

## FTA#313: Application for listed project under the Fast-track Approvals Bill – Beachlands South Project for Schedule 2A

Date submitted to secretariat:	9 July 2024
Security level:	In-Confidence
To:	David TAPSELL, Chair – Fast-track Projects Advisory Group

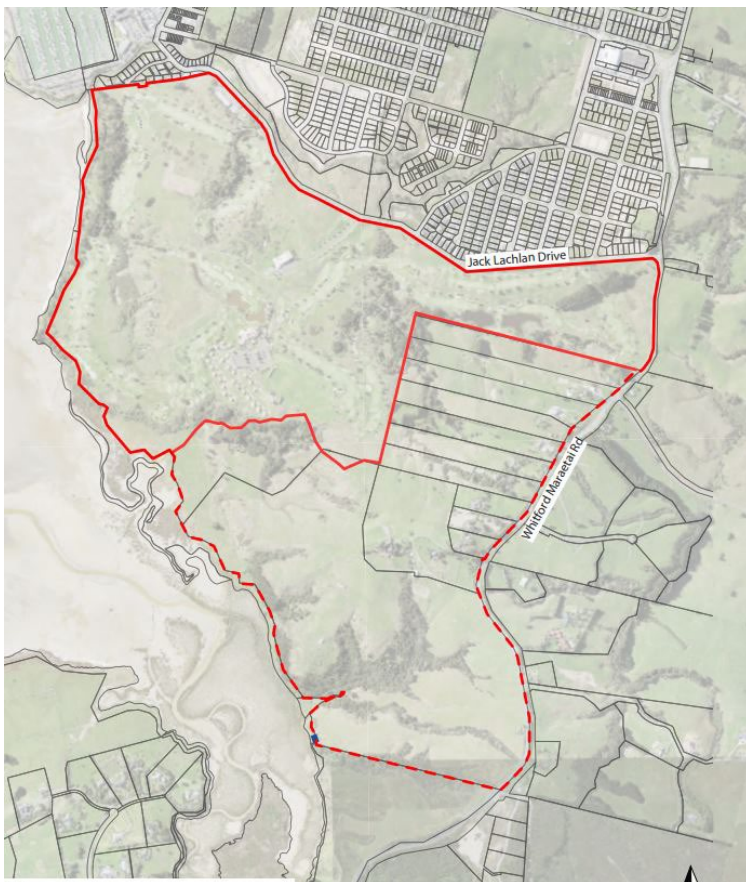
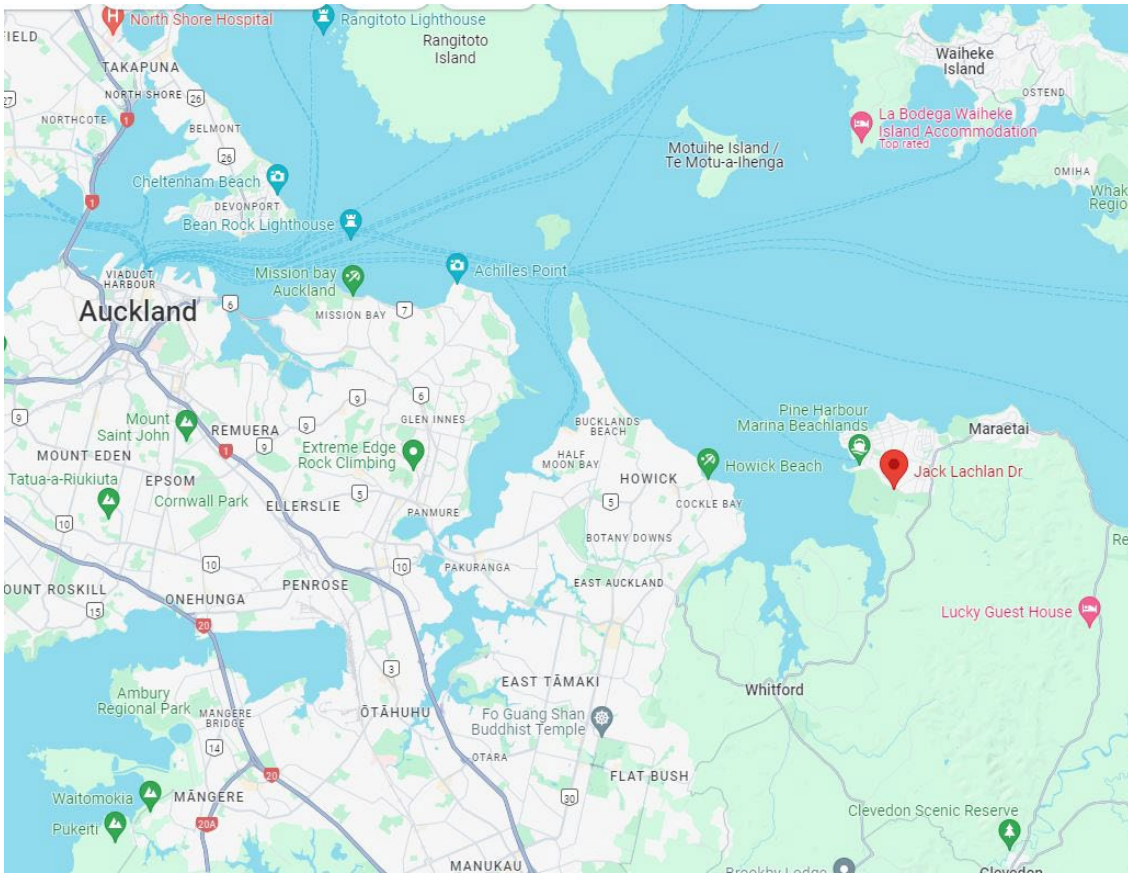
Number of attachments: 1	Attachments: 1. Application documents for Beachlands South Project
--------------------------	---

