

FTA#112: Application for listed project under the Fast-track Approvals Bill – Wellington International Airport Southern Seawall Renewal Project for Schedule 2A

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

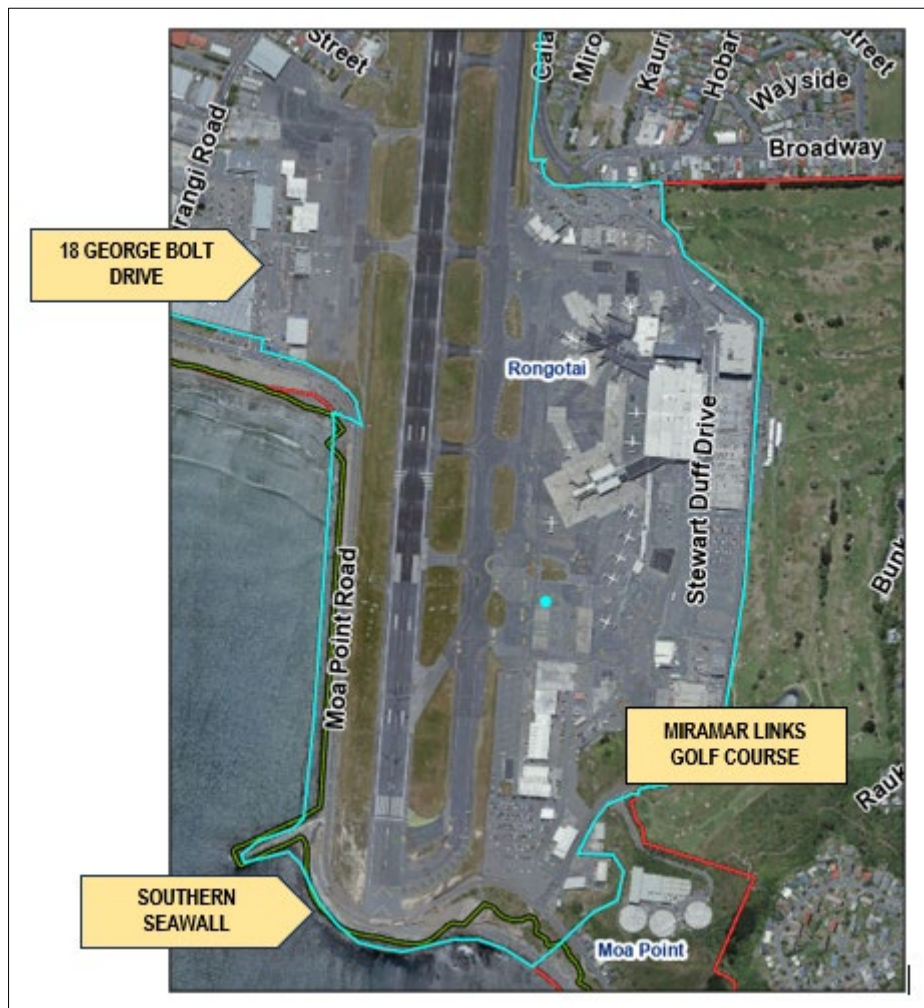
Number of attachments: #	Attachments: 1. Application documents for Wellington International Airport Southern Seawall Renewal Project 2. Agency Feedback (MPI)
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Applicant	Sector	Region	Identified in a priority/strategy?
Wellington International Airport Limited ("WIAL")	Marine Infrastructure	Wellington	No

Ministry for the Environment contacts

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

Project location



Key messages

1. The Wellington International Airport Southern Seawall Renewal project is to replace and upgrade the existing seawall, that is at the end of its design life, at the southern end of the runway at Wellington Airport.
2. The project will comprise ancillary activities to support the reconstruction, likely to occur at the following locations, a new or upgraded supply wharf in Evans Bay (due to the aggregate materials likely coming from northern sources), and construction yards at 18 George Bolt Street to the northwest and at the southern portion of Miramar Links Golf Course (which may also include a concrete batching facility and casting area).
3. The project will require approvals under the Resource Management Act 1991 (RMA), Heritage New Zealand Pouhere Taonga Act 2014, Wildlife Act 1953 and Reserves Act 1977 (for the portion identified as esplanade reserve).
4. The seaward part of the seawall is in the coastal marine area, which is Crown owned and the issuing of a resource consent (coastal permit) will enable the activities to be undertaken. The landward part of the seawall is on land owned by Wellington City Council. The applicant has an agreement with the council to maintain the seawall. The applicant is the landowner of the ancillary construction areas (at George Bolt Street and at Miramar Golf Course).

