

## FTA#230: Application for listed project under the Fast-track Approvals Bill – Kings Quarry Expansion – Stage 2 and 3 Project for Schedule 2A

Date submitted to secretariat:	10 June 2024
Security level:	In-Confidence
To:	David TAPSELL, Chair – Fast-track Projects Advisory Group

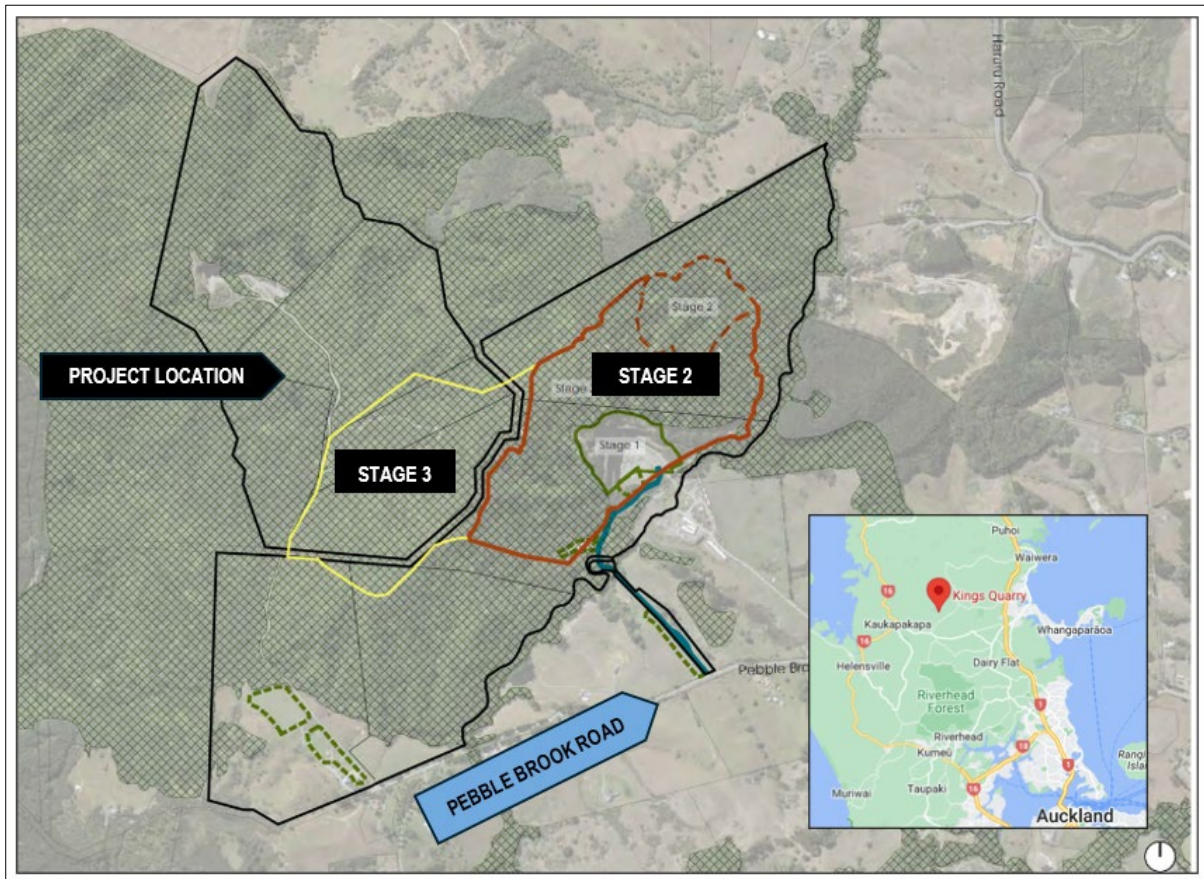
Number of attachments: #	Attachments: 1. Application documents for Kings Quarry Expansion – Stage 2 and 3 Project
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Applicant	Sector	Region	Identified in a priority/strategy?
Kings Quarry Limited (KQL)	Mining	Auckland	Yes