Applicant	Sector	Region	Identified in a priority/strategy?
Beachlands South Limited Partnership	Residential Mixed-Use	Auckland	Yes

### Ministry for the Environment contacts

Position	Name	Mobile	1 <sup>st</sup> contact
Principal Authors	Max Gander-Cooper, Anna Galvin		
Manager	Stephanie Frame	s 9(2)(a)	✓
Director	Ilana Miller	s 9(2)(a)	

## Project location




## Key messages

---

1. The project is to construct approximately 2,700 homes; two schools; commercial activities providing over 2,000 jobs; 88ha of protected ecological restoration area; extensive walking and cycling networks; and community facilities in Beachlands, Auckland.
2. The project will require resource consents under the Resource Management Act 1991 (RMA); approvals under the Wildlife Act 1953; approvals under the Reserves Act 1977 and archaeological authorities under the Heritage New Zealand Pouhere Taonga Act 2014.
3. The applicant is the registered legal land owner of the project site.
4. We have undertaken an initial (Stage 1) analysis of the application, and this is provided in Table A.
5. We consider the applicant has provided sufficient information to consider the project for inclusion on Schedule 2A (although we note it could still be included on Schedule 2B based on the information provided).
6. The project does not trigger the ineligibility criteria in clause 18 of the Fast-track Approvals Bill (the Bill).
7. Advice on PSGE development priorities and Māori development is provided in Table A. Table A also includes the relevant PSGEs or Māori groups and the settlement mechanisms, that will/may be impacted by the project and whether the project is low, medium or high impact on Treaty settlement/s and other relevant arrangements. Appendix 1 provides further detail on how this advice should be considered and our approach to analysis.

## Signature

---

A handwritten signature in blue ink, appearing to read 'S. Frame', with a stylized flourish at the end.

Stephanie Frame  
**Manager – Listed Projects**

**Table A: Stage 1 initial assessment of project eligibility and Treaty settlement assessment and advice<sup>1</sup>**

Project details	Project description	Approvals sought	Consultation undertaken	Does the project trigger the ineligibility criteria [clause 18]?				Discretionary ground to decline [clause 21(2)]	Eligibility [clause 17]	
				Treaty settlement land, Māori customary land, customary marine title, customary rights, aquaculture settlement area, or prevented by RMA clauses [clauses 18(a-e, g)]	Access arrangement under CMA where a permit can't be granted, or is listed in items 1-11, 14 [clauses 18(f,h)]	Activity on a national reserve under Reserves Act which requires approval under that Act [clause 18(i)]	Prohibited activity under EEZA or regulations under that Act, decommissioning-related activities, offshore renewable energy progressing ahead of permitting legislation [clause 18(j-l)]		Is the project eligible [clause 17(2)]	Would the project have significant regional or national benefits [clause 17(3)]
<b>High level summary</b>			Y	N	N	N	N			
<p><b>Schedule requested</b> 2A</p> <p><b>Project Name</b> Beachlands South Project</p> <p><b>Applicant</b> Beachlands South Limited Partnership</p> <p><b>Company director/s</b> Matthew Harker David Kennedy Brett Russell Katie Sherning</p> <p><b>Location</b> 110 Jack Lachlan Drive, Beachlands, Auckland</p> <p><b>Land Status</b> The applicant is the registered legal land owner of 110 Jack Lachlan Drive.</p>	<p>The project is to construct approximately 2,700 homes; two schools; commercial activities providing over 2,000 jobs; 88ha of protected ecological restoration area; extensive walking and cycling networks; and community facilities in Beachlands, Auckland.</p>	<p>The applicant seeks approval under the:</p> <ul style="list-style-type: none"> <li>• Resource Management Act 1991</li> <li>• Heritage New Zealand Pouhere Taonga Act 2014</li> <li>• Wildlife Act 1953</li> <li>• Reserves Act 1977</li> <li>• Crown Minerals Act 1991</li> <li>• Public Works Act 1981.</li> </ul>	<p>The applicant has consulted with the following groups (noting this is in relation to a recent plan change to rezone the site, rather than this Fast-track application):</p> <ul style="list-style-type: none"> <li>• Auckland Council</li> <li>• Auckland Transport</li> <li>• Franklin Local Board</li> <li>• Ministry of Education</li> <li>• Ngāti Maru</li> <li>• Ngāti Pāoa Iwi Trust</li> <li>• Ngāti Pāoa</li> <li>• Ngāti Tamatera</li> <li>• Ngāti Te Ata</li> <li>• Ngāti Whanaunga</li> <li>• Te Ahiwaru Waiohau</li> <li>• Te Ākitai Waiohau</li> <li>• Waikato Tainui</li> <li>• Ngāi Tai ki Tāmaki (we note they were the only iwi group to respond).</li> </ul>	No	No	No	No	<p>The project, or any part of it, is inconsistent with a relevant Treaty settlement, the NHNP Act, the Marine and Coastal Area (Takutai Moana) Act 2011, a Mana Whakahono ā Rohe, or a joint management agreement.</p> <p>No – The applicant is a partnership including Ngāi Tai ki Tāmaki.</p> <p>It is more appropriate to deal with the application under another Act.</p> <p>No – The project site has recently been subject to a plan change to rezone the site to enable development, so we consider the project could be assessed by an expert panel with the benefit of a full application.</p> <p>The project may have significant adverse effects on the environment.</p>	<p>Whether access to the fast-track process will enable the project to be processed in a more timely and cost-efficient way than under normal processes</p> <p>Yes – The applicant states the project would involve a significant number of resource consents and approvals under other Acts, that are assessed under differing legislation by differing authorities. It takes a significant amount of time to obtain all of the necessary approvals required for a project of this scale.</p> <p>The standard resource consent process of a project of this scale is lengthy and will add significant time delays that the Fast-track process can improve.</p> <p>The standard resource consent process will add significant cost that the Fast-track process can substantially reduce.</p> <p>The impact referring this project will have</p>	<p>The project has been identified as a priority project in a central government, local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy) or central government infrastructure priority list.</p> <p>Yes – The applicant states the following elements of the project have been identified as priorities in local government documents:</p> <ul style="list-style-type: none"> <li>• Ferry Service Upgrades (Regional Public Transport Plan 2023 - 2031)</li> <li>• Bus service network improvements from Beachlands (Regional Public Transport Plan 2023 - 2031)</li> <li>• Roading upgrades (AT Designations as identified in the Auckland Unitary Plan).</li> </ul> <p>The project will deliver regionally or nationally significant infrastructure.</p> <p>Yes – The applicant considers the project will deliver regionally significant infrastructure because some infrastructure that the project will support have been signaled as being significant by AT by way of designations (Whitford Bypass – Designation number 1807 which will have significant benefits to the wider community) and the ferry service upgrade (Regional Public Transport Plan 2023-2031), and the applicant will help deliver them as transportation triggers in the underlying planning rules are met.</p> <p>The project will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment.</p> <p>Yes – The project will deliver approximately 2700 new dwellings.</p> <p>The project will deliver significant economic benefits.</p> <p>Yes – The project has approximately 32 hectares of commercially zoned land. It is estimated that the employment zoned land at Beachlands South could reasonably realise</p>