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** 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).
7. The project does not trigger the ineligibility criteria in clause 18 of the Fast-track Approvals Bill (the Bill).
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 'R Salter', is written over a horizontal line.

Ray Salter
Principal Analyst – 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	N	N	N	N			
<p>Schedule requested 2A</p> <p>Project Name Wellington International Airport Southern Seawall Renewal</p> <p>Applicant Wellington International Airport Limited ("WIAL")</p> <p>Company director/s</p> <ul style="list-style-type: none"> Elizabeth Jane Albergoni Rachel Amelia Ockelford Drew Wayne Campbell Eagleson Matthew Ross Phillip James Walker Perth Airport Pty Ltd Tory Awatere Whanau <p>Locations</p> <p>Southern Seawall landward portion - Wellington City Council (Record of Title WN45A/75)</p> <p>Southern Seawall seaward portion – Coastal Marine Area</p> <p>Miramar Golf Club and Airport site - 28</p>	<p>The Wellington International Airport Southern Seawall Renewal project is to replace and upgrade the existing seawall, that is at the end of its design life, at the southern end of the runway at Wellington Airport.</p> <p>The project will comprise ancillary activities to support the reconstruction, likely to occur at the following locations, a new or upgraded supply wharf in Evans Bay (due to the aggregate materials likely coming from northern sources), and construction yards at 18 George Bolt Street to the northwest and at the southern portion of Miramar Links Golf Course (which may also include a concrete batching facility and casting area).</p>	<p>The applicant seeks approval under the:</p> <ul style="list-style-type: none"> Resource Management Act 1991 – all sites and coastal marine area Heritage New Zealand Pouhere Taonga Act 2014 - earthworks and development of the Miramar Golf Course and George Bolt Street site Wildlife Act 1953 – existing seawall and Miramar Golf Course Reserves Act 1977 – Parts of the Southern Seawall are classified as esplanade reserve. 	<p>The application identifies the following as persons affected:</p> <ul style="list-style-type: none"> Wellington City Council (landowner seawall location, potential supply wharf sites, and road controlling authority) – consultation commenced in 2021 and is ongoing Greater Wellington Regional Council – no specific consultation. Information provided via submission/hearing to the Regional Policy Statement – Plan Change 1 Centre Port Wellington (owns Miramar Wharf) – discussions commenced Port Nicholson Settlement Trust – information sent Ngāti Toa – overview, site visit hosted and further information provided. Local residents of Lyall Bay and users of Strathmore Park – circulated letters, 	No.	No.	No – a portion of the project area is esplanade reserve, administered by the Department of Conservation, they have raised no concerns.	No.	<p>The project, or any part of it, is inconsistent with a relevant Treaty settlement, the NHNP Act, the Marine and Coastal Area (Takutai Moana) Act 2011, a Mana Whakahono ā Rohe, or a joint management agreement.</p> <p>No – the application and Treaty advice below has not identified any inconsistency grounds.</p> <p>It is more appropriate to deal with the application under another Act.</p> <p>No – 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>The project may have significant adverse effects on the environment.</p> <p>No – the application identifies potential effects relating to cultural values, noise (including</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 project requires approvals under three Acts with separate approval processes. The Bill means all relevant approvals can be processed together. Also, the current statutory planning environment in Wellington is complex, and in a state of change. The net result will be that the project, and its benefits, will be achieved much earlier.</p> <p>The impact referring this project will have on the efficient operation of the fast-track process.</p> <p>No – the project has been in development since 2018, so is well advanced. It is anticipated that completing the technical work that is currently underway and preparing the RMA application will</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>No – the applicant refers to Wellington Airport's WLG 2040 masterplan which identifies seawall upgrades as a priority and necessary to improve resilience to the effects of climate change.</p> <p>The project will deliver regionally or nationally significant infrastructure.</p> <p>No – the project is existing and will continue to support the existing airport infrastructure.</p> <p>The project will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment.</p> <p>No.</p> <p>The project will deliver significant economic benefits.</p> <p>No.</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>