### Ministry for the Environment contacts

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

## Project location



## Key messages

1. The Kings Quarry Expansion – Stage 2 and 3 project is to expand the existing quarrying activities at Kings Quarry in Pebble Brook Road, Wainui, Auckland. The project area will occupy 60-hectares of the 152-hectares of total site area which is approximately 10km to the west of State Highway 1.
2. For context, aggregate was quarried on a small-scale within the site from the 1930's to 1995. Resource consent was obtained in 2021 to re-establish quarrying activities (Stage 1). The quarry operations primarily extract aggregate (Albany Conglomerate) from the surrounding hills which involves site preparation, excavation of rock and overburden and the processing, storage and distribution. Up to approximately 500,000 tonnes/year are proposed to be extracted for approximately 100 years (up to 60 years for Stage 2 and up to 40 years for Stage 3). The applicant will seek replacement consents as required at the 35-year expiration of those consents.
3. The project will involve:
  - a. quarrying activities including mineral extraction activities, blasting and air discharges
  - b. earthworks and land disturbance including streambed reclamation
  - c. groundwater diversion and dewatering
  - d. clearing vegetation, remediation planting

- e. construction of accessways
  - f. offsetting works for the protection and enhancement of native vegetation.
4. The project will require resource consents under the Resource Management Act 1991 (RMA), authorities under the Wildlife Act 1953 and permits under the Freshwater Fisheries Regulations 1983.
  5. The applicant identifies that all properties are owned by Pebblebrook Properties Limited, that the applicant (Kings Quarry Limited) and Pebblebrook Properties Limited are related companies with the same directors, and Kings Quarry Limited has a 100-year lease to use the land for quarrying. A check of the companies register confirms this.
  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** 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).
  8. The project does not trigger the ineligibility criteria in clause 18 of the Fast-track Approvals Bill (the Bill).
  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