<sup>1</sup> **Disclaimer:** Given time and scope constraints, the initial assessment is solely based on information provided by applicants. There may be additional relevant information which has not been provided to MfE.

								<p><b>No</b> – The application includes a summary of adverse effects and has not identified any as significant.</p> <p><b>The applicant has a poor compliance history under the relevant legislation.</b></p> <p><b>No</b> – The applicant has not been subject to any compliance or enforcement action that we are aware of.</p> <p><b>The project involves an activity that would occur on land that the Minister for Treaty of Waitangi Negotiations considers necessary for Treaty settlement purposes.</b></p> <p><b>No</b> – The project will occur on private land which is not available for Treaty settlement purposes.</p> <p><b>The project includes an activity that is a prohibited activity under the RMA.</b></p> <p><b>No</b> – The project does not include any prohibited activities that we are aware of.</p>	<p><b>on the efficient operation of the fast-track process.</b></p> <p><b>No</b> – This project is in the unique position of having very recently had a plan change approved. This involved a significant amount of work and a comprehensive assessment of the potential adverse and positive effects by 35 expert witnesses for the applicant. Independent Hearing Commissioners considered this material and granted Plan Change 88, confirming that it is appropriate and delivers significant positive effects.</p> <p><b>Whether the application contains sufficient information to inform the referral decision.</b></p> <p><b>Yes</b> – We consider the applicant has provided sufficient information to enable you to consider it for inclusion in Schedule 2A.</p>	<p>over 2,000 jobs. This level of employment would increase the household to employment ratio in Beachlands and internalise more employment locally.</p> <p>Overall, the application states that the project will deliver significant regional economic benefits and contribute positively to the regional economy and provide a direct economic injection of \$1.7 billion over 20 years and creation of approximately 13,500 FTE jobs across a 20-year period.</p> <p><b>The project will support primary industries, including aquaculture.</b></p> <p><b>No</b></p> <p><b>The project will support development of natural resources, including minerals and petroleum.</b></p> <p><b>No</b></p> <p><b>The project will support climate change mitigation, including the reduction or removal of greenhouse gas emissions.</b></p> <p><b>Yes</b> – The Independent Hearing Commissioners on Plan Change 88 confirmed that the project supports reductions in GHG emissions.</p> <p><b>The project will support adaptation, resilience, and recovery from natural hazards.</b></p> <p><b>Yes</b> – The application states that the project is resilient to coastal hazards and will be designed to be resilient to flood hazards.</p> <p><b>The project will address significant environmental issues.</b></p> <p><b>Yes</b> – The applicant states the project will mitigate existing silt-laden runoff into the CMA through riparian restoration planting and protection (the “EPAN” will be protected by way of a covenant which will cover approximately 88 hectares of land overall within the application site and adjoining Future Urban Zoned land).</p> <p><b>The project is consistent with local or regional planning documents, including spatial strategies.</b></p> <p><b>Yes</b> – The applicant considers the project is consistent with the Auckland Unitary Plan.</p>
--	--	--	--	--	--	--	--	--	---	---

**PSGE Settlement Priorities and Māori Development assessment –**

*This table provides an overview. In the time available, it has not been possible to undertake a detailed review of all Treaty settlement and related matters, or to engage with the relevant PSGE, iwi or Māori groups in relation to the potential impacts of the project. If the project does progress through the fast-track process, it will be important this more detailed and comprehensive analysis and engagement is undertaken (there are some mechanisms in the proposed legislation, such as the clause 13 report (which will apply to Schedule 2 Part B (but not Part A) applications) and the requirements to invite comment from these groups, which are intended to address these matters).*

Advice on Māori development and PSGE settlement priorities includes information relating to:

