

FTA#293: Application for listed project under the Fast-track Approvals Bill – Four Tracking Westfield to Pukekohe Project for Schedule 2A

Date submitted to secretariat:	27 June 2024
Security level:	In-Confidence
To:	David TAPSELL, Chair – Fast-track Projects Advisory Group

Number of attachments: #	Attachments: 1. Application documents for Four Tracking Westfield to Pukekohe Project
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Applicant	Sector	Region	Identified in a priority/strategy?
Kiwirail	Infrastructure	Auckland and Waikato	Yes

Ministry for the Environment contacts

Position	Name	Mobile	1 st 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 involves widening the existing rail corridor and undertaking works to expand the North Island Main Trunk (NIMT) between Westfield Junction (Newmarket) and Pukekohe (38km) from the current two tracks railway to a four-track railway including grade-separating Westfield Junction where the NIMT meets the North Auckland Line (NAL) and in future the Crosstown (Avondale-Southdown) Corridor.
2. The scope of works includes major enabling civil works (e.g. bridge widening), level crossing removals (closures and grade separations), station platform configuration changes, new track, signals and electrified lines. Integration with station and mode transfer opportunities (such as the AMC alignment) are also included to the extent that Auckland Transport prioritise these.
3. The project will require resource consents and notices of requirements under the Resource Management Act 1991 (RMA); approvals under the Wildlife Act 1953 and archaeological authorities under the Heritage New Zealand Pouhere Taonga Act 2014. Given the project crosses waterways it may also require approvals under the Conservation Act 1987 and the Freshwater Fisheries Regulations 1983.
4. The applicant has a legal interest in the full linear extent of the project corridor from Westfield to Pukekohe, some 38 linear kilometres. Widening is required in most cases beyond the existing designation for the full length of the corridor to enable this project.

5. The applicant is seeking a Notice of Requirement which will, if successful, enable them to compulsorily acquire the land under the Public Works Act.
6. We have undertaken an initial (Stage 1) analysis of the application, and this is provided in Table A.
7. We consider the applicant **has not** provided sufficient information to consider the project for inclusion on Schedule 2A, as the application does not confirm whether the project triggers the ineligibility criteria in Clause 18 (although we note it could still be included on Schedule 2B based on the information provided).
8. The project may trigger criteria (a)(i) in clause 18 of the Fast-track Approvals Bill, as it may include land returned under a Treaty settlement without the approval of the landowner being obtained. The applicant notes this may be resolved through detailed design, and they intend to obtain the relevant landowner approval if necessary.
9. 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



Ray Salter
Principal – Listed Projects

Table A: Stage 1 initial assessment of project eligibility and Treaty settlement assessment and advice¹