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Ray Salter  
**Principal Analyst – 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)]
High level summary			Y	N	N	N	N			
<p><b>Schedule requested</b> 2A</p> <p><b>Project Name</b> Kings Quarry Expansion – Stages 2 and 3</p> <p><b>Applicants</b> Kings Quarry Limited (KQL)</p> <p><b>Company directors</b></p> <ul style="list-style-type: none"> <li>Alexander Gillis Semenoff</li> <li>Andrew John Ritchie</li> <li>Stanley Gillis Alexander Semenoff</li> </ul> <p><b>Location</b> The site is located on Pebble Brook Road, Wainui, Auckland</p> <p>306 Pebble Brook Road, Wainui, Auckland</p> <p><b>Land Status</b> The applicant identifies that all properties are owned by Pebblebrook Properties Limited, that the applicant (Kings Quarry Limited) and Pebblebrook Properties Limited are</p>	<p>The Kings Quarry Expansion – Stage 2 and 3 project is to expand the existing quarrying activities at Kings Quarry in Pebble Brook Road, Wainui, Auckland. The site comprises approximately 152-hectares of land which is approximately 10km to the west of State Highway 1.</p> <p>For context, aggregate was quarried on a small-scale within the site from the 1930's to 1995. Resource consent was obtained in 2021 to re-establish quarrying activities (Stage 1). The quarry operations primarily extract aggregate (Albany Conglomerate) from the surrounding hills which involves site preparation, excavation of rock and overburden and the processing, storage and distribution. Up to approximately 500,000 tonnes/year are proposed to be extracted for approximately 100 years (up to 60 years</p>	<p>The applicant seeks approval under the:</p> <ul style="list-style-type: none"> <li>Resource Management Act 1991 – including any extension of duration</li> <li>Wildlife Act 1953</li> <li>Freshwater Fisheries Regulations 1983</li> <li>Local Government Act 1974 or Public Works Act 1981 – regarding closure of the paper road</li> </ul>	<p>Persons likely to be affected by the project include local authorities (Auckland Council and its CCOs) and 13 iwi authorities (listed in application).</p> <p>Local authorities - Pre-application was undertaken with representatives from Auckland Council as part of the Stage 1 consenting process and Stage 2 referral process. Council is aware of the Stage 3 expansion plans and will continue consultation.</p> <p>Iwi authorities - Engagement was undertaken with 13 relevant iwi authorities who have historic and territorial rights in Tāmaki Makaurau in respect of the Stage 2 consenting. Several hui have also been held with the relevant iwi authorities (Ngāti Whātua o Kaipara and Ngāti Manuhiri) that expressed interest in the Stage 2 quarry expansion.</p>	No	No	No	No	<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><b>No</b> - the application and Treaty advice below has not identified any inconsistencies.</p> <p><b>It is more appropriate to deal with the application under another Act.</b></p> <p><b>No</b> – although the application identifies that approvals will be required under the RMA, we consider the project could be assessed by an expert panel with the benefit of a full application, in a post-enactment context.</p> <p><b>The project may have significant adverse effects on the environment.</b></p> <p><b>No</b> – the application includes a full assessment of environmental effects relating to Land disturbance, groundwater, rural character and visual amenity, dust and Air quality, noise, ecological values, archaeology, transportation, cultural</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><b>Yes</b> - the applicant notes - Due to the scale of the project, including the consenting complexities associated with the SEA overlay, and possible appeals, the project is likely to progress significantly faster by using the processes provided by the Act – by approximately 36 months.</p> <p><b>The impact referring this project will have on the efficient operation of the fast-track process.</b></p> <p><b>Yes</b></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><b>Yes</b> – the project has previously been identified (in its original Stage 2 fast track application) in the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020 (Schedule 84), with the Minister recognising the significant potential benefits of the Stage 2 quarry expansion in achieving the purpose of the FTCA, being to assist with the rapid economic recovery from the impacts of the COVID-19 Pandemic, in a way that appropriately manages environmental effects in a sustainable manner. The purpose of the Bill is similarly directed at providing a fast-track decision-making process that facilitates the delivery of infrastructure and development projects with significant regional or national benefits.</p> <p><b>The project will deliver regionally or nationally significant infrastructure.</b></p> <p><b>No</b> – the project itself is not 'infrastructure' as defined by the RMA or Treasury, however, it will support the delivery of other regionally and nationally significant infrastructure.</p> <p><b>The project will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment.</b></p> <p><b>No</b></p> <p><b>The project will deliver significant economic benefits.</b></p> <p><b>Yes</b> – applicant has an economic assessment noting that there is an economic benefit of</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>related companies with the same directors, and Kings Quarry Limited has a 100-year lease to use the land for quarrying.</p> <p>A check of the companies register confirms this.</p>	<p>for Stage 2 and up to 40 years for Stage 3).</p> <p>The project will involve:</p> <ul style="list-style-type: none"> <li>quarrying activities including mineral extraction activities, blasting and air discharges</li> <li>earthworks and land disturbance including streambed reclamation</li> <li>groundwater diversion and dewatering</li> <li>clearing vegetation, remediation planting</li> <li>construction of accessways</li> <li>offsetting works for the protection and enhancement of native vegetation.</li> </ul>		<p>KQL intends to continue consultation with iwi representatives and engage with the interested iwi groups on an ongoing basis for all stages of the Project.</p>					<p>values and greenhouse gas emissions.</p> <p>We consider that the appropriate management of adverse effects, including remediation and mitigation could be assessed by an expert panel with the benefit of a full application, in a post-enactment context.</p> <p><b>The applicant has a poor compliance history under the relevant legislation.</b></p> <p>No – nothing noted in application.</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>No</p> <p><b>The project includes an activity that is a prohibited activity under the RMA.</b></p> <p>No</p>	<p><b>Whether the application contains sufficient information to inform the referral decision.</b></p> <p>Yes - based on economic impact assessment for past COVID-19 FTC application</p>	<p>\$288M of avoided costs /benefits from this activity compared with importing the aggregate from Northland.</p> <p><b>The project will support primary industries, including aquaculture.</b></p> <p>Yes – applicant notes use in various industries</p> <p><b>The project will support development of natural resources, including minerals and petroleum.</b></p> <p>Yes - the scope of the project is to carry out mineral extraction activities.</p> <p><b>The project will support climate change mitigation, including the reduction or removal of greenhouse gas emissions.</b></p> <p>Yes – the applicant has a report prepared which states reduction of 12,551 tonnes of CO2 equivalent greenhouse gas emissions could be achieved annually as a result of the stage 2 and 3 developments compared with delivery from alternate sources.</p> <p><b>The project will support adaptation, resilience, and recovery from natural hazards.</b></p> <p>Yes – the applicant states that enabling the project will enhance the market's resilience because key supply sources will be available within the region and not subject to potential infrastructure (road) failures to the north of Auckland.</p> <p><b>The project will address significant environmental issues.</b></p> <p>Yes – the applicant states that the project intends to achieve a 'no net loss' outcome in respect to biodiversity. The project represents a saving in bulk transport that will have a positive benefit in reducing New Zealand's transport related greenhouse gas emissions.</p> <p><b>The project is consistent with local or regional planning documents, including spatial strategies.</b></p> <p>Yes – the applicant provides a detailed account of alignment with Auckland Unitary Plan and RPS.</p>
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**PSGE Settlement Priorities and Māori Development assessment –**

