the applicant and anyone invited to comment under section 21 of the Act.
34. No iwi authorities or Treaty settlement entities were invited under section 21(3) to comment on this application.

35. If the decision is made to refer this project to an expert consenting panel, the notices of decision and reasons must also 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 that the Minister considers have an interest in the matter, and
 - c. any group that is or party to either a joint management agreement or Mana Whakahono a Rohe under the RMA that relates to the project area.
36. The relevant iwi authorities and Treaty settlement entities for this application are listed above and contact details are in Attachment 1.
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 a 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 Act.
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. In the case of the proposed project, the relevant iwi authorities for panel nominations are identified in paragraph 13 above and in Attachment 1.

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 Act. 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 parties for this application are identified above and in Attachment 1.
43. The panel may also invite comments from any other person it considers appropriate. For this application, no additional relevant iwi or Māori groups have been identified.

Attachment 1: Contact information

Entity	Description	Contact person	Copies to	Contact details
Ngāti Apa ki Te Rā Tō Charitable Trust	Represents Ngāti Apa as an iwi authority for RMA purposes	General Manager: Simon Karipa gm@ngatiapakiterato.iwi.nz	RMA Contact: Julia Eason taiao@ngatiapakiterato.iwi.nz	PO Box 708, Blenheim 7240 Phone: s9(2)(a) office@ngatiapakiterato.iwi.nz
Ngāti Apa ki Te Rā Tō Post-Settlement Trust	Post-settlement governance entity for Ngāti Apa ki e Rā Tō			
Te Runanga o Ngāti Kuia Trust	The post-settlement governance entity for Ngāti Kuia & represents the iwi as an iwi authority for RMA purposes	General Manager: Dave Johnston	RMA Contact: Julia Eason	PO Box 968, Nelson 7040 Phone: s9(2)(a) tari@ngatikuia.iwi.nz
Rangitāne o Wairau Settlement Trust	The post-settlement governance entity for Rangitāne o Wairau and represents the iwi as an iwi authority for RMA purposes	General Manager: Nicholas Chin manager@rangitane.org.nz		PO Box 883, Blenheim 7240 Phone: s9(2)(a) admin@rangitane.org.nz
Te Pātaka a Ngāti Koata	The post-settlement governance entity for Ngāti Koata and represents the iwi as an iwi authority for RMA purposes	General Manager: Justin Carter	RMA Contact: Alice Woodward s9(2)(a)	PO Box 1659, Nelson 7040 Phone: s9(2)(a) pa@ngatikoata.com
Ngāti Rārua Settlement Trust	The post-settlement governance entity for Ngāti Rārua and represents the iwi as an iwi authority for RMA purposes	Pouwhakahaere (Chief Executive Officer): Shane Graham		PO Box 1026, Blenheim 7240 Phone: s9(2)(a) admin@ngatiraru.co.nz
Ngāti Tama ki Te Waipounamu Trust	The post-settlement governance entity for Ngāti Tama ki Te Tau Ihu and represents the iwi as an iwi authority for RMA purposes	General Manager: Jaqui Ngawaka	RMA Contact: Kura Stafford rma@ngati-tama.iwi.nz	PO Box 914, Nelson 7040 Phone: s9(2)(a) s9(2)(a)
Te Atiawa o Te Waka-a-Māui Trust	The post-settlement governance entity for Te Ātiawa o Te Waka-a-	CEO: Richardt Prosch ceo@teatiawatrust.co.nz	Kaitiaki o te Taiao Manager: Sylvie Heard	PO Box 340, Picton 7250

	Māui and represents the iwi as an iwi authority for RMA purposes		taiao@teatiawatrust.co.nz	Phone: s9(2)(a) / 0800 284 292 office@teatiawatrust.co.nz
Te Runanga o Toa Rangatira Inc	The post-settlement governance entity for Ngāti Toa Rangatira and represents the iwi as an iwi authority for RMA purposes	CEO: Helmut Modlik s9(2)(a)	RMA Contact: Naomi Solomon s9(2)(a)	PO Box 50355, Porirua 5240 Phone: s9(2)(a) runanga@ngatittoa.iwi.nz