

FTA#277: Application for listed project under the Fast-track Approvals Bill – Papakura to Pukekohe Route Protection – Four-tracking and Active Mode Corridor Project for Schedule 2A

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

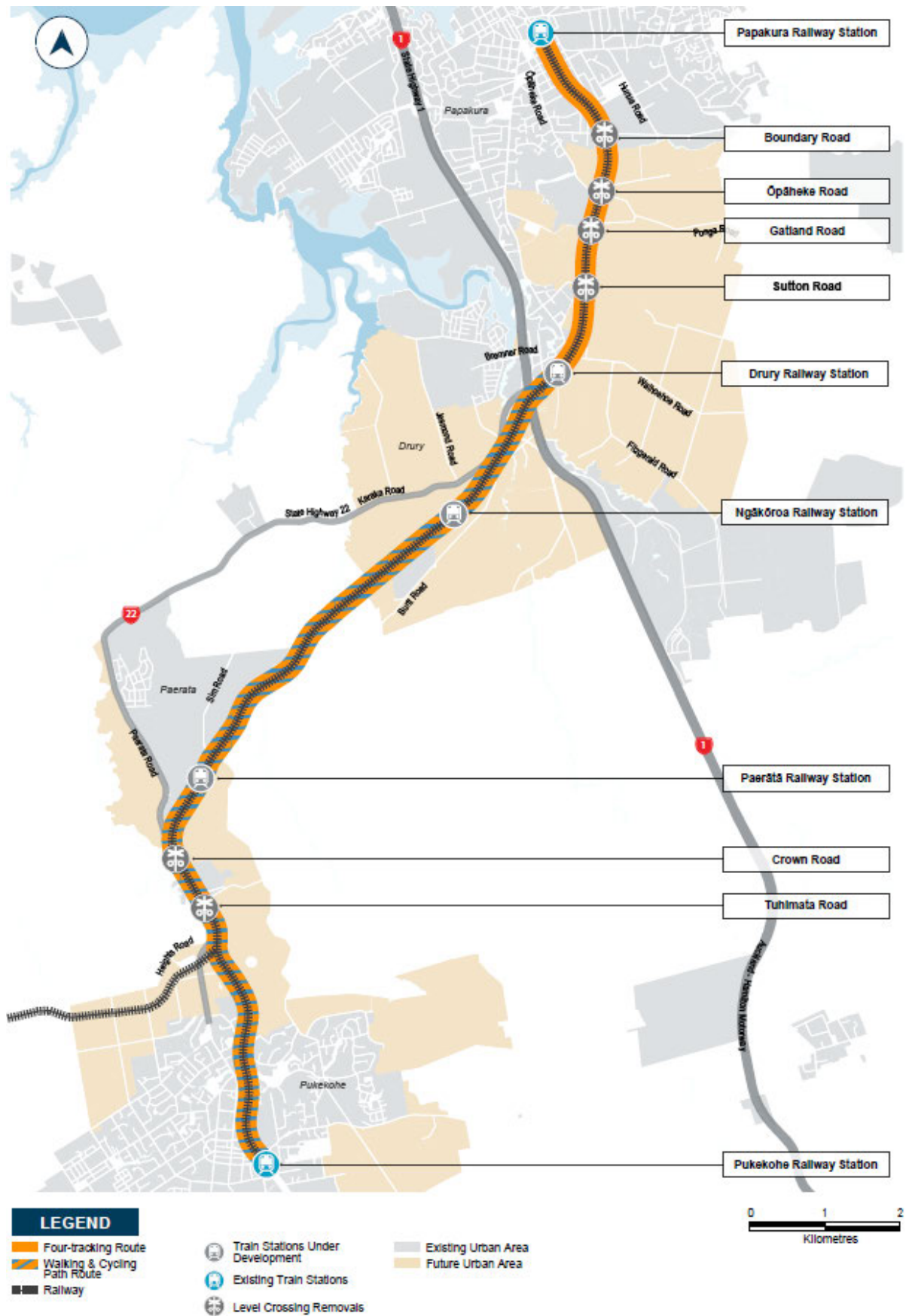
Number of attachments: #	Attachments: 1. Application documents for Papakura to Pukekohe Route Protection – Four-tracking and Active Mode Corridor Project
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Applicant	Sector	Region	Identified in a priority/strategy?
Auckland Transport	Infrastructure	Auckland	Yes