*Note - given the time and scope constraints of this advice, some assumptions have been made and engagement has only been undertaken in limited circumstances. Given this, the advice may not be comprehensive and is not intended to reflect the views of relevant Post Settlement Governance Entities or other groups (unless specifically noted). In limited circumstances where engagement has been able to occur, it has most likely not been comprehensive due to the timeframes available.*

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><b>Ineligible projects - based on the considerations at cl18(a–e) of the Fast Track Approvals Bill (version as at introduction)</b></p>	<p>The project does not appear to be ineligible according to the information provided in the application.</p>
<p><b>Affected Māori group/s</b></p>	<p>The applicant has identified the following groups with interests in the project area:</p> <ul style="list-style-type: none"> <li>• Ngāti Manuhiri</li> <li>• Te Kia Ora Kakanui Marae (Ngāti Whātua o Kaipara)</li> <li>• Ngāti Whātua Ōrakei</li> <li>• Ngāti Te Ata</li> <li>• Ngāti Maru</li> <li>• Ngāi Tai ki Tāmaki</li> <li>• Ngāti Paoa</li> <li>• Te Ahiwaru Trust (formally Makaurae Marae Māori Trust)</li> <li>• Te Rūnanga o Ngāti Whātua</li> <li>• Te Kawerau ā Maki</li> <li>• Te Ākitai Waiohūa</li> <li>• Ngātiwai</li> </ul> <p><u>Ngāti Manuhiri</u></p> <p>Ngāti Manuhiri is an iwi whose area of interest includes or is closely adjacent to the proposed project site, based on the area of interest agreed between Ngāti Manuhiri and the Crown in a Deed of Settlement signed on 21 May 2011.<sup>1</sup></p> <p><u>Ngāti Whātua o Kaipara</u></p> <p>Ngāti Whātua o Kaipara is an iwi whose area of interest includes the proposed project site, based on the area of interest agreed between Ngāti Whātua o Kaipara and the Crown in a Deed of Settlement signed on 9 September 2011.<sup>2</sup></p> <p><u>Ngāti Whātua Ōrakei</u></p> <p>The applicant has identified Ngāti Whātua Ōrakei as having interests in the project area. Ngāti Whātua Ōrakei is an iwi whose primary area of interest does not appear to include the proposed project site, based on the area of interest agreed between Ngāti Whātua Ōrakei and the Crown in a Deed of Settlement signed on 5 November 2011.<sup>3</sup></p> <p><u>Ngāti Te Ata</u></p> <p>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 Māngai confirms the proposed project location as being within the area of interest for Ngāti Te Ata.<sup>4</sup> Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.</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 Māngai confirms the proposed project location as being within the area of interest for Ngāti Maru.<sup>5</sup></p> <p><u>Ngāi Tai ki Tāmaki</u></p> <p>Ngāi Tai ki Tāmaki is an iwi whose area of interest includes or is closely adjacent to 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.<sup>6</sup></p> <p><u>Ngāti Paoa</u></p> <p>Ngāti Paoa is an iwi whose area of interest may be near to 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.<sup>7</sup></p> <p><u>Te Ahiwaru Trust</u></p> <p>Te Ahiwaru Waiohūa is one of the 19 iwi authorities recognised by Auckland Council.</p> <p><u>Te Rūnanga o Ngāti Whātua</u></p> <p>Te Rūnanga o Ngāti Whātua are yet to settle their historical Treaty of Waitangi claims and so the area of interest of the Ngāti Whātua is not confirmed through a Treaty settlement as yet. Information from Te Kāhui Māngai confirms the proposed project location as being within the area of interest for Ngāti Whātua.<sup>8</sup> Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.</p> <p><u>Te Kawerau ā Maki</u></p> <p>Te Kawerau ā Maki is an iwi whose area of interest includes the proposed project site, based on the area of interest agreed between Te Kawerau ā Maki and the Crown in a Deed of Settlement signed on 22 February 2014.<sup>9</sup></p> <p><u>Te Ākitai Waiohūa</u></p> <p>Te Ākitai Waiohūa is an iwi whose area of interest includes the proposed project site, based on the area of interest agreed between Te Ākitai Waiohūa and the Crown in a Deed of Settlement signed on 12 November 2021.<sup>10</sup></p> <p><u>Ngātiwai</u></p>