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)]
High level summary			Y	Y	N	N	N			
<p>Schedule requested 2A</p> <p>Project Name Four Tracking Westfield to Pukekohe Project</p> <p>Applicant KiwiRail Holdings Limited</p> <p>Company director/s KiwiRail Holdings Limited is a Crown-owned entity</p> <p>Location 38km kilometres of the North Island Main Trunk (NIMT) from Westfield Newmarket to Pukekohe, and to increase the number of rail tracks from to four.</p> <p>Land Status KiwiRail has a legal interest in the full linear extent of the project corridor from Westfield to Pukekohe, some 38 linear kilometres. Widening is required in most cases beyond the existing designation for the full</p>	<p>The project involves widening the existing rail corridor and undertaking works to expand the North Island Main Trunk (NIMT) between Westfield Junction (Newmarket) and Pukekohe (38km) from the current two tracks railway to a four-track railway including grade-separating Westfield Junction where the NIMT meets the North Auckland Line (NAL) and in future the Crosstown (Avondale-Southdown) Corridor.</p> <p>The scope of works includes major enabling civil works (e.g. bridge widening), level crossing removals (closures and grade separations), station platform configuration changes, new track, signals and electrified lines. Integration with station and mode</p>	<p>The applicant seeks approval under the:</p> <ul style="list-style-type: none"> Resource Management Act 1991 Heritage New Zealand Pouhere Taonga Act 2014 Wildlife Act 1953. <p>As the project will cover 38km and cross freshwater environments, approvals may also be required under the Freshwater Fisheries Regulations and the Conservation Act.</p>	<p>The applicant indicates they have undertaken engagement with the relevant councils, NZTA and relevant iwi groups by way of a Mana Whenua forum.</p> <p>The engagement with Mana Whenua to this point appears to be limited to sharing the business case with them, although the applicant notes site visits are planned in the near future.</p>	<p>Yes – The applicant states the project may include land in Pukekohe which was returned to Waikato-Tainui by deed of settlement and which is currently leased by the Crown.</p> <p>The applicant notes that as the project has not yet been through detailed design, this property may not be required for the project, but states they will obtain approval if necessary.</p> <p>We consider at this stage the project appears to trigger the ineligibility criteria in clause 18(a)(i), and you may wish to consider whether it would be more appropriate for the project to be listed on Schedule 2B rather than 2A.</p>	<p>No – No access arrangements are required under the Crown Minerals Act and the project will not occur on land identified in Schedule 4 of that Act.</p>	<p>No – The applicant is not seeking approvals under the Reserves Act.</p>	<p>No – The project will not take place in the EEZ.</p>	<p>The project, or any part of it, is inconsistent with a relevant Treaty settlement, the NHP Act, the Marine and Coastal Area (Takutai Moana) Act 2011, a Mana Whakahono ā Rohe, or a joint management agreement.</p> <p>Not clear – There are a number of Treaty settlements relevant to the project, including the Waikato-Tainui Raupatu claim.</p> <p>Please see the full Treaty analysis below, which identifies the project may have a high impact on these matters.</p> <p>It is more appropriate to deal with the application under another Act.</p> <p>No – Linear transport projects have successfully obtained consent under previous fast-track regimes, and this project is likely to benefit from the one-stop shop nature of the current Bill.</p> <p>The project may have significant adverse effects on the environment.</p> <p>Unclear – The application provides a summary of environmental effects but</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 considers access to the fast-track process offers significant advantages for expediting the consent process of the critical four-tracking project and will support more timely delivery and cost efficiency</p> <p>The impact referring this project will have on the efficient operation of the fast-track process.</p> <p>No – The applicant states this project is well suited to the fast-track process, meets the eligibility criteria and is within a clearly defined scope and impact for the purpose of not unduly slowing down the efficiency of the fast-track process.</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 project is identified in the Auckland Regional Land Transport Plan and the Rail Network Investment Programme.</p> <p>The project will deliver regionally or nationally significant infrastructure.</p> <p>Yes – Widening the southern rail corridor to four mains will deliver regionally and nationally significant infrastructure. It is required to enable the continued growth of local and regional passenger rail services, whilst also enabling the continued growth of national rail freight.</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 applicant states the project will contribute to a well-functioning urban</p>