Ministry for the Environment contacts

Position	Name	Mobile	1 st contact
Principal Authors	Rob Schick, Anna Galvin		
Manager	Stephanie Frame	s 9(2)(a)	✓
Director	Ilana Miller	s 9(2)(a)	

Project location



Key messages

1. The Papakura to Pukekohe Route Protection – Four-tracking and Active Mode Corridor project will remove six level crossings and associated crossing interventions while establishing an active mode corridor to facilitate and support KiwiRail's four-tracking transport project. The active mode corridor will start at Pukekohe and terminate at Drury Railway Station.
2. The project will comprise:
 - a. earthworks and in-stream work
 - b. removal of vegetation, including street trees, within riparian margins and significant ecological areas
 - c. stormwater diversion and discharge
 - d. works within the stormwater management flow areas
 - e. temporary and permanent groundwater diversion and discharge
 - f. land acquisitions
 - g. works within contaminated land or land that was/is associated with horticultural activities.
3. The project will require resource consents, under the Resource Management Act 1991 (RMA), authority under the Wildlife Act 1953, archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014, access arrangements through Reserves Act 1977, and proclamation to take or deal with land under the Public Works Act 1981.
4. Land is owned by a mixture of Auckland Council (roads), KiwiRail Holdings Limited (rail corridor) and property owners. The final list of property owners and landholdings will be confirmed once a preferred route is identified.
5. We have undertaken an initial (Stage 1) analysis of the application, and this is provided in Table A.
6. 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).
7. 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.
8. 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 'RSalter', is positioned below the 'Signature' header line.

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			
Schedule requested 2A Project Name Papakura to Pukekohe Route Protection – Four-tracking and Active Mode Corridor Applicant Auckland Transport Location North Island Main Trunk railway line between Papakura and Pukekohe Land Status Land is owned by a mixture of Auckland Council (roads), KiwiRail Holdings Limited (rail corridor) and property owners. The final list of property owners and landholdings will be confirmed once a preferred route is identified.	The Papakura to Pukekohe Route Protection – Four-tracking and Active Mode Corridor project will remove six level crossings and associated crossing interventions while establishing an active mode corridor to facilitate and support KiwiRail's four-tracking transport project. The active mode corridor will start at Pukekohe and terminate at Drury Railway Station. The project will comprise: <ul style="list-style-type: none"> • earthworks and in-stream work • removal of vegetation, including street trees, within riparian margins and significant 	The applicant seeks approval under the: <ul style="list-style-type: none"> • Resource Management Act 1991 • Heritage New Zealand Pouhere Taonga Act 2014 • Wildlife Act 1953 • Reserves Act 1977 • Public Works Act 1981 DoC provided feedback on the applicant and noted no reason for the project to be considered ineligible.	Engagement is being undertaken in two stages. Stage one, which is currently underway includes engagement with project partners such as Mana Whenua and Local Boards, key stakeholders, potentially affected landowners, and the wider community. Key to this engagement will be the sharing of information about indicative routes and informing those property owners who could be affected. Feedback will be sought on people's lived experience, such as how they access and use the area, and their experience with	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. 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. 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	No	No	No	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. No It is more appropriate to deal with the application under another Act. No The project may have significant adverse effects on the environment. Yes - the applicant notes the project will require works in/over sensitive environments such as freshwater (streams/wetlands) or protected vegetated areas as well as potentially extending into areas identified as containing highly productive soils. An assessment of adverse effects will take place when required in the next phase, but the applicant notes there are likely to be effects on the following:	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. Yes – the applicant notes that the potential effects and scale of public interest in the project would mean that the use of the fast-track decision-making process set out in the Bill will substantially reduce the time and cost required to consent and deliver this project The impact referring this project will have on the efficient operation of the fast-track process. Yes – the applicant notes there will be no impact on the efficient operation of the fast-track process. Engagement and consultation has	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. Yes – the project has been identified in both Central and Local government plans and strategies as a priority for the reasons that it will provide for economic growth, productivity, increase transport resilience, and road safety. This includes the draft Government Policy Statement on Land Transport 2024-34, where this project forms part of the rail project in the policy-Papakura to Pukekohe. The project will deliver regionally or nationally significant infrastructure. Yes – enabling four tracking rail corridor while ensuring a well-connected community with multiple travel modes through the construction and operation of a strategic regional will deliver both regionally and nationally significant infrastructure. The project will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment. Yes – the applicant notes that a well-designed transport network assists with the development of integrated land use and functionality of the urban environment. The project will deliver significant economic benefits. Yes – the project will support the development of South Auckland, and give effect to the overarching direction provided under the draft Government Policy Statement for growth in this area.