	<p>Ngāti Wai are yet to settle their historical Treaty of Waitangi claims and so the area of interest of Ngāti Wai is not confirmed through a Treaty settlement as yet. The applicant has identified Ngātiwai as having interests in the project area. However, the Ngātiwai area of interest, based on information from Te Kāhui Mangai, does not appear to include the proposed project site.<sup>11</sup> Therefore, no further analysis is provided in respect of Ngātiwai.</p> <p>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:</p> <ul style="list-style-type: none"> <li>• Ngāti Tamaterā</li> <li>• Ngaati Whanaunga</li> <li>• Marutūāhu Iwi Collective</li> <li>• Ngāti Hako</li> </ul> <p><u>Ngāti Tamaterā</u></p> <p>The area of interest of Ngāti Tamaterā is not confirmed through a Treaty settlement as yet. 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 Māngai indicates the proposed project location may be near to the area of interest for Ngāti Tamaterā.<sup>12</sup></p> <p><u>Ngaati Whanaunga</u></p> <p>Ngāti Whanaunga is an iwi whose area of interest may be near to 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.<sup>13</sup></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 Patukiriki. The Marutūāhu Iwi Collective redress area in the Deed of Settlement that was initialled on 27 July 2018 includes the proposed project site.<sup>14</sup></p> <p><u>Ngāti Hako</u></p> <p>The area of interest of Ngāti Hako 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 Hako.<sup>15</sup> Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.</p>
<p><b>Has the applicant consulted with those Māori groups?</b></p>	<p>The applicant states that:</p> <ul style="list-style-type: none"> <li>• Engagement was undertaken with 13 relevant iwi authorities who have historic and territorial rights in Tāmaki Makaurau in respect of the Stage 2 consenting. <ul style="list-style-type: none"> <li>○ Ngāti Manuhiri (settlement entity: Ngāti Manuhiri Settlement Trust)</li> <li>○ Te Kia Ora Kakanui Marae (Ngāti Whātua o Kaipara) (settlement entity: Ngā Maunga Whakahii o Kaipara Development Trust)</li> <li>○ Ngāti Whātua Ōrākei (settlement entity: Ngāti Whātua o Ōrākei Trust Board);</li> <li>○ Ngāti Te Ata (settlement entity: Ngāti Te Ata Claims Support Whānau Trust);</li> <li>○ Ngāti Maru (settlement entity: Ngāti Maru Rūnanga Trust;</li> <li>○ Ngāi Tai ki Tāmaki (settlement entity: Ngāi Tai ki Tāmaki Trust);</li> <li>○ Ngāti Paoa Iwi Trust;</li> <li>○ Ngāti Paoa Trust Board;</li> <li>○ Te Ahiwaru Trust, formally Makaurau Marae Māori Trust</li> <li>○ Te Rūnanga o Ngāti Whātua</li> <li>○ Te Kawerau ā Maki (settlement entity: Te Kawerau Iwi Settlement Trust</li> <li>○ Te Ākitai Waiohua (settlement entity: Te Ākitai Waiohua Settlement Trust)</li> <li>○ Ngatiwai (settlement entity: Ngātiwai Trust)</li> </ul> </li> <li>• Several hui have been held with the relevant iwi authorities (Ngāti Whātua o Kaipara and Ngāti Manuhiri) that expressed interest in the Stage 2 quarry expansion.</li> <li>• While the engagement to date was focused on Stage 1 and 2 quarry expansions, the relevant iwi authorities are aware of the Stage 3 expansion plans (i.e plans were shared that outlines an earlier version of Stage 3 extent).</li> <li>• The applicant intends to continue consultation with iwi representatives and engage with the interested iwi groups on an ongoing basis for all stages of the project.</li> </ul>
<p><b>Impact/s of the project on Māori development and PSGE settlement priorities and related matters</b></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"> <li>• Ngāi Tai Ki Tāmaki Take Taiaomaurikura</li> <li>• Ngāti Tamaterā Environmental Management Plan 2019</li> <li>• Ngaati Whanaunga Environmental Management Plan</li> <li>• Te Kawerau ā Maki Iwi Management Plan</li> </ul> <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><b>Ngāti Manuhiri Claims Settlement Act 2012</b></p> <p><i>Statutory acknowledgements</i></p>