¹ **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>length of the corridor to enable this project.</p> <p>The applicant is seeking a Notice of Requirement which will, if successful, enable them to compulsorily acquire the land under the Public Works Act.</p>	<p>transfer opportunities (such as the AMC alignment) are also included to the extent that Auckland Transport prioritise these.</p>							<p>does not comment on whether they will be significant. The application does state that the project will interact with sensitive receiving environments so adverse effects will need to be carefully managed.</p> <p>The applicant has a poor compliance history under the relevant legislation.</p> <p>No – The applicant has not been the subject of compliance or enforcement action under the Acts enabled by this Bill, that we are aware of.</p> <p>The project involves an activity that would occur on land that the Minister for Treaty of Waitangi Negotiations considers necessary for Treaty settlement purposes.</p> <p>Unclear – The project site includes public land and there are iwi entities who are yet to settle. Without more detail we cannot confidently say this is the case.</p> <p>The project includes an activity that is a prohibited activity under the RMA.</p> <p>No – The project does not include prohibited activities that we are aware of.</p>	<p>We note there may be complexities for an expert panel to work through in terms of the number of relevant landowners.</p> <p>Whether the application contains sufficient information to inform the referral decision.</p> <p>No – The applicant has not provided sufficient information to confidently say whether the project will trigger the ineligibility criteria in clause 18(a-e,g), and therefore whether it is appropriate for inclusion on Schedule 2A. We consider you could consider the project for inclusion on Schedule 2B.</p>	<p>environment in providing improved accessibility for people and communities by way of public transport. The project will:</p> <ul style="list-style-type: none"> • improve the reliability of public transport to and from South Auckland via train; • allow metro services for both all stops traffic (supporting local community to community journeys); • support increased intensification near transport nodes; • integrate with other transport networks; and • allow express metro services to be introduced to and from South Auckland, providing a time competitive alternative to the motorway for commuters, freeing up otherwise scarce motorway capacity for more highly productive uses than one car occupants. <p>The project will deliver significant economic benefits.</p> <p>Yes – The project is expected to provide significant economic benefits and make a substantial contribution to the growth, diversity, and resilience of regional economies, particularly in Auckland, Waikato and Bay of Plenty.</p> <p>The project will support primary industries, including aquaculture.</p> <p>No</p> <p>The project will support development of natural resources, including minerals and petroleum.</p> <p>No</p> <p>The project will support climate change mitigation, including the reduction or removal of greenhouse gas emissions.</p>
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										<p>Yes – the project will reduce greenhouse gas emissions, by facilitating increased public transport from the further extents of Auckland and the growth of rail freight across long distance on national roads.</p> <p>The project will support adaptation, resilience, and recovery from natural hazards.</p> <p>Yes – The project will support the ability of people and communities to response to potential natural hazards by ensuring the necessary resilience in the rail network, as part of the overall transport network. The design will contemplate the necessary changes in standards to support adaption.</p> <p>The project will address significant environmental issues.</p> <p>Yes – The project adds capacity and resilience to the railway network. This will help accommodate Auckland's urban growth and provide greater mode choice, helping meet the public transport uptake and greenhouse gas emission goals set by Council and Government. By contributing to a reducing traffic congestion and enabling reliable freight and passenger travel there will be positive environmental effects.</p> <p>The project is consistent with local or regional planning documents, including spatial strategies.</p> <p>Yes – The applicant considers the project is well aligned with several strategic documents across Auckland and the Waikato.</p>
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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.

<p>Ineligible projects - based on the considerations at cl18(a–e) of the Fast Track Approvals Bill (version as at introduction)</p>	<p>This project may be ineligible according to the information in the application. This is because the applicant has identified that part of the project may fall within a parcel of land returned under the Treaty settlement between the Crown and Waikato-Tainui at 25 Stadium Drive, Pukekohe and agreement in writing from the relevant landowner has not yet been obtained as required by clause 18(a)(ii). The applicant notes that discussion with the Treaty settlement entity will commence soon regarding this issue and written approval will be obtained in the event land is required from the Treaty settlement entity.</p>
<p>Affected Māori group/s</p>	<p>The applicant has identified the following groups with interests in the project area:</p> <ul style="list-style-type: none"> • Ngāi Tai ki Tāmaki • Ngāti Maru • Ngāti Pāoa • Ngāti Tamaoho • Ngāti Tamaterā • Ngāti Whātua Ōrākei • Te Ahiwaru Waiohū • Te Kawerau ā Maki • Te Patukirikiri • Ngāti Te Ata Waiohū • Waikato-Tainui • Ngāti Whanaunga • Te Ākitai Waiohū <p><u>Ngāi Tai ki Tāmaki</u></p> <p>Ngāi Tai ki Tāmaki is an iwi whose area of interest includes part of the proposed project site, based on the area of interest agreed between Ngāi Tai ki Tāmaki and the Crown in a Deed of Settlement signed on 7 November 2015.²</p> <p><u>Ngāti Maru</u></p> <p>The area of interest of Ngāti Maru is not confirmed through a Treaty settlement as yet. The Deed of Settlement between Ngāti Maru and the Crown that was initialled on 8 September 2017 does not include an area of interest. Information from Te Kāhui Mangai confirms part of the proposed project location as being within the area of interest for Ngāti Maru.³</p> <p><u>Ngāti Pāoa</u></p> <p>Ngāti Paoa is an iwi whose area of interest includes part of the proposed project site, based on the area of interest agreed between Ngāti Paoa and the Crown in a Deed of Settlement signed on 20 March 2021.⁴</p> <p><u>Ngāti Tamaoho</u></p> <p>Ngāti Tamaoho is an iwi whose area of interest includes the proposed project site, based on the area of interest agreed between Ngāti Tamaoho and the Crown in the Deed of Settlement signed 30 April 2017.⁵</p> <p><u>Ngāti Tamaterā</u></p> <p>The area of interest of Ngāti Tamaterā is not confirmed. The Deed of Settlement between Ngāti Tamaterā and the Crown that was initialled on 20 September 2017 does not include an area of interest. Information from Te Kāhui Mangai indicates the proposed project location is within the area of interest for Ngāti Tamaterā.⁶</p> <p><u>Ngāti Whātua Ōrākei</u></p>