- where projects align explicitly with PSGE or iwi strategic objectives/vision/other strategic documents.
- where projects contribute towards addressing historical or systemic inequities faced by Māori. This would be undertaken through an equity assessment; and/or are being led by or in partnership with a Māori entity or business;
- to relevant provisions in Treaty settlements, Joint Management Agreements outside of settlement; Mana Whakahono ā Rohe; Iwi Environment Management plans; implications for groups yet to settle their historical Treaty of Waitangi claims; and implications arising under the Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

<b>Ineligible projects - based on the considerations at cl18(a–e) of the Fast Track Approvals Bill (version as at introduction)</b>	The project does not appear to be ineligible according to the information provided in the application.
---	--

**Affected Māori group/s**

The applicant has identified the following groups with interests in the project area:

- Ngāti Maru
- Ngāti Pāoa
- Ngāti Pāoa Settlement Trust
- Ngāti Tamatera
- Ngāti Te Ata
- Ngāti Whanaunga
- Te Ahiwaru Waiohua
- Te Ākitai Waiohua
- Waikato Tainui
- Ngāi Tai ki Tāmaki

The applicant has also identified 16 applicant groups under the Marine and Coastal Area (Takutai Moana) Act 2016 in the project area (see relevant section below).

Ngāti Maru

Note that an area of interest map is not included in the version of Ngāti Maru's deed of settlement currently available to us and so officials rely on the information provided by Te Kāhui Māngai: [TKM | Iwi | Ngāti Maru | Te Kāhui Māngai](#)) of which includes the project area in Ngāti Maru's area of interest. Please note the settlement legislation for Ngāti Maru has not yet been enacted.

Ngāti Paoa

Information from Te Kāhui Māngai confirms the proposed project location as being within the area of interest for Ngāti Paoa as agreed in the deed of settlement signed between the Crown and Ngāti Paoa ([AOI - Ngāti Paoa](#)). Please note the settlement legislation for Ngāti Paoa has not yet been enacted.

Ngāti Tamaterā

Note that an area of interest map is not included in the version of Ngāti Tamaterā's Deed of Settlement currently available to us and so officials rely on the information provided by Te Kāhui Māngai : ([Ngāti Tamatera Mandate Strategy](#)) of which includes the project area in Ngāti Tamaterā's area of interest. Please note the settlement legislation for Ngāti Tamaterā has not yet been enacted.

Ngāti Te Ata Waiohua

Information from Te Arawhiti confirms the proposed project location as being within the area of interest for Ngāti Te Ata as agreed in the terms of negotiation signed between the Crown and Ngāti Te Ata Waiohua ([Ngāti Te Ata 2010 Terms of Negotiation](#)).

Ngaati Whanaunga

Information from Te Kāhui Māngai confirms the proposed project location as being within the area of interest for Ngaati Whanaunga as agreed in the initialled deeds of settlement between Ngaati Whanaunga and the Crown ([AOI - Ngaati Whanaunga](#)). Please note the settlement legislation for Ngaati Whanaunga has not yet been enacted.

Te Ahiwaru Waiohua

Note that Auckland Council mana whenua database indicates that the area of interest for Te Ahiwaru Waiohua includes the project site. We do not have access to any specific information on the boundaries and extent of this area of interest to enable us to independently verify this.

Te Ākitai Waiohua

Information from Te Kāhui Māngai confirms the proposed project location as being within the area of interest for Te Ākitai Waiohua as agreed in the deed of settlement signed between the Crown and Te Ākitai Waiohua ([AOI - Te Ākitai Waiohua](#)). Please note the settlement legislation for Te Ākitai Waiohua has not yet been enacted.

Waikato-Tainui

Waikato Tainui are yet to settle their remaining historical Treaty of Waitangi claims and so their area of interest is not confirmed through a Treaty settlement. There is a proposed area of interest included in their mandate document and the proposed project location is within this area: [area of interest for the remaining historical Treaty of Waitangi claims of Waikato-Tainui](#). Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.

Ngāi Tai ki Tāmaki

Information from Te Kāhui Māngai confirms the proposed project location as being within the area of interest for Ngāi Tai ki Tāmaki as agreed in the deed of settlement signed between the Crown and Ngāi Tai Tāmaki ([AOI - Ngāi Tai ki Tāmaki](#)).

Note until settlements are recognised in legislation, an area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.

In addition to the groups identified by the applicant, we have also identified the following additional groups as potentially having interests in the proposed project location:

- Ngāti Hako
- Ngāti Tamaoho
- Te Patukirikiri

	<ul style="list-style-type: none"> <li>• Ngāti Koheriki</li> <li>• Marutūāhu Iwi Collective</li> <li>• Pare Hauraki Collective</li> </ul> <p><u>Ngāti Hako</u></p> <p>Ngāti Hako are yet-to-settle their remaining historical Treaty of Waitangi claims and so their area of interest of the is not confirmed through a Treaty settlement. There is a proposed area of interest included in their mandate document and the proposed project location is within this area: <a href="#">Ngati Hako Mandate Strategy</a>. Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.</p> <p><u>Ngāti Tamaoho</u></p> <p>Information from Te Kāhui Māngai confirms the proposed project location as being within the area of interest for Ngāti Tamaoho as agreed in the deed of settlement signed between the Crown and Ngāti Tamaoho (<a href="#">AOI - Ngāti Tamaoho</a>).</p> <p><u>Te Patukirikiri</u></p> <p>Information from Te Kāhui Māngai confirms the proposed project location as being within the area of interest for Te Patukirikiri as agreed in the deed of settlement signed between The Crown and Te Patukirikiri on 7 October 2018 (not yet enacted): <a href="#">AOI</a></p> <p><u>Ngāti Koheriki</u></p> <p>Ngāti Koheriki are yet-to-settle their historical Treaty of Waitangi claims and so their area of interest is not confirmed through a Treaty settlement. <b>Note:</b> the Crown recognised the Treaty settlement negotiation mandate of Ngāti Koheriki Claims Committee in June 2013. Negotiations have yet to commence, but Crown-recognition of the mandate has not been withdrawn. It appears that Ngāti Koheriki has yet to establish a post-settlement governance entity to receive redress under their settlement. However, for completeness they have been included in the list of groups with potential interests in the project area.</p> <p><u>Marutūāhu Iwi Collective</u></p> <p>Marutūāhu Iwi Collective includes the 5 iwi known collectively as the Marutūāhu Iwi, being: Ngāti Maru, Ngāti Paoa, Ngāti Tamaterā, Ngaati Whanaunga and Te Patukirikiri. The Marutūāhu Iwi Collective redress area in the Deed of Settlement that was initialled on 27 July 2018 appears to include the proposed project site - <a href="#">Marutūāhu Collective Redress Deed</a>.</p> <p><u>Pare Hauraki Collective</u></p> <p>The project site appears to be within the collective area of interest of the Deed provides shared redress for the collective interests of the 12 Iwi of Hauraki in the Hauraki region. Of the collective, the iwi whose areas of interest include the project site are Hako, Ngāi Tai ki Tāmaki, Ngāti Mary, Ngāti Paoa, Ngāti Tamaterā, and Ngāti Whanaunga. The Iwi of Hauraki and the Crown signed a Collective Redress Deed on 2 August 2018: <a href="#">Pare Hauraki Collective Redress</a>.</p>
<p><b>Has the applicant consulted with those Māori groups?</b></p>	<p>The applicant states that, “Ngāi Tai forms part of Ngāi Tai Hāpai Limited Development Partnership, which is one of the three partners in BSLP, the applicant” and that Ngāi Tai “have been closely involved in the project and master planning”. The applicant states that Ngāi Tai are in full support of the project. The consultation summary report provided with the application further states that,</p> <p>“Ngāi Tai ki Tāmaki have a strong historical connection to the area and as such have been engaged with since the project’s inception. A number of hui with Ngāi Tai ki Tāmaki have been held to date and are summarised as follows:</p> <ul style="list-style-type: none"> <li>• 15 April 2021 – Presentation by BSLP to introduce the site and project, structure plan, project objectives and the proposed open space network.</li> <li>• 20 May 2021 – Presentation by Ngāi Tai ki Tāmaki outlining their area of interest and the Waikōpua Restoration Planting Plan. The indicative expectations of Ngāi Tai ki Tāmaki in relation to the Plan Change were discussed, including those Ngāi Tai values are recognised and implemented. Involvement extends to collaboration and empowerment and that the project reflects their social,cultural and economic aspirations (among others).</li> <li>• 17 June 2021 – Discussions around the Waikōpua inlet, coastal area and coastal walkway. The discussions centred on the health of the estuary and what work needs to be done to restore the Waikōpua inlet. The team walked and drove around the Formosa coastal edge and the path of the Formosa Golf Resort to trace the proposed coastal walkway alignment.</li> <li>• 29 July 2021 – Presentation by BSLP to provide an update on ecology and development of the structure plan, precinct plan, open space and other plans. The ecological field investigations confirmed vegetation across the site was impacted by possum, rabbit, stock and potentially drought. Wetland mapping was undertaken with both man-made constructed wetlands/pond and natural inland wetlands found to be present on the site. Stream Ecological Valuation (SEV) surveys were undertaken, with native fish such as eels, inanga, banded kokopu and bullies found to be present. Most streams were confirmed to be protected through the masterplan development. Several at-risk and threatened coastal and wading bird species were present.</li> <li>• 12 August 2021 – This involved a visit to the pa site and update on the project. An updated Structure Plan was presented, and discussions were held on internal roading plans and cross sections, the updated stormwater strategy and proposed solutions. The attendees walked the pa site, identified midden locations on the north-western cliff edges and banks. Mapping of the pa site was to be undertaken by the project archaeologist.</li> <li>• Following the above, Ngāi Tai ki Tāmaki prepared a Cultural Values Assessment (CVA) in March 2022. Ngāi Tai ki Tāmaki’s CVA is included as Appendix 28 to the Beachlands South Plan Change Prepared by Union Environmental Consultation Summary Report 6 March 2022 application material and a cultural overlay plan was then adapted into the Cultural Landscape Plan included as Precinct Plan 4.”</li> </ul> <p>With regards to the other iwi groups the applicant identifies above, the applicant states they “have engaged with all mana whenua (10 groups) that have a registered interest over land included in the Plan Change area. This engagement specifically requested if any of the iwi groups wish to engage in this project or if they wish to defer to others, noting that Ngai Tai Ki Tamaki have been engaged as development partner for Beachlands South”. This engagement consisted of a letter sent on 2 December 2021. The applicant also states that, “To date, and at the time of preparing this consultation report [i.e. March 2022], no response from iwi groups have been received following this engagement.” No evidence of further engagement with the above groups has been provided.</p>

**Impact/s of the project on Māori development and PSGE settlement priorities and related matters**

**Impacts on PSGE settlement priorities and Māori development**

From the information provided it appears the project is in partnership with at least one Māori entity. The applicant states, “BSLP is a limited partnership between MIB Limited Partnership (comprised of parties associated with Russell Property Group), NZSF Beachlands Limited (a New Zealand Superannuation Fund entity) and Ngāi Tai Hāpai Development Limited Partnership (which includes Ngāi Tai ki Tāmaki and the six (6) iwi partners: Raukawa, Taranaki Iwi, Pare Hauraki (collective), Ngāti Tama (Te Tauihu), Ngāruahine and Ngāti Maru (Taranaki)).”

