

## Application 2022-094 Stellar Project (Dilworth Trust Board)

To:	Required action:
Hon David Parker, Minister for the Environment	Consider this report prior to making a decision under section 24 of the FTCA
<b>Date submitted:</b> 18 August 2022	

### Ministry for the Environment contacts

Position	Name	Cell Phone	1 <sup>st</sup> Contact
Principal Author	Pip Lee		
Acting Manager	Madeleine Berry	s 9(2)(a)	✓
Acting Director	Stephanie Frame	s 9(2)(a)	

### Introduction

1. The Ministry for the Environment has prepared this report in consultation with the Office for Māori Crown Relations – Te Arawhiti and in accordance with section 17 of the Covid-19 Recovery (Fast-track Consenting) Act 2020 (the FTCA).
2. To satisfy obligations under section 6 of the FTCA, you must consider this report before you make any decision under section 24 of the FTCA to accept the application to refer the Stellar Project (project) to an expert consenting panel (panel).

### Proposed project

3. The applicant (Dilworth Trust Board) proposes to redevelop a 4173-square-metre site in Epsom, Auckland to accommodate a mixed-use residential development that includes two buildings providing approximately 200 apartments for rent.
4. A location map is in Attachment 1.

## Essential information

5. The following information is required under section 17(3) of the FTCA for the project area.

Section of the FTCA	Information required	Detail
s17(3)(a)	Relevant iwi authorities (13)	<p>Ngāi Tai ki Tāmaki Trust            Ngāti Maru Rūnanga Trust            Ngāti Paoa Iwi Trust            Ngāti Paoa Trust Board            Ngāti Tamaoho Trust            Ngāti Tamaterā Treaty Settlement Trust            Ngāti Whātua Ōrākei Trust Board            Te Ākitai Waiohua Iwi Authority            Te Ara Rangatu o Te Iwi o Ngāti Te Ata Waiohua            Te Kawerau Iwi Settlement Trust            Te Kupenga o Ngāti Hako            Te Rūnanga o Ngāti Whātua            Te Whakakitenga o Waikato Incorporated</p> <p><i>Contact details are in Attachment 2</i></p>
s17(3)(b)	Treaty settlements that relate to the project area (7)	<p>Ngāti Whātua Ōrākei Claims Settlement Act 2012            Te Kawerau ā Maki Claims Settlement Act 2015            Ngāi Tai ki Tāmaki Claims Settlement Act 2018            Ngāti Tamaoho Claims Settlement Act 2018            Ngāti Paoa – deed of settlement 20 March 2021            Te Ākitai Waiohua – deed of settlement 12 Nov 2021            Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014</p>
s17(3)(a)	Relevant Treaty settlement entities (11)	<p>Ngāti Whātua Ōrākei Trustee Limited            Te Kawerau Iwi Settlement Trust            Ngāi Tai ki Tāmaki Trust            Ngāti Tamaoho Settlement Trust            Ngāti Paoa Iwi Trust            Te Ākitai Waiohua Settlement Trust            Tūpuna Taonga o Tāmaki Makaurau Trust            Tūpuna Maunga o Tāmaki Makaurau Authority (Maunga Authority)            Ngāti Maru Rūnanga Trust            Ngāti Tamaterā Treaty Settlement Trust            Hako Tūpuna Trust</p> <p><i>Contact details are in Attachment 2</i></p>

Section of the FTCA	Information required	Detail
s17(3)(c)	Relevant principles and provisions of the Treaty settlements	<i>See details in blue-shaded section below</i>
s17(3)(d)	Groups with a negotiation mandate recognised by the Crown which are yet to commence Treaty settlement negotiations	Ngāti Te Ata (Ngāti Te Ata Claims Support Whānau Trust) Ngāti Koheriki (Ngāti Koheriki Claims Committee)
s17(3)(d)	Current Treaty settlement negotiations	Ngāti Maru (Hauraki) (Ngāti Maru Treaty Settlement Negotiators) Ngāti Tamaterā (Ngāti Tamaterā Negotiators) Hako (Ngāti Hako Treaty Settlement Negotiators) Marutūāhu Iwi Collective Ngāti Whātua (Te Rūnanga o Ngāti Whātua) Waikato-Tainui – remaining claims (Negotiator - Rahui Papa)
s17(3)(e)	Court orders recognising customary marine title or protected customary rights under the Marine and Coastal Area (Takutai Moana) Act 2011 or another Act	None that are relevant as the project does not occur in the coastal marine area

## Supporting information

### Project details

6. The project site is located at 76 and 80 Great South Road, Epsom and currently contains residential and motel buildings which will be removed. The project will establish a 'build-to-rent' mixed-use residential development comprising two separate buildings: a nine-storey building fronting Great South Road ('the GSR building') and a nine storey plus basement building fronting Mauranui Ave ('the Mauranui building'). These buildings will be arranged around an internal landscaped courtyard as shown in Attachment 3.
7. The buildings will contain approximately 200 apartments in a range of typologies, roof top and ground floor amenity areas for residents, ground floor commercial floorspace, and parking for both bicycles and cars. Two visualisations of the development are in Attachment 4.
8. As shown on Attachment 1, the project site lies close to three tūpuna māunga – Ōhinerau/Mount Hobson, Mount St John (Te Kōpuke/Tītīkōpuke) and Maungawhau/Mount Eden.