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>Stewart Duff Drive, Rongotai, Wellington</p> <p>18 George Bolt Street, Wellington</p> <p>Supply wharf: To be confirmed (Within coastal marine area of Evans Bay – preferred location yet to be determined).</p> <p>There is no public conservation land affected.</p> <p>Land Status</p> <p>The seaward part of the seawall is in the coastal marine area, which is Crown owned and the issuing of a resource consent (coastal permit) will enable to the activities. The landward part of the seawall is on land owned by Wellington City Council. The applicant has an agreement with the council to maintain the seawall. The applicant is the landowner of the ancillary construction areas (at George Bolt Street and at Miramar Golf Course).</p>			<p>posted website information and hosted two public meetings in September 2023.</p> <ul style="list-style-type: none"> The Wellington Boardriders Club – ongoing engagement and feedback through regular updated meetings on surf conditions to surf modellers engaged for the project Lyll Bay Surf Lifesaving Club NZ Transport Agency <p>The applicant identifies the following as interested parties:</p> <ul style="list-style-type: none"> Taranaki Whanui – Port Nicholson Block Settlement Trust (mana whenua of the Port Nicholson area) Wellington Tenth Trust (Te Ātiawa, Ngāti Tama, Taranaki, and Ngāti Ruanui tupuna); Ngāti Toa Rangitira (exercise kaitiakitanga over Te Moana o Raukawa (Cook Strait), inclusive of Lyall Bay (Hue te Para), and applicant under the Marine and Coastal Area (Takutai Moana) Act 2011 (MACA) Te Ātiawa ki Te Upoko o Te Ika a Maui Trust (MACA applicant). Muaūpoko Tribal Authority Incorporated (MACA applicant). 					<p>construction), transportation, landscape and visual amenity effects, marine ecology effects, avifauna, historic and archaeological values, heritage – Miramar wharf, surf and coastal values, and civil design.</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>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>Potentially – it is not clear whether the project includes any activities prohibited under the RMA, regarding the avoidance policies of adverse effects and in relation to indigenous biodiversity values in the coastal environment. We note if the project is prohibited under the RMA, it can still be considered under the Bill.</p>	<p>take six months to complete and likely to be filed in October 2024. If accepted for the Fast-track process, a similar lodgment date is anticipated.</p> <p>The application, whilst strategically significant for managing coastal hazard risks and protecting significant infrastructure assets, does not raise novel effects, nor are the components of the project individually complex as they are largely building on an already disturbed footprint (i.e. the existing seawall and wharf structures). On that basis the application is likely to be relatively straightforward to process and is unlikely to absorb significant processing resources.</p> <p>Whether the application contains sufficient information to inform the referral decision.</p> <p>Yes – we consider the applicant has provided sufficient information to consider it for listing in Schedule 2A.</p>	<p>The project will support climate change mitigation, including the reduction or removal of greenhouse gas emissions.</p> <p>No.</p> <p>The project will support adaptation, resilience, and recovery from natural hazards.</p> <p>Yes – the project will enhance the resilience and protection of the airport infrastructure from coastal conditions and to withstand earthquakes. The applicant identifies that Wellington International Airport has a lifeline utility function under the Civil Defence Emergency Management Act 2002.</p> <p>The project will address significant environmental issues.</p> <p>No.</p> <p>The project is consistent with local or regional planning documents, including spatial strategies.</p> <p>Yes – the project is consistent with the local (Wellington City Council Operative and Proposed District Plans and Our City Tomorrow: Spatial plan for Wellington City) and regional planning documents (Regional Policy Statement for the Wellington Region and Natural Resources Plan for the Wellington Region), where adverse effects on the receiving environment are able to be appropriately managed and mitigated.