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>ecological areas</p> <ul style="list-style-type: none"> • stormwater diversion and discharge • works within the stormwater management flow areas • temporary and permanent groundwater diversion and discharge • land acquisitions • works within contaminated land or land that was/is associated with horticultural activities. 		<p>issues such as flooding. The resulting feedback report will inform the design and the next stage of engagement.</p> <p>In stage two, engagement will be centred around landowners and informed by the proposed designation boundaries to be included within the Notices of Requirement.</p> <p>Landowners will be invited to meet with members of the Project team to understand more about how the Project might affect their property, the Notice of Requirement process and potentially the property acquisition process, depending on the proposed timing for detailed design and construction.</p> <p>Project partner engagement will also form part of stage two engagement, through regular hui and Local Board workshops.</p>	Schedule 2B rather than 2A.				<ul style="list-style-type: none"> • significant ecological areas • noise and vibration • property impacts including business disruptions • vegetation removal • stormwater management • wetlands • land contamination • ecological impacts on indigenous flora and fauna • notable trees • historical heritage, archaeological and cultural • network utilities such as the National Grid • highly productive land • permanent severance of community <p>The applicant has a poor compliance history under the relevant legislation.</p> <p>No</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>No</p> <p>The project includes an activity that is a prohibited activity under the RMA.</p> <p>No</p>	<p>commenced and the project will be developed to a high standard to help with assessment efficiency.</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>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> <p>Yes – the project will provide for rail and an active mode corridor, reducing the reliance on low occupancy vehicle travel.</p> <p>The project will support adaptation, resilience, and recovery from natural hazards.</p> <p>No – the applicant notes that they will adhere to the Auckland Transport Climate Change Adaptation Policy by using the Protect, Accommodate, Retreat and Avoid (PARA) framework. These assessments will inform opportunities for adaptation and resilience from climate change and impacts of natural hazards</p> <p>The project will address significant environmental issues.</p> <p>No – the applicant notes that elevated bridges will provide less disruption to wildlife corridors, and the project will reduce emissions by providing low-carbon transport options.</p> <p>The project is consistent with local or regional planning documents, including spatial strategies.</p> <p>Yes - the local and regional planning documents contain provisions that enable regional development activities, where adverse effects on the receiving environment are able to be appropriately managed and mitigated.</p> <p>On the basis that the potential adverse effects of the project on the surrounding environment are able to be appropriately managed, the project will be consistent with the local and regional planning documents</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;