### Statutory matters relating to this report

9. No parts of the proposed project will occur in the coastal marine area, meaning:
  - a. pursuant to section 16(1) of the FTCA you are the sole party required to consider this report

- b. the project is unaffected by the provisions of the Marine and Coastal Area (Takutai Moana) Act 2011 (MACAA) or any other Act pertaining to the grant of protected customary rights or customary marine title.
10. There are therefore no court orders granted under the MACAA or another Act to consider in your referral decision for this project.<sup>1</sup>

## Iwi authorities

### Methodology and information sources

11. This report must identify the relevant iwi authorities for the project, in accordance with section 17(3)(a) of the FTCA. Under section 7(1) of the FTCA, a relevant iwi authority for a referred project means an iwi authority whose area of interest includes the area in which a project will occur.
12. 'Area of interest' can mean different things depending on context and perspective and can be indicative (such as an area identified at the outset of Treaty settlement negotiations), formally agreed (such as in a deed of settlement or memorandum of understanding) or self-nominated. An area of interest can be difficult to define precisely on a map, particularly where a boundary that has been depicted on a small-scale map is scaled up and used precisely in relation to an individual site or property.
13. For the purposes of this report, we have considered information from the following sources as a starting point for identifying iwi areas of interest:
- a. the Te Arawhiti Internal Crown Asset Tracking Tool (i-Cat), an online database that records areas of interest associated with Treaty settlements and Treaty settlement negotiations
  - b. area of interest maps in signed Treaty settlement deeds or other Treaty settlement negotiation documents (including deeds of mandate)
  - c. Auckland Council's online interactive map depicting tribal regions and iwi in the Auckland Region<sup>2</sup>
  - d. the Iwi Areas of Interest viewer, an online application managed by the Ministry of Māori Development - Te Puni Kōkiri (TPK)
  - e. Te Kāhui Māngai (TKM), an online directory of iwi and Māori organisations maintained by TPK, which includes information on rohe (tribal areas) provided by those organisations.
14. Generally, the areas of interest shown on these databases for an iwi or group do not always completely align, and sometimes the differences can be significant. We consider carefully the reasons for such discrepancies, including the reliability or accuracy of the information shown and the local context and decision-making environment, before deciding which areas of interest we consider apply to a project under FTCA process.

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<sup>1</sup> Section 17(3)(e) of the FTCA requires this report to identify any court orders granted under the MACAA or another Act which recognise, in relation to the project area, customary marine title or protected customary rights.

<sup>2</sup> Accessed via the webpage for the Auckland Plan 2025 ( the long-term spatial plan for Tāmaki Makaurau): <https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-plans-strategies/auckland-plan/about-the-auckland-plan/Pages/iwi-tamaki-makaurau.aspx>

15. The FTCA does not specifically define iwi authority but pursuant to section 7(2) of the FTCA, 'iwi authority' has the same meaning as in the Resource Management Act 1991 (RMA): the authority which represents an iwi and which is recognised by that iwi as having authority to do so.
16. To identify iwi authorities associated with the identified areas of interest, we considered information from:
  - a. the TKM online directory noted above
  - b. Auckland Council's [online tool](#) for identifying mana whenua contacts for a particular address
  - c. Auckland Council's response to the invitation to comment on the referral application under section 21(2)(a) of the FTCA.