²AOI-NgaiTaikiTamaki.jpg (669x949) (tkm.govt.nz)

³TKM | Iwi | Ngāti Maru | Te Kahui Mangai

⁴Ngati-Paoa-Deed-of-Settlement-Attachments.pdf (tkm.govt.nz)

⁵AOI-NgatiTamaoho.jpg (686x1032) (tkm.govt.nz)

⁶TKM | Iwi | Ngāti Tamaterā | Te Kahui Mangai

Ngāti Whātua Ōrakei is an iwi whose area of interest includes part of the proposed project site based on the area of interest agreed between Ngāti Whātua Ōrakei and the Crown in the Deed of Settlement signed 5 November 2011.⁷

Te Ahiwaru Waiohua

Te Ahiwaru Waiohua is one of the 19 iwi authorities recognised by Auckland Council.

Te Ākitai Waiohua

Te Ākitai Waiohua is an iwi whose area of interest includes the proposed project site, based on the area of interest agreed between Te Ākitai Waiohua and the Crown in the Deed of Settlement signed 12 November 2021.⁸

Te Kawerau ā Maki

Te Kawerau ā Maki is an iwi whose area of interest includes part of the proposed project site based on the area of interest agreed between Te Kawerau ā Maki and the Crown in the Deed of Settlement signed 22 February 2014.⁹

Te Patukirikiri

Te Patukirikiri is an iwi whose area of interest is close or adjacent to the proposed project site, based on the area of interest agreed between Te Patukirikiri and the Crown in a Deed of Settlement signed on 7 October 2018.¹⁰

Ngāti Te Ata

Ngāti Te Ata are yet to settle their historical Treaty of Waitangi claims and so the area of interest of Ngāti Te Ata is not confirmed through a Treaty settlement as yet. Information from Te Kāhui Mangai confirms the proposed project location as being within the area of interest for Ngāti Te Ata. Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.¹¹

Waikato-Tainui raupatu claim

Waikato-Tainui is an iwi whose area of interest includes the proposed project site, based on the area of interest agreed between Waikato-Tainui and the Crown in the Deed of Settlement signed 22 May 1995.¹²

In addition, the Waikato River settlement arrangements is close or adjacent to the proposed project site, based on the SO Plan agreed between Waikato-Tainui and the Crown in the Deed of Settlement signed 17 December 2009.¹³

Waikato-Tainui remaining claims

Waikato-Tainui are yet to settle their remaining historical Treaty of Waitangi claims and so the area of interest is not confirmed. There is a proposed area of interest included in the Terms of Negotiation signed 14 December 2020 and the proposed project location is within this area.¹⁴ Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.