The applicant further states, “The application site and the wider Beachlands/Maraetai area contains a rich and diverse mana whenua cultural landscape. The Beachlands area is notable for its continued association with Ngāi Tai ki Tāmaki since pre-European times. Ngāi Tai ki Tāmaki have a strong spiritual association with Beachlands which gives its people a sense of meaning and purpose. In special recognition of this continued relationship by mana whenua over Beachlands, Ngāi Tai ki Tāmaki have been engaged as a development partner for Beachlands South along with other Iwi and are formally recognised as the Ngai Tai Hapai Development Limited Partnership. Ngāi Tai ki Tāmaki exercise Mana Whenua and Mana Moana responsibilities at the Kahawairahi – Kauriwakiwhaki (Beachlands area).”

The application does not explicitly detail how the project meets the development aspirations or settlement priorities of the Ngāi Tai ki Tāmaki (or the six iwi partners described above), but we consider that given the project is in partnership with and supported by Ngāi Tai ki Tāmaki, there are likely to be some positive impacts.

In the time available, we have identified the following relevant plans and documents:

- Ngā Tikana o Ngāti te Ata: Tribal Policy Statement 1993
- Ngā Tikanga o Ngaati te Ata: Tribal Policy Statement 1996
- A Ngāti Paoa Perspective on Resource Management: Part 1 1993
- Ngāti Paoa Policy Statement, Resource Management, Part 2 1993
- Ngāti Paoa Protocols for Earthworks – Archaeological Sites, Waahi Tapu, Artefacts and Koiwi
- Ngāti Paoa Resource Management Plan 1996
- Ngāti Paoa Trust Long Term Plan Consultation Draft 2006
- Ngāti Pāoa Interim Regional Policy Statement 2013
- Ngāi Tai Ki Tāmaki Trust Management & Development Plan: Stage One 1994
- Ngāi Tai ki Tāmaki Kaitiaki/Resource Management Principles & Operational Policies 2002
- Waikato Iwi Management Plan 1996
- Waikato-Tainui Iwi Management Plan 2013
- Whakatupuranga Waikato-Tainui 2050
- Whaia Te Mahere Taiao a Hauraki, Hauraki Iwi Environmental Plan 2004
- Hauraki Strategic Blueprint 2012
- Ngāti Tamaterā Environmental Management Plan 2019
- Ngāti Te Ahiwaru Waiohua Environmental Plan 2019

It is not possible to confirm from those documents that the project does or does not align with the strategic priorities of those iwi or Māori groups. A full analysis of the plan would need to be undertaken in conjunction with the relevant iwi before any firm conclusions can be reached. That is a matter to be considered in more detail in subsequent stages if this progresses through the fast-track processes.

**Impact on Treaty settlements and other relevant arrangements**

**Te Akitai Waiohua Deed of Settlement 2020 (signed)**

*Statutory acknowledgements*

This Treaty settlement contains a number of statutory acknowledgements. The project appears to be adjacent to the Coastal Statutory Acknowledgement area for Te Akitai Waiohua.

If the project activity is within or adjacent to, or directly affects, the area of the statutory acknowledgement, the following text applies. Generally, a statutory acknowledgement by the Crown of a 'statement of association' between the iwi and an identified area. A council must have regard to the statutory acknowledgement when deciding whether the iwi is an 'affected person' for the purposes of notification decisions under the Resource Management Act 1991 (the RMA). The same applies to the Environment Court when considering participation in hearings under s274 of the RMA. A council must send summaries of applications for resource consents to the iwi. The PSGE (or any member of the iwi) may, as evidence of the association with a statutory area, cite the statutory acknowledgement in submissions that are made to a consent authority, the Environment Court or the Environmental Protection Authority. The Environment Court must also have regard to a statutory acknowledgement in considering appeals on applications for archaeological authorities within the project area under the Heritage New Zealand Pouhere Taonga Act 2014.

An impact of listing this project under Schedule 2 Part A is that the Ministers will not have to exercise their 'referral discretion' including considering the Treaty settlement impacts through that process, nor will they have the benefit of the clause 13 report. There is a requirement on the expert panel to invite comment from the PSGE on the application (noting this is an automatic right to participate, which is currently discretionary under the statutory acknowledgement). For a Schedule 2 Part B listing, Ministers will have to exercise their 'referral discretion' including considering the Treaty settlement impacts through that process, and they will have the benefit of the clause 13 report. The expert panel will also be required to invite comment from the PSGE on the application (again, noting this is an automatic right to participate, which is currently discretionary under the statutory acknowledgement).

Listing this project, and the fast-track process generally, will not provide equivalent weight to the statutory acknowledgement, which may limit the influence of the iwi compared to the usual consenting regime. For example, under the RMA process, if a PSGE is notified due to the statutory acknowledgement, the PSGE has the right to make a submission, attend a hearing, appeal to the Environment Court, and appeal to the High Court and higher courts. The fast-track process does not provide exactly the same rights to the PSGE (particularly the potential right to make a submission and then participate in a hearing and de novo appeal), but as noted above there are some other enhanced rights of participation.

*Protocols and relationship agreements*

This Treaty settlement contains protocols and relationship agreements with the following agencies that may be relevant to the project site: Ministry for Culture and Heritage (via Whakaatanga Tiaki Taonga), Ministry for Primary Industries, Department of Conservation, Ministry for the Environment and Minister for Energy and Resources.