</p> <p>In the time available, it has not been possible to determine what the status of the avoidance policies of adverse effects and in relation to indigenous biodiversity values in the coastal environment is in relation to the planning documents. Under the Natural Resource Plan for the Wellington Region, the applicant identifies that complete avoidance of adverse effects, for example disturbance of Kororā/little blue penguin or earthworks over the winter season is unlikely to be possible.</p> <p>This may need to be clarified.</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 c18(a–e) of the Fast Track Approvals Bill (version as at introduction)</p>	<p>The project does not appear to be ineligible according to the information provided in the application.</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"> • Taranaki Whānui – Port Nicholson Block Settlement Trust • Wellington Tenth Trust (Te Ātiawa, Ngāti Tama, Taranaki, and Ngāti Ruanui tupuna) • Ngāti Toa Rangatira (exercise kaitiakitanga over Te Moana o Raukawa (Cook Strait), inclusive of Lyall Bay (Hue te Para), and applicant under the Marine and Coastal Area (Takutai Moana) Act 2011) • Te Ātiawa ki Te Upoko o Te Ika a Maui Trust (applicant Takutai Moana Act 2011). • Muaūpoko Tribal Authority Incorporated (applicant under Takutai Moana Act). <p><u>Taranaki Whānui ki Te Upoko o Te Ika</u></p> <p>Taranaki Whānui ki Te Upoko o Te Ika is a collective that comprises people of Te Ātiawa, Taranaki, Ngāti Ruanui, Ngāti Tama and others including Ngāti Mutunga from a number of Taranaki iwi whose ancestors migrated to Wellington in the 1820s and 30s. Their area of interest includes the proposed project site, based on the Area of Interest agreed between Taranaki Whānui ki Te Upoko o Te Ika and the Crown in the Deed of Settlement signed 2008.² Port Nicholson Block Settlement Trust (PNBST) is the Post Settlement Governance Entity (PSGE).</p> <p><u>Te Rūnanganui o Te Āti Awa ki te Upoko o Te Ika a Māui and Wellington Tenth Trust</u> who, alongside Port Nicholson Block Settlement Trust are the three Āti Awa entities (Āti Awa nui tonu Mana whenua rōpū).³</p> <p><u>Ngāti Toa Rangatira</u></p> <p>Ngāti Toa Rangatira interest area includes the proposed project site, based on the Area of Interest agreed between Ngāti Toa Rangatira and the Crown in the Deed of Settlement signed 2012.⁴ Te Rūnanga o Toa Rangatira Inc is the Post Settlement Governance Entity (PSGE).</p> <p><u>Muaūpoko</u></p> <p>Muaūpoko are yet to settle their historical Treaty of Waitangi claims and so the area of interest of the Muaūpoko is not confirmed through a Treaty settlement. Muaūpoko Tribal Authority Inc represents Muaūpoko as an "iwi authority" for the purposes of the Resource Management Act 1991 and their mandate is recognised by the Crown for Treaty of Waitangi settlement negotiations. Though not confirmed through Treaty Settlement, Te Kāhui Mangai states Muaūpoko exercises kaitiakitanga for the purposes of the Resource Management Act 1991 in the area where the proposed project site will be.⁵ Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.</p> <p>The interests of takutai moana applicant groups are discussed in the relevant section below. We have not identified any additional groups beyond those identified by the applicant.</p>
<p>Has the applicant consulted with those Māori groups?</p>	<p>The applicant states that the following consultation has occurred:</p> <ul style="list-style-type: none"> • Port Nicholson Block Settlement Trust (Taranaki Whānui) - Information has been sent, no reply received as yet. • Ngāti Toa - The applicant has provided an overview of the Southern Seawall Project to Ngāti Toa representatives and has hosted a visit to the site. Further information has also been provided, however no further correspondence / feedback has been received as yet. <p>The applicant states "the decision-making process for the application will need to reflect Te Tiriti o Waitangi, which guarantees rangatiratanga and requires the Crown to uphold the principles of partnership, good faith and protection."</p>