Ngaati Whanaunga

Ngaati Whanaunga is an iwi whose area of interest includes part of the proposed project site, based on the area of interest agreed between Ngaati Whanaunga and the Crown in a Deed of Settlement initialled on 25 August 2017.¹⁵

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:

- Tāmaki Collective
- Maratūāhu Iwi Collective
- Ngāti Hako

Tāmaki Makaurau Collective

The Tāmaki Makaurau Collective includes 13 hapū/iwi known collectively as Tāmaki Makaurau Collective, being: Ngāi Tai ki Tāmaki, Ngāti Maru, Ngāti Paoa, Ngāti Tamaoho, Ngāti Tamaterā, Ngāti Te Ata, Ngaati Whanaunga, Ngāti Whātua o Kaipara, Ngāti Whātua Ōrakei, Te Ākitai Waiohua, Te Kawerau ā Maki, Te Patukirikiri and Te Rūnanga o Ngāti Whātua. The Tāmaki Makaurau Area in the Deed of Settlement that was signed on 5 December 2012 includes the proposed project site.¹⁶

Maratūāhu Iwi Collective

We have also identified Marutūāhu Iwi Collective as potentially having interests in the proposed project location. 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 includes the proposed project site.¹⁷

⁷ AOI-NgatiWhatuaoOrakei.jpg (1179×1666) (tkm.govt.nz)

⁸ deed-of-settlement-attachments (1).pdf (tkm.govt.nz)

⁹ AOI-TeKawerauaMaki.jpg (710×927) (tkm.govt.nz)

¹⁰ Patu.pdf (tkm.govt.nz)

¹¹ TKM | Iwi | Ngāti Te Ata | Te Kahui Mangai

¹² Waikato-Tainui Deed of Settlement 22 May 1995 (tearawhiti.govt.nz)

¹³ Waikato-Tainui Deed of Settlement in relation to the Waikato River Schedule 17 Dec 2009 (tearawhiti.govt.nz)

¹⁴ AOI-Waikato-Tainui.png (1032×1476) (tkm.govt.nz)

¹⁵ Whanaunga (002).pdf (tkm.govt.nz)

¹⁶ Tāmaki Makaurau Collective Redress Deed Schedule - Attachments 5 Dec 2012 (tearawhiti.govt.nz)

¹⁷ Marutūāhu Collective Redress Deed (tearawhiti.govt.nz)

	<p><u>Ngāti Hako</u></p> <p>Ngāti Hako are yet to settle their historical Treaty of Waitangi claims and so the area of interest of Ngāti Hako is not confirmed. Information from Te Kāhui Mangai confirms the proposed project location as being within the area of interest for Ngāti Hako. Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.¹⁸</p>
<p>Has the applicant consulted with those Māori groups?</p>	<p>The applicant states that:</p> <ul style="list-style-type: none"> • it has an established monthly Mana Whenua forum and has regular and ongoing hui; • the Auckland Rail Programme Business Case was shared with this group and a commitment was made to ongoing engagement as projects progressed; • this project has been added to the agenda of the monthly forum as a stand-alone; and • site visits with Mana Whenua are planned in the near future. <p>The applicant states that collaboration with mana whenua is proposed through the early stages of the project.</p>
<p>Impact/s of the project on Māori development and PSGE settlement priorities and related matters</p>	<p><u>Impacts on PSGE settlement priorities and Māori development</u></p> <p>There is no information in the application to suggest that this application is made by or on behalf of a Māori organisation, or that the project will have a direct benefit in terms of Māori development.</p> <p>In the time available, we have identified the following relevant plans and documents:</p> <ul style="list-style-type: none"> • Ngāi Tai Ki Tāmaki Take Taiaomaurikura • Ngāti Tamaterā Environmental Management Plan 2019 • Ngaati Whanaunga Environmental Management Plan • Te Kawerau ā Maki Iwi Management Plan • Te Pou o Kāhu Pōkere Iwi Management Plan for Ngāti Whātua Ōrākei 2018 • Ngāti Whātua Ōrākei Iwi Management Plan 2012 • Ngāti Paoa Perspective on Resource Management 1993 • Ngāti Te Ata Tribal Policy Statement 1991 • Waikato-Tainui Environmental Management Plan • Vision and Strategy for the Waikato River (addressed under relevant Treaty settlement arrangements below) <p>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.</p> <p>A full analysis of the plans 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.</p> <p><u>Impact on Treaty settlements and other relevant arrangements</u></p> <p>Ngāti Tamaoho Claims Settlement Act 2018</p> <p><i>Statutory acknowledgements</i></p> <p>This Treaty settlement contains a number of statutory acknowledgements. The applicant has identified that a statutory acknowledgment held by Ngāti Tamaoho applies to the Project area. Four statutory areas are associated with Oira Creek and its tributaries, Hingaia Stream and its tributaries, Ngakoroa Stream and its tributaries and Whangapouri Creek and its tributaries.</p> <p>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.</p> <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. 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</p>