**Ngāi Tai ki Tāmaki Claims Settlement Act 2018***Statutory Acknowledgement*

This Treaty settlement contains a number of statutory acknowledgements. The proposed project location appears to be adjacent to the coastal statutory acknowledgement area. If so, then the above text on statutory acknowledgements applies. We note that Ngāi Tai ki Tāmaki is listed as a development partner in this project which may mitigate the impact on this coastal statutory acknowledgement. Further, the attached plan change decision provided with this application notes, "Based on the Cultural Values Assessment provided by Ngāi Tai ki Tāmaki and the precinct provisions that recognise and provide for protection of the cultural landscape values within the plan change area, we agree that no issues arise with respect to that legislation [i.e. the statutory acknowledgement area (CMA (OTS-403-128), Hauraki Gulf/Tikapa Moana)]."

*Protocols*

The settlement provides for relationship agreements and protocols with the following agencies that may be relevant to the project site: Department of Conservation, Ministry for the Environment, Ministry for Primary Industries and the Ministry for Culture and Heritage.

*Reserves Act 1977*

The Settlement Act includes obligations in relation to the Reserves Act 1977. This application seeks approvals under the Reserves Act which may be relevant to those settlement obligations (depending on the detail of the application made).

**Ngāti Whanaunga Deed of Settlement 2017 (initialled)***Statutory Acknowledgement*

This Treaty settlement contains a number of statutory acknowledgements. The proposed project location does not appear to be in or adjacent to statutory acknowledgement areas. If the project activity is within or adjacent to, or directly affects, the area of the statutory acknowledgement, the above text applies.

*Protocols and relationship agreements*

The settlement provides for relationship agreements and protocols with the following agencies that may be relevant to the project site: Ministry for Culture and Heritage, Ministry for Primary Industries, Department of Conservation

**Ngāti Maru Deed of Settlement 2017 (initialled)***Statutory Acknowledgement*

This Treaty settlement contains a number of statutory acknowledgements. The proposed project location does not appear to be in or adjacent to statutory acknowledgement areas. If the project activity is within or adjacent to, or directly affects, the area of the statutory acknowledgement, the above text applies.

*Protocols and relationship agreements*

The settlement provides for relationship agreements and protocols with the following agencies that may be relevant to the project site: Ministry for Culture and Heritage, Ministry for Primary Industries, Department of Conservation

**Ngāti Tamaterā Deed of Settlement 2017 (initialled)***Statutory Acknowledgement*

This Treaty settlement contains a number of statutory acknowledgements. The proposed project location does not appear to be in or adjacent to statutory acknowledgement areas. If the project activity is within or adjacent to, or directly affects, the area of the statutory acknowledgement, the above text applies.

*Protocols and relationship agreements*

The settlement provides for relationship agreements and protocols with the following agencies that may be relevant to the project site: Ministry for Culture and Heritage, Ministry for Primary Industries, Department of Conservation

**Ngāti Paoa Deed of Settlement 2021 (signed)***Statutory Acknowledgement*

This Treaty settlement contains a number of statutory acknowledgements. The proposed project location does not appear to be in or adjacent to statutory acknowledgement areas. If the project activity is within or adjacent to, or directly affects, the area of the statutory acknowledgement, the above text applies.

*Protocols and relationship agreements*

The settlement provides for relationship agreements and protocols with the following agencies that may be relevant to the project site: Ministry for Culture and Heritage, Ministry for Primary Industries, Department of Conservation

**Ngāti Tamaoho Deed of Settlement 2017 (signed settlement but not enacted by legislation)***Statutory Acknowledgement*

This Treaty settlement contains a number of statutory acknowledgements. The proposed project location does not appear to be in or adjacent to statutory acknowledgement areas. If the project activity is within or adjacent to, or directly affects, the area of the statutory acknowledgement, the above text applies.

*Protocols and relationship agreements*

The settlement provides for relationship agreements and protocols with the following agencies that may be relevant to the project site: Ministry for Culture and Heritage, Department of Conservation, Ministry for the Environment and Minister for Energy and Resources.