<ul style="list-style-type: none"> 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. 	
Ineligible projects - based on the considerations at cl18(a–e) of the Fast Track Approvals Bill (version as at introduction)	<p>This project may be ineligible according to the information in the application which states “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).”</p> <p>Officials understand this to be settlement land included in the the Deed of Settlement is between the Crown and Waikato-Tainui. The applicant has noted that this Treaty settlement “enabled the land to be returned to Waikato-Tainui as a form of commercial compensation, and that settlement property is currently leased back to a Crown Agency (Justice Court) under the agreed terms specified under attachment 2 of the Deed of Settlement.”</p> <p>The applicant notes that Auckland Transport and KiwiRail are currently working through the boundaries for the project and will undertake an assessment if the property is affected.</p> <p>On this basis the application may be ineligible and subject to further discussions with Waikato-Tainui.</p>
Affected Māori group/s	<p>The applicant has identified the following groups with interests in the project area:</p> <ul style="list-style-type: none"> Ngāti Tamaoho Te Ākitai Waiohū Ngāi Tai ki Tāmaki Ngāti Whanaunga Ngāti Pāoa Ngāti Maru Te Ahiwari [sic] written as Ahiwaru from here on Ngāti Te Ata Waiohū <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 2017²</p> <p><u>Te Ākitai Waiohū</u></p> <p>Te Ākitai Waiohū is an iwi whose area of interest includes the proposed project site, based on the Area of Interest agreed between Te Ākitai Waiohū and the crown in the Deed of Settlement signed on 23 December 2020.³</p> <p><u>Ngāi Tai ki Tāmaki</u></p> <p>Ngāi Tai ki Tāmaki is an iwi whose area of interest includes the proposed project site, based on the Area of Interest agreed between Ngāi Tai ki Tāmaki and the Crown in the Deed of Settlement signed on 7 November 2015.⁴</p> <p><u>Ngāti Whanaunga</u></p> <p>Ngāti Whanaunga is an iwi whose area of interest includes the proposed project site, based on the Area of Interest agreed between Ngāti Whanaunga and the Crown in the Deed of initialled on 25 August 2017.⁵</p> <p><u>Ngāti Pāoa</u></p> <p>Ngāti Pāoa is an iwi whose area of interest includes the proposed project site, based on the Area of Interest agreed between Ngāti Pāoa and the Crown in the Deed of Settlement signed on 20 March 2021⁶</p> <p><u>Ngāti Maru</u></p> <p>Ngāti Maru is an iwi whose area of interest includes the proposed project site, based on Te Kahui Mangai. Noting that while a Deed of Settlement has been initialled the Area of Interest agreed between Ngāti Maru and the Crown on 8 September 2017⁷ has not been included in the document yet.</p> <p><u>Ngāti Te Ata Waiohū</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. Information from Te Kāhui Māngai confirms the proposed project location as being within the area of interest and there is a proposed area of interest included in Appendix A of the Terms of Negotiation agreed with the Crown in 2011 and the proposed project location is within this area⁸. Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.</p> <p><u>Te Ahiwaru Waiohū</u></p>

² <https://www.tkm.govt.nz/rohe/AOI-NgatiTamaoho.jpg>

³ <https://www.tkm.govt.nz/rohe/AOI-TeAkitaiWaiohū.pdf>

⁴ [AOI-NgaiTaikiTamaki.jpg](https://www.tkm.govt.nz/rohe/AOI-NgaiTaikiTamaki.jpg) (669×949) (tkm.govt.nz)

⁵ <https://www.tkm.govt.nz/rohe/AOI-NgatiWhanaunga.pdf>

⁶ <https://www.tkm.govt.nz/rohe/AOI-NgatiPaoa.pdf>

⁷ TKM | Iwi | Ngāti Maru | Te Kahui Mangai

⁸ [Ngati-Te-Ata-Terms-of-Negotiation-29-Jun-2011.pdf](https://www.tkm.govt.nz/rohe/AOI-NgatiTeAtaWaiohū.pdf) (tearawhiti.govt.nz)