¹⁸ TKM | Iwi | Ngāti Hako | Te Kahui Mangai

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.

Other redress

The Department of Conservation have advised that the project site is relevant to the conservation protocol area (relationship agreement) included in the settlement.

Ngāi Tai ki Tāmaki Claims Settlement Act 2018

Statutory acknowledgements

This Treaty settlement contains a number of statutory acknowledgements. It is not clear from the application whether a statutory acknowledgement covers or is adjacent to the project site or is directly impacted by the proposed project. The text above in relation to statutory acknowledgements applies here also.

Other redress

The Department of Conservation have advised that the project site is relevant to the conservation protocol area (relationship agreement) included in the settlement.

Te Kawerau ā Maki Claims Settlement Act 2015

Statutory acknowledgements

This Treaty settlement contains a number of statutory acknowledgements. It is not clear from the application whether a statutory acknowledgement covers or is adjacent to the project site or is directly impacted by the proposed project. The text above in relation to statutory acknowledgements applies here also.

Ngāti Whātua Ōrākei Claims Settlement Act 2012

Statutory acknowledgements

This Treaty settlement contains a number of statutory acknowledgements. It is not clear from the application whether a statutory acknowledgement covers or is adjacent to the project site or is directly impacted by the proposed project. The text above in relation to statutory acknowledgements applies here also.

Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014

Heritage New Zealand (Pouhere Taonga) Act 2014

The Settlement Act includes obligations in relation to the Heritage New Zealand (Pouhere Taonga) Act 2014. This application seeks an archaeological authority which may be relevant to those settlement obligations (depending on the detail of the application made).

Other redress

The Department of Conservation have advised that the project site is relevant to the conservation protocol area (relationship agreement) included in the settlement.

Ngāti Paoa Claims Settlement Bill

Statutory acknowledgements

This Treaty settlement contains a number of statutory acknowledgements. It is not clear from the application whether a statutory acknowledgement covers or is adjacent to the project site or is directly impacted by the proposed project. The text above in relation to statutory acknowledgements applies here also.

Te Patukirikiri Deed of Settlement

Statutory acknowledgements

This Treaty settlement contains a number of statutory acknowledgements. It is not clear from the application whether a statutory acknowledgement covers or is adjacent to the project site or is directly impacted by the proposed project. The text above in relation to statutory acknowledgements applies here also.

Te Ākitai Waiohū Deed of Settlement

Statutory acknowledgements

This Treaty settlement contains a number of statutory acknowledgements. It is not clear from the application whether a statutory acknowledgement covers or is adjacent to the project site or is directly impacted by the proposed project. The text above in relation to statutory acknowledgements applies here also.

Waikato Raupatu Claims Settlement Act 1995

There are no statutory acknowledgements in the Waikato Raupatu Claims Settlement Act 1995. There are no other mechanisms in the Act that appear to be directly impacted by the project. However, as noted in respect of eligibility, settlement land at 25 Stadium Drive, Pukekohe may fall within the Stadium Road Bridge North upgrade (this section is subject to further refinement under alternative assessment).

Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010

The Waikato-River arrangements are detailed with a number of powerful and complex interactions with the legislation including the RMA, conservation and heritage legislation.

The Waikato-Tainui river arrangements are recorded in the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010. The overarching purpose of the settlement is to restore and protect the health and wellbeing of the Waikato River for future generations.