² https://www.tearawhiti.govt.nz/assets/Treaty-Settlements/FIND_Treaty_Settlements/Taranaki-Whanui-ki-Te-Upoko-o-Te-Ika/DOS_documents/Taranaki-Whanui-ki-Te-Upoko-o-Te-Ika-Deed-of-Settlement-19-Aug-2008.pdf

³ <https://atiawa.com/>

⁴ TKM | Iwi | Taranaki Whānui ki Te Upoko o Te Ika | Te Kahui Mangai

⁵ TKM | Iwi | Muaūpoko | Te Kahui Mangai

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

Please note: For impacts on Māori Commercial Aquaculture Claims Settlement Act 2004, Fisheries Act 1996, Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and other matters such as customary fishing, taiāpure or mātaītai (legislation and functions that the Ministry for Primary Industries (MPI) administers) please refer to attached MPI advice.

Impacts on PSGE settlement priorities and Māori development

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.

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

- Tākai Here partnership between Wellington City Council (WCC) and Te Rūnanga O Toa Rangatira, Taranaki Whānui ki Te Upoko o te Ika / Port Nicholson Block Settlement Trust and Te Rūnanganui o Te Āti Awa ki te Upoko o Te Ika a Māui⁶
- Taranaki Whānui, PNBST Five Year strategic plan⁷
- Ngāti Toa Environmental Plan 20218 and 25 year strategy.
- Te Rūnanganui o Te Āti Awa Ki Te Upoko o Te Ika a Māui Inc 2019 Strategic Plan⁹

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

Impact on Treaty settlements and other relevant arrangements

Port Nicholson Block (Taranaki Whānui ki te Ūpoko o Te Ika) Claims Settlement Act 2012

Protocols and relationship agreements

There are Department of Conservation, Fisheries (Ministry for Primary Industries) and Ministry for Culture and Heritage protocols provided for in the settlement. The application indicates a heritage assessment needs to take place and that the project location may overlap Moa Point which is identified as a Category B (Wāhi Taonga) area of Significance to Taranaki Whānui ki Te Upoko o Te Ika in the proposed Wellington City District Plan 2024. The applicant states "while this feature is mapped in the proposed Wellington City District Plan as being slightly north of the project footprint, WIAL [the applicant] understands that the mapped location of this feature is indicative only. The values ascribed to this area will be further refined through WIAL's engagement with Taranaki Whānui and Ngāti Toa."

Whole-of-Government Accord between Taranaki Whānui and the Crown

There are several agreements that establish specific requirements for iwi and hapū input and participation in statutory and management processes related to their area of interest. This includes obligations for the Crown to engage with groups at an early stage. The 2011 Whole of Government Accord between the Crown and Taranaki Whānui ki Te Ūpoko o Te Ika commits the Crown and Taranaki Whānui to work in a spirit of co-operation, to ensure early engagement on issues of known mutual interest, and to commit to good faith engagement.¹⁰

Statutory acknowledgement of Wellington Harbour and Coastal Marine Area

This Treaty settlement contains a number of statutory acknowledgements, which are detailed in the [Taranaki Whānui ki Te Upoko o Te Ika Deed of Settlement Schedule](#). From the information provided, at least two of these of these statutory acknowledgements – Wellington Harbour (as show on SO 408073) and Coastal Marine Area (SO 408070) – are directly affected by this proposal. The statutory acknowledgement over Wellington Harbour covers the area where the applicant proposes new wharf infrastructure to support the project: "...it is proposed that a supply wharf be located in Evans Bay. Options are being investigated and could include the potential strengthening or partial rebuilding of Miramar Wharf".

The statutory acknowledgement for the Coastal Marine Area covers the proposed project site.

Reserves Act 1977

The Settlement Act includes obligations in relation to the Reserves Act 1977. This application seeks approvals under the Reserves Act (the applicant states that parts of the Southern Seawall are classified as esplanade reserve) which may be relevant to those settlement obligations (depending on the detail of the application made).

Te Upoko Taiao

Te Upoko Taiao is a permanent joint committee of the Greater Wellington Regional Council consisting of equal numbers of iwi and council appointed members, which is given statutory effect under the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Act 2022.

The functions of the Te Upoko Taiao committee includes:

- overseeing the preparation of the regional plan and making recommendations to the Council on key RMA matters; and
- appointing hearing panels and commissioners for RMA planning hearings and undertaking a range of other RMA related functions.

If this project is progressed through the Fast-track Approvals process, there is a risk that regional policy statements and plans will have a lesser effect than they would under the RMA, and hence the impact of this arrangement will be diminished.