	<p><b>Te Patukirikiri - Deed of Settlement 2018 (signed settlement but not enacted by legislation)</b></p> <p><i>Statutory Acknowledgement</i></p> <p>This Treaty settlement contains a number of statutory acknowledgements. The proposed project location does not appear to be in or adjacent to statutory acknowledgement areas. If the project activity is within or adjacent to, or directly affects, the area of the statutory acknowledgement, the above text applies.</p> <p><i>Protocols and relationship agreements</i></p> <p>The settlement provides for relationship agreements and protocols with the following agencies that may be relevant to the project site: Ministry for Culture and Heritage, Ministry for Primary Industries, Department of Conservation.</p> <p><b>Pare Hauraki Collective Redress Bill</b></p> <p>The Pare Hauraki Collective Redress Bill is currently before Parliament and has its first reading.</p> <p><i>Statutory Acknowledgement</i></p> <p>This Treaty settlement contains a statutory acknowledgement which does not appear to cover or is not adjacent to the project site or directly impacted by the proposed project. The text above in relation to statutory acknowledgements applies here also.</p> <p><i>Other redress</i></p> <p>The Pare Hauraki Collective Treaty settlement arrangements provide for significant redress in relation to RMA, planning and heritage legislation.</p> <p>The mechanisms in the Pare Hauraki Collective Redress Bill include:</p> <ul style="list-style-type: none"> <li>• Provisions for a Pare Hauraki conservation plan and specific conservation management strategy</li> <li>• A decision-making framework in relation to conservation decision-making, with prescribed roles for Pare Hauraki in that decision-making process</li> <li>• Establishment of the Waihou, Piako and Coromandel Catchment Authority</li> <li>• Establishment of the Upper Mangatangi and Mangatawhiri Catchment Authority</li> <li>• Provision for the authorities to prepare catchment plans with powerful statutory effect</li> <li>• Provision for joint management agreements</li> </ul> <p>The Pare Hauraki arrangements have a significant influence over statutory processes including complex interactions with the RMA, conservation and heritage legislation. Any change to the statutory processes for these authorisations (for example, through the fast-track process) could have a significant impact on the operation and integrity of the arrangements.</p> <p><b><u>Mana Whakahono ā Rohe</u></b></p> <p>Mana Whakahono ā Rohe are designed to assist tangata whenua and local authorities to discuss, agree and record how they will work together under the Resource Management Act (RMA). This includes agreeing how tangata whenua will be involved in decision making processes. There is a Mana-Whakahono ā Rohe currently under negotiation between Auckland Council and Ngāi Tai ki Tāmaki (noting that Ngāi Tai ki Tāmaki are a development partner for the project).</p> <p><b><u>Implications for groups yet to settle their historical Treaty of Waitangi claims</u></b></p> <p>There are groups still working through their Treaty settlement processes, noted in the affected groups section of this analysis. It will be important that these interests are considered in more detail if the project progresses through the fast-track process, but in the time available there are no further impacts noted.</p> <p><b><u>Implications arising under the Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019</u></b></p> <p>The project area appears to be adjacent to the common marine and coastal area, and the applicant has identified 16 applicant groups under the Marine and Coastal Area (Takutai Moana) Act 2011. Within the area adjacent to the project site area there are no customary marine title or protected customary rights holders under the Marine and Coastal Area (Takutai Moana) Act 2011 recorded on the register – <a href="#">Marine and Coastal Area Register   Toitū Te Whenua - Land Information New Zealand (linz.govt.nz)</a>. There are however around 16 applications by whānau, hapū and iwi groups who have applied to have their customary interests recognised under the Act.</p> <p>Under the Act, takutai moana applicant groups have certain rights in relation to consenting processes under the Resource Management Act 1991, including the right to be consulted on resource consent applications in their takutai moana application area. The Fast-track Approvals Bill currently provides for consultation with takutai moana applicant groups on Schedule 2B projects at the Ministerial referral stage, and the clause 13 report must include information about the relevant takutai moana applicant groups in the project area. For schedule 2A projects these steps would not apply. For listed projects (both Schedule 2A and 2B), the Fast-track Approvals Bill as currently drafted, does not provide for consultation with takutai moana applicant groups at the expert panel stage.</p> <p>This means that an implication of listing a project under Schedule 2A is that takutai moana applicants would not have the ability to input into the process at all, and for Schedule 2B listing the only opportunity for any input is at the Ministerial referral stage.</p> <p>As the project area is outside of ngā rohe moana o ngā hapū o Ngāti Porou there are no implications for the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 arising from this application.</p> <p><b><u>Other matters</u></b></p> <p>s 9(2)(f)(iv)</p>
<p><b>Is the project considered low, medium or high impact (based on assessment criteria above)</b></p>	<p>From the information available we consider this project is likely to be of low-medium impact. This is due to the potential positive benefits for Ngāi Tai ki Tāmaki's development and/or economic aspirations, given they are a development partner in the project. We consider the project to be of potentially medium impact on the other affected groups listed. This is due to the lack of consultation with these other groups, the number of groups yet to settle their historical Treaty of Waitangi claims whose area of interest include the project site, and potential impacts on statutory acknowledgements in the project area.</p>

	An impact of listing this project under Schedule 2 Part A is that the Ministers will not have to exercise their 'referral discretion' including considering the Treaty settlement impacts through that process, nor will they have the benefit of the clause 13 report. For Part A projects, there is a requirement on the expert panel to invite comment from the PSGE on the application.
<b>Has the Ministry for the Environment undertaken engagement?</b>	s 9(2)(f)(iv)
<b>Additional comments/context</b>	N/A

## Appendix One: Approach and considerations for Treaty settlement advice on listed project applications advice in Table A

1. Ministers have advised the Advisory Group should receive advice from officials on “Māori development and PSGE settlement priorities” relevant to each application. Note this differs from section 13 requirements of the current Fast Track Consenting Bill that ‘Ministers must consider Treaty settlements and other obligations report’ as these reports will not be in existence at the time, although matters identified in section 13 (2)(a)-(j) will be considered as part of official's analysis.
2. We have interpreted “Māori development” and “PSGE priorities” to mean primarily projects that:
  - a. align explicitly with PSGE or iwi strategic objectives/vision/other strategic documents; and/or
  - b. contribute towards addressing historical or systemic inequities faced by Māori. This would be undertaken through an equity assessment; and/or
  - c. the project is being led by or in partnership with a Māori entity or business.
3. Given the time constraints and limited engagement this advice cannot be considered as comprehensive and does not intend to reflect their views and should not be read as such.
4. Engagement with PSGEs and other relevant groups has been considered based on potential high-risk factors including, but not limited to, if:
  - a. a project will take place on or effect any taonga or areas of significance that are protected by Treaty settlement arrangements.
  - b. a project will have a substantive and/or ongoing environment impact on any taonga or areas of significance.
  - c. a project will include a consenting arrangement that will require a significant take, or be ongoing for an extended period, in relation to a taonga or area of significance, or in regions where PSGEs have specific planning mechanisms in place.
  - d. PSGEs or other Māori entities have previously strongly contested the project or a similar type of project, particularly where court action has been taken.
  - e. The project is clearly in conflict with or undermines PSGE priorities.
  - f. Engagement would be required to maintain and uphold the Te Tiriti Crown relationship.
5. In limited circumstances where engagement occurs, it has been brief. Where engagement has been undertaken it is reflected in our analysis but should not be taken to mean that our Treaty Partners endorse our advice.