	<p>Te Ahiwaru is not listed in Te Kahui Mangai or Te Arawhiti data bases. The Auckland Council database indicates that the area of interest for Te Ahiwaru Waiohū as described would fall mainly to the north of the Pukekohe to Papakura rail corridor. We do not have access to any specific information on the boundaries and extent of this area of interest to enable verification. As the applicant has identified this group as having interests, further information should be sought about the nature of those interests from the applicant. Other Waiohū descended iwi are Ngāti Tamaoho and Ngāti Te Ata addressed in their own right above.</p> <p>In addition to the groups identified by the applicant we have also identified the following additional groups with interests in the area:</p> <p><u>Waikato Tainui</u></p> <p>Waikato Tainui are yet to settle their remaining claims and so the area of interest is not confirmed through a Treaty Settlement. The Deed of Mandate signed in March 2020 by Waikato Tainui and the Crown identifies an area of interest for remaining claims which includes the project site.⁹</p> <p><u>Ngāti Tamaterā</u></p> <p>Ngāti Tamaterā is an iwi whose area of interest includes the proposed project site, based on Te Kahui Mangai.¹⁰ Noting that while a Deed of Settlement has been initialled the Area of Interest agreed between Ngāti Maru and the Crown on 8 September 2017¹¹ has not been included in the document yet. There is not currently a proposed Area of Interest included in the Deed of Settlement which was initialled on 20 September 2017.</p>
Has the applicant consulted with those Māori groups?	<p>The application states: "Discussion with the Treaty Settlement entity (referring to Waikato Tainui land returned as part of their settlement) will commence once optioneering is completed and any agreement will be sought prior to refinement of the route." Consultation with the Ngāti Tamaoho has been ongoing through KiwiRail's hui for the Project and will continue throughout the Project." "As a public entity, AT is committed to partnering with Māori to meet its statutory obligations under Te Tiriti o Waitangi. AT recognises the importance of understanding the needs of Māori across Tāmaki Makaurau and is committed to establishing and improving opportunities for Mataawaka Māori to contribute to the decision-making processes."</p>
Impact/s of the project on Māori development and PSGE settlement priorities and related matters	<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"> • Ngā Tikanga o Ngāti te Ata: Tribal Policy Statement 1993 • Ngā Tikanga o Ngāti 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 Kōiwi • Ngāti Paoa Resource Management Plan 1996 • Ngāti Paoa Trust Long Term Plan Consultation Draft 2006 • Ngāti Paoa 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 • Ngāti Tamaterā Environmental Management Plan 2019 • Ngāti Te Ahiwaru Waiohū Environmental Plan 2019 <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 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.</p> <p><u>Impact on Treaty settlements and other relevant arrangements</u></p> <p>As there is not yet a Notice of Requirement for this project, the exact location of the land affected by the project is uncertain.</p> <p>Ngāti Tamaoho Claims Settlement Act 2018¹²</p> <p><i>Statutory Acknowledgements</i></p> <p>This Treaty settlement contains a number of statutory acknowledgements.</p> <p>Officials have identified that parts of the project fall within or are adjacent to the following Ngāti Tamaoho statutory acknowledgements:</p> <ul style="list-style-type: none"> • Whangapouri Creek and its tributaries (OTS-129-37) (Pukekohe and Paerata portion of the existing rail corridor passes through this area) • Oira Creek and its tributaries (OTS-129-21) (Paerata portion of the existing rail corridor passes through this area) • Karaka Creek and its tributaries (OTS-129-08) (close to Paerata portion of the existing rail corridor) • Otūwairoa Stream and its tributaries (includes Waipokapu Stream, Mangapu Stream and Waihoehoe Stream) (OTS-129-22) (Papakura portion of the existing rail corridor passes through this area).

⁹ Waikato-Tainui Remaining Claims Deed of Mandate (tearawhiti.govt.nz) (see page 17 for area of interest for remaining claims)

¹⁰ TKM | Iwi | Ngāti Tamaterā | Te Kahui Mangai

¹¹ TKM | Iwi | Ngāti Maru | Te Kahui Mangai

¹² Ngāti Tamaoho Claims Settlement Act 2018 No 19 (as at 12 April 2022), Public Act Contents – New Zealand Legislation

- Hingaia Stream and its tributaries (OTS-129-06) (northern portion of the existing rail corridor may pass through this area)
- Ngakoroa Stream and its tributaries (OTS -129-20)
- Coastal Marine Area (OTS-129-03) (northern portion of the existing corridor is adjacent to this area)

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.