Ngāti Toa Rangatira Claims Settlement Act 2014

Statutory acknowledgement of the Cook Strait and Wellington Harbour

⁶ Tākai Here Mana Whenua and WCC Agreement (wellington.govt.nz)

⁷ <https://www.pnbst.maori.nz/assets/Annual-Reports/Five-year-Strategic-Plan-PNBST-2011-15.pdf>

⁸ TOA10714_He Kakano_FA2.1.indd (squarespace.com) and [HYPERLINK](#)

"https://static1.squarespace.com/static/61a403b442b8840d9ed2143a/t/6230ebdf14d18c181bf41c11/1647373280474/25+YEAR+STRATEGY+FOR+2021_2046_Final%5B30%5D.pdf"25+YEAR+STRATEGY+FOR+2021_2046_Final[30].pdf (squarespace.com)

⁹ <http://atiawa.com/wp-content/uploads/2020/11/2019-TROT-Strategic-Report.pdf>

¹⁰ Whole of Government Accord between Taranaki Whānui ki Te Ūpoko o Te Ika and the Sovereign in right of New Zealand 2011, s.11(a);(b);(f).

	<p>There is a Statutory Acknowledgement over the Cook Strait as shown in (OTS-068-38) and Wellington Harbour (as shown on OTS -068-40). The text above in relation to statutory acknowledgements applies here also.</p> <p><i>Reserves Act 1977</i></p> <p>The Settlement Act includes obligations in relation to the Reserves Act 1977. This application seeks approvals under the Reserves Act (the applicant states that parts of the Southern Seawall are classified as esplanade reserve) which may be relevant to those settlement obligations (depending on the detail of the application made).</p> <p><i>Poutiaki plan</i></p> <p>This settlement provides for Ngāti Toa to prepare a poutiaki plan for the coastal marine area specified in the Ngāti Toa deed of settlement. Wellington Regional Council must take into account the Ngāti Toa Rangatira Poutiaki Plan when making decisions that have a bearing on the resource management issues of the poutiaki coastal marine area (which includes the project site).</p> <p><i>Te Upoko Taiao</i></p> <p>The above text on Te Upoko Taiao also applies.</p> <p>Statutory acknowledgements</p> <p>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.</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).</p> <p>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.</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. For example, Muaūpoko are yet to settle their historical Treaty of Waitangi Claims. The project application area is within the traditional area of interest for Muaūpoko, and within the area Muaūpoko exercise kaitiakitanga under the Resource Management Act 1991¹¹ but outside their settlement negotiations area of interest, as detailed in the 2013 Mandate ratification document: Muaūpoko Deed of Mandate.</p> <p>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>The project area is in the common marine and coastal area. 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 three applications by iwi groups who have applied to have their customary interests recognised under the Act. These are Te Ātiawa/Taranaki Whānui, Ngāti Toa Rangatira, and Muaūpoko.</p> <p>Under the Act, takutai moana applicant groups have certain rights in relation to consenting processes under the Resource Management Act 1991, including the right to be consulted on resource consent applications in their takutai moana application area. The Fast-track Approvals Bill currently provides for consultation with takutai moana applicant groups on Schedule 2B projects at the Ministerial referral stage, and the clause 13 report must include information about the relevant takutai moana applicant groups in the project area. For schedule 2A projects these steps would not apply. For listed projects (both Schedule 2A and 2B), the Fast-track Approvals Bill as currently drafted, does not provide for consultation with takutai moana applicant groups at the expert panel stage.</p> <p>This means that an implication of listing a project under Schedule 2A is that takutai moana applicants would not have the ability to input into the process at all, and for Schedule 2B listing the only opportunity for any input is at the Ministerial referral stage.</p> <p>As the project area is outside of ngā rohe moana o ngā hapū o Ngāti Porou there are no implications for the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 arising from this application.</p> <p><u>Other matters</u></p> <p>In the time available, officials have not identified any other impacts for Treaty settlements, Joint Management Agreements outside of settlement or Mana Whakahono ā Rohe.</p>
<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 medium impact. This is due to potential effect of listing on statutory acknowledgements and other redress and the limited engagement to date with affected groups. 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 and to meet the Crown's obligations under settlement legislation (e.g. those under the relationship accord with Taranaki Whānui) but were unable to undertake this in the time available.</p>

¹¹ TKM | Iwi | Muaūpoko | Te Kahui Mangai

Additional comments/context

See the attached advice from MPI on potential impacts on aquaculture and fisheries settlement considerations.

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.