There are two underlying principles in the settlement:

Te Mana o te Awa

To Waikato-Tainui, the Waikato River is a tupuna (ancestor) which has mana (prestige) and in turn represents the mana and mauri (life force) of the tribe. Respect for te mana o te awa (the spiritual authority, protective power and prestige of the Waikato River) is at the heart of the relationship between the tribe and their ancestral river:

Mana whakahaere

Mana whakahaere embodies the authority that Waikato-Tainui and other River tribes have established in respect of the Waikato River over many generations, to exercise control, access to and management of the Waikato River and its resources in accordance with tikanga (values, ethics and norms of conduct). For Waikato-Tainui, mana whakahaere has long been exercised under the mana of the Kiingitanga:

The key elements provided for in the legislation include:

- A statement of significance of the river to Waikato-Tainui
- The Waikato River Authority (co-governance entity with five iwi and five Crown appointed members)
- Te Ture Whaimana (vision and strategy) – the primary direction setting strategic document for the Waikato River
- The Clean-Up Trust (with the Waikato River Authority as the trustee)
- The Waikato River Authority appointing half of the hearing commissions for resource consent applications relating to the river
- Arrangements to reflect the mana whakahaere of Waikato-Tainui including:
 - joint management agreements under the RMA
 - recognition of the exercise of customary activities on the river
 - recognition of the Waikato-Tainui iwi environmental plan
 - an integrated river management plan.

The interactions between the Waikato River arrangements and the RMA, conservation and heritage legislation include the following:

- Te Ture Whaimana (the vision and strategy) is a powerful planning document and is stated in the legislation to be the 'primary direction setting' document for the river:
 - It is incorporated directly and without amendment into the RMA regional policy statement
 - It overrides any direction in an RMA national policy statement
 - RMA regional and district plans must give effect to Te Ture Whaimana
 - It has the status of 'general policy' under the conservation legislation
 - A number of decision-makers must 'have particular regard' to Te Ture Whaimana (including under the RMA, conservation and heritage legislation)

The joint management agreements (JMAs) between the river iwi and each local authority are expressly provided for and required under the legislation. Those JMAs have been negotiated and agreed, and include:

- A range of RMA mechanisms (including a committee structure for RMA planning processes with Waikato-Tainui as part of the decision-making structure, and provisions for RMA consenting and monitoring/enforcement). There are detailed provisions to provide for Waikato-Tainui involvement in decision-making and processes under the RMA
- A range of customary activities can be exercised on the river and are exempt from having to comply with the RMA
- A decision-maker on a resource consent and under conservation legislation must have regard to the Waikato-Tainui environmental plan.

The Waikato River arrangements have a significant influence over statutory processes including complex interactions with the RMA, conservation, wildlife 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.

Wildlife Act 1953

The Settlement Act includes obligations in relation to the Wildlife Act 1953. This application involves wildlife permits which may be relevant to those settlement obligations (depending on the detail of the application made).

Mana Whakahono ā Rohe

There does not appear to be any completed Mana Whakahono ā Rohe. However, a Mana Whakahono ā Rohe was initiated in March 2018 between Auckland Council, Ngāi Tai Ki Tāmaki and is under negotiation.

Iwi Environment Management plans

Note the comments above in relation to iwi management plans.

Implications for groups yet to settle their historical Treaty of Waitangi claims

There are groups still working through their Treaty settlement processes. For example, Ngāti Hako. 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.

Other matters

There have been no Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 considerations identified. In the time available, officials have not identified any other relevant matters.

<p>Is the project considered low, medium or high impact (based on assessment criteria above)</p>	<p>From the information available we consider this project is likely to be of high impact. This is due to the nature and range of interests present in the project area, including the interaction with the Waikato River arrangements.</p> <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.</p>
<p>Has the Ministry for the Environment undertaken engagement?</p>	<p>Officials consider engagement would be beneficial given the nature and range of interests present in the project area but were unable to undertake this in the time available.</p>
<p>Additional comments/context</p>	<p>N/A.</p>

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.