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 applicant states that there are no Treaty Settlement Statutory Acknowledgement Areas identified on Auckland Council's GeoMaps for the Site or any adjacent properties.

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.

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.

#### **Ngāti Whātua o Kaipara Claims Settlement Act 2013**

##### *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 applicant states that there are no Treaty Settlement Statutory Acknowledgement Areas identified on Auckland Council's GeoMaps for the Site or any adjacent properties. The text above in relation to statutory acknowledgements applies here also.

##### *Other redress*

The Department of Conservation have noted that there is a right of first refusal which covers half the quarry area, and that the project is in the Conservation Protocol Area.

#### **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 applicant states that there are no Treaty Settlement Statutory Acknowledgement Areas identified on Auckland Council's GeoMaps for the Site or any adjacent properties. The text above in relation to statutory acknowledgements applies here also.

##### *Other redress*

The Department of Conservation have noted the project area is in the Conservation Protocol Area.

##### *Fisheries Act 1996*

The Settlement Act includes obligations in relation to the Fisheries Act 1996. This application involves NPI (we assume this is a typo and should be MPI) freshwater fauna relocation which may be relevant to those settlement obligations (depending on the detail of the application made).

#### **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 applicant states that there are no Treaty Settlement Statutory Acknowledgement Areas identified on Auckland Council's GeoMaps for the Site or any adjacent properties. The text above in relation to statutory acknowledgements applies here also.

##### *Other redress*

The Department of Conservation have noted the project area is in the cultural redress area of interest.

#### **Te Ākitai Waiohua 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 applicant states that there are no Treaty Settlement Statutory Acknowledgement Areas identified on Auckland Council's GeoMaps for the Site or any adjacent properties. The text above in relation to statutory acknowledgements applies here also.

##### *Fisheries Act 1996*

The deed includes obligations in relation to the Fisheries Act 1996. This application involves NPI (we assume this is a typo and should be MPI) freshwater fauna relocation which may be relevant to those settlement obligations (depending on the detail of the application made).

#### **Mana Whakahono ā Rohe**

	<p>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.</p> <p><b>Iwi Environment Management plans</b></p> <p>Note the comments above in relation to iwi management plans.</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. For example, Ngāti Te Ata and 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.</p> <p><b><u>Other matters</u></b></p> <p>There have been no joint management agreements or 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>
<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 medium impact. This is due to the nature and range of interests present in the project area. A mitigating factor is that at this stage of the process, given this is proposed to be a Schedule 2B project, PSGEs and other groups would have the opportunity to input at both the Ministerial referral and expert panel stage.</p>
<p><b>Has the Ministry for the Environment undertaken engagement?</b></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><b>Additional comments/context</b></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.