### **Iwi authorities relevant to project**

17. We consider the project site lies within the areas of interest of Hako, Ngāi Tai ki Tāmaki, Ngāti Maru (Hauraki), Ngāti Paoa, Ngāti Tamaoho, Ngāti Tamaterā, Ngāti Te Ata, Ngāti Whātua, Ngāti Whātua o Ōrākei, Te Ākitai Waiohua, Te Kawerau ā Maki, Waikato-Tainui, the Tāmaki Collective and the Marutūāhu Iwi Collective.
18. Not all of these iwi or groups are represented by an iwi authority, and some are represented by more than one iwi authority. We consider the following 13 iwi authorities associated with these iwi/groups to be the relevant iwi authorities for the project:
  - a. Te Kupenga o Ngāti Hako, representing Hako
  - b. Ngāi Tai ki Tāmaki Trust, representing Ngāi Tai ki Tāmaki
  - c. Ngāti Maru Rūnanga Trust, representing Ngāti Maru
  - d. Ngāti Paoa Iwi Trust, representing Ngāti Paoa
  - e. Ngāti Paoa Trust Board, representing Ngāti Paoa
  - f. Ngāti Tamaoho Trust, representing Ngāti Tamaoho
  - g. Ngāti Tamaterā Treaty Settlement Trust, representing Ngāti Tamaterā
  - h. Te Ara Rangatu o Te Iwi o Ngāti Te Ata Waiohua, representing Ngāti Te Ata
  - i. Ngāti Whātua Ōrākei Trust Board, representing Ngāti Whātua o Ōrākei
  - j. Te Ākitai Waiohua Iwi Authority, representing Te Ākitai Waiohua
  - k. Te Kawerau Iwi Settlement Trust, representing Te Kawerau ā Maki
  - l. Te Rūnanga o Ngāti Whātua, representing Ngāti Whātua
  - m. Te Whakakitenga o Waikato Incorporated, representing Waikato-Tainui.

### **Other iwi authorities which may have an interest in the project**

19. The Auckland Council databases indicate that Ngāti Whātua o Kaipara may have an interest in the project area. We are unsure as to the reasons for this as it is not supported by other available information. In particular, the self-nominated area of interest shown on TKM, indicating the area in which Ngāti Whātua o Kaipara exercises kaitiakitanga for RMA purposes, does not include the project site. Auckland Council also indicates the area of interest for Te Ahiwaru Waiohua includes the project site. We do not have access to any specific information on the boundaries and extent of this area of interest to enable us to independently verify this.

20. We have therefore not identified the corresponding iwi authorities – Ngā Maunga Whakahii o Kaipara Development Trust and Makaurau Marae Māori Trust – as relevant iwi authorities for the project. Instead, we recommend that you consider them as iwi authorities which may have an interest in the project and take that into account in your decisions relating to project referral.
21. The project site also lies less than 600 metres from the boundary of the Te Patukirikiri area of interest shown on the i-Cat and TPK databases. We therefore recommend that you consider Te Patukirikiri Iwi Trust to be an iwi authority which may have an interest in the project and take that into account in your decisions relating to project referral.
22. Finally, we note that the Hauraki Māori Trust Board also represents five of the above-named iwi as an iwi authority.<sup>3</sup> To avoid unnecessary duplication of input, while still providing opportunity for involvement in the consideration of consent applications for the project, we recommend that you consider the Hauraki Māori Trust Board as an iwi authority which may have an interest in the project and take that into account in your decisions relating to project referral (as explained further in paragraphs 70 and 80).

## **Treaty settlements and Treaty settlement entities**

23. This report must identify the Treaty settlements that relate to the project area and relevant Treaty settlement entities, in accordance with sections 17(3)(b) and 17(3)(a) respectively. We use information relevant to the project area from the first two sources listed in paragraph 12 and relevant documents on the [NZ Government Treaty settlements website](#), together with advice from the Office of Maori Crown Relations – Te Arawhiti, for this task.

### **Treaty settlements relating to the project area**

24. Under the FTCA, a Treaty settlement includes both a Treaty settlement Act and a Treaty settlement deed which is signed by both the Crown and the representative Māori group.
25. The project site falls within the area of interest covered by Treaty settlements with the following seven iwi/groups:
  - a. Ngāti Whātua Ōrākei
  - b. Te Kawerau ā Maki
  - c. Ngāi Tai ki Tāmaki
  - d. Ngāti Tamaoho
  - e. Ngāti Paoa
  - f. Te Ākitai Waiohua
  - g. the Tāmaki Collective.
26. The Ngāti Whātua Ōrākei Claims Settlement Act 2012 gives effect to certain provisions of the deed of settlement signed by Ngāti Whātua o Ōrākei, Ngāti Whātua Ōrākei Trustee Limited and the Crown on 5 November 2011. [A settlement summary, the deed and associated documents](#) are on the NZ Government Treaty settlements website.
27. Te Kawerau ā Maki Claims Settlement Act 2015 gives effect to certain provisions of the deed of settlement signed by Te Kawerau ā Maki, Te Kawerau Iwi Settlement Trust and the Crown on 22

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<sup>3</sup>Hako, Ngāi Tai ki Tāmaki, Ngāti Maru (Hauraki), Ngāti Paoa and Ngāti Tamaterā.

February 2014, and amendment deeds signed in 2015 and 2019. [Relevant settlement documents](#) are on the NZ Government Treaty settlements website.