Te Akitai Waiohū Deed of Settlement 2020

Statutory acknowledgements

This Treaty settlement contains a number of statutory acknowledgements. Officials have identified that parts of the project fall within or are adjacent to the following Te Akitai Waiohū statutory acknowledgement:

- Paerata Scenic Reserve OMCR 131-024 (adjacent to the Paerata portion of the existing rail corridor)

The above text on statutory acknowledgements applies.

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. If there are relevant statutory acknowledgements, then the above text regarding statutory acknowledgements applies.

Ngāti Whanaunga Deed of Settlement 2017

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. If there are relevant statutory acknowledgements, then the above text regarding statutory acknowledgements applies.

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. If there are relevant statutory acknowledgements, then the above text regarding statutory acknowledgements applies.

Ngāti Maru 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. If there are relevant statutory acknowledgements, then the above text regarding statutory acknowledgements applies.

Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014

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 Ōrākei, Te Ākitai Waiohū, Te Kawerau ā Maki, Te Patukirikiri and Te Rūnanga o Ngāti Whātua. The settlement notes that there are outstanding harbours Treaty settlement negotiations including over the Manukau harbour (which is relevant to the project area).

Waikato-Raupatu Claims Settlement Act 1995

The applicant has noted that the project area may include lands provided for in the Waikato-Tainui Deed of Settlement 1995. Further information about this is included above in the eligibility section of this assessment.

Potential impact of non-RMA approvals

Wildlife Act 1953

Some of the settlements detailed above include 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).

Conservation Act 1987

	<p>Some of the settlements detailed above include obligations in relation to the Conservation Act 1987. This applicant does not identify any concessions being sought under the Conservation Act but we think it is possible some concessions relevant to those settlement obligations may be necessary but are not detailed in the application.</p> <p><i>Reserves Act 1977</i></p> <p>Some of the settlements include obligations in relation to the Reserves Act 1977. This application seeks approvals under the Reserves Act which may be relevant to those settlement obligations but is not detailed in the application.</p> <p><u>Mana Whakahono ā Rohe</u></p> <p>Ngāi Tai ki Tāmaki and the Auckland Council began negotiating a Manawhakahono ā rohe in 2018. Mana Whakahono ā Rohe provide for an ongoing role for iwi and hapū in decision-making and resource management. Further assessment of the impact on that arrangement would be required to understand whether listing this project could undermine the relationship between Auckland Council and Ngāi Tai ki Tāmaki.</p> <p><u>Iwi Environment Management plans</u></p> <p>Note the comments above in relation to iwi management plans.</p> <p><u>Implications for groups yet to settle their historical Treaty of Waitangi claims</u></p> <p>There are groups still working through their Treaty settlement processes including Ngāti Te Ata Waiohū and Waikato Tainui (remaining claims including the Manukau Harbour). 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><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></p> <p>Part of the project area may fall within the common marine and coastal area on the margins of the Manukau Harbour. Within this 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 – Marine and Coastal Area Register Toitū Te Whenua - Land Information New Zealand (linz.govt.nz). There are however a number of applications by whānau, hapū and iwi groups who have applied to have their customary interests recognised under the Act. 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><u>Other matters</u></p> <p>In the time available, officials have not identified any other impacts for Joint Management Agreements outside of settlement.</p>
Is the project considered low, medium or high impact (based on assessment criteria above)	<p>From the information available we consider this project is likely to be of medium impact. This is due to the lack of consultation with the affected groups to date and uncertainty of the project area, potential impact on a significant areas or sites, potential effect of listing on statutory acknowledgements, impact on relationships established in mana whakahono ā rohe and potential impact on land returned under a Treaty Settlement.</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>
Has the Ministry for the Environment undertaken engagement?	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.
Additional comments/context	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.