28. The Ngāi Tai ki Tāmaki Claims Settlement Act 2018 gives effect to certain provisions of the deed of settlement signed by Ngāi Tai ki Tāmaki, Ngāi Tai ki Tāmaki Trust and the Crown on 7 November 2015, and amendment deeds signed in 2016, 2017 and 2018. [Relevant settlement documents](#) are on the NZ Government Treaty settlements website.
29. The Ngāti Tamaoho Claims Settlement Act 2018 gives effect to certain provisions of the deed of settlement signed by the Crown, Ngāti Tamaoho and the Ngāti Tamaoho Settlement Trust on 30 April 2017. [Relevant settlement documents](#) are on the NZ Government Treaty settlement website.
30. Ngāti Paoa, the Ngāti Paoa Iwi Trust and the Crown signed a deed of settlement on 20 March 2021. Legislation has yet to be enacted. [The deed and associated documents](#) are on the NZ Government Treaty settlement website.
31. Te Ākitai Waiohua, Te Ākitai Waiohua Iwi Settlement Trust and the Crown signed a deed of settlement on 12 November 2021. Legislation has yet to be enacted. The [deed and associated documents](#) are on the NZ Government Treaty settlement website.
32. Ngā Mana Whenua o Tāmaki Makaurau (the Tāmaki Collective) signed the Tāmaki Makaurau Collective Redress deed on 5 December 2012. An amendment deed was signed 23 August 2013, and the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 gives effect to certain provisions of the deeds. The FTCA defines this Act as a Treaty settlement Act for the purposes of the FTCA. [Relevant documents](#) are available on the NZ Government Treaty settlement website.

### **Relevant Treaty settlement entities**

33. We have identified 11 relevant Treaty settlement entities for the project. These are listed in paragraph 5 and further explanation is provided below.

### ***Post-settlement governance entities***

34. Under the FTCA, a Treaty settlement entity includes a post-settlement governance entity, defined as a body corporate or trustees of a trust established by a claimant group for receiving redress, or for participating in arrangements established under a Treaty settlement Act.
35. The respective post-settlement governance entities associated with the Treaty settlement Acts noted above are:
  - a. Ngāti Whātua Ōrākei Trustee Limited (in its capacity as trustee of the Ngāti Whātua Ōrākei Trust)
  - b. Te Kawerau Iwi Settlement Trust
  - c. Ngāi Tai ki Tāmaki Trust
  - d. Ngāti Tamaoho Settlement Trust
  - e. the following trusts and partnerships associated with the Tāmaki collective arrangements:
    - i. Whenua Haumi Roroa o Tāmaki Makaurau Limited Partnership, established on 12 June 2014 to receive specified commercial redress
    - ii. Tūpuna Taonga o Tāmaki Makaurau Trust, established on 6 June 2014 to receive specified cultural redress relating to the maunga and motu (including vesting of sites)

- iii. Ngāti Whātua Rōpū Limited Partnership, representing three members of the Tāmaki Collective: Ngāti Whātua Ōrākei and Te Rūnanga o Ngāti Whātua (whose individual areas of interest include the project site) and Ngāti Whātua o Kaipara (whose individual area of interest may include the project site, as noted in paragraph 19)
  - iv. Waiohua-Tāmaki Rōpū Limited Partnership, representing five members of the Tāmaki Collective: Te Kawerau ā Maki, Ngāi Tai ki Tāmaki, Ngāti Tamaoho, Te Ākitai Waiohua and Ngāti Te Ata (all of whose individual areas of interest include the project site)
  - v. Marutūāhu Rōpū Limited Partnership, representing five members of the Tāmaki Collective: Ngāti Maru (Hauraki), Ngāti Paoa and Ngāti Tamaterā (whose individual areas also include the project site), Te Patukirikiri (whose area of interest may include the project site) and Ngaati Whanaunga (whose area of interest does not cover the project site).
36. As explained further in paragraphs 59 to 61, we have not identified the Tāmaki Collective redress entities specified above as relevant Treaty settlement entities for the project.
37. A post-settlement governance entity may exist ahead of finalisation of a deed of settlement and/or enactment of Treaty settlement legislation. The following post-settlement governance entities in this category are also relevant:
- a. Ngāti Paoa Iwi Trust, which was ratified as the post-settlement governance entity for the Ngāti Paoa Treaty settlement on 25 September 2013
  - b. Te Ākitai Waiohua Settlement Trust, which was ratified as the post-settlement governance entity for the Te Ākitai Waiohua Treaty settlement in June 2014 and signed the deed of settlement with the Crown (noted in paragraph 26) on 12 November 2021
  - c. Ngāti Maru Rūnanga Trust, which was ratified as the post-settlement governance entity for the Ngāti Maru (Hauraki) Treaty settlement in August 2012. Ngāti Maru (Hauraki) initialled a deed of settlement with the Crown on 8 September 2017
  - d. Ngāti Tamaterā Treaty Settlement Trust, which was ratified as the post-settlement governance entity for the Ngāti Tamaterā Treaty settlement in August 2012. The Crown and Ngāti Tamaterā initialled a deed of settlement on 20 September 2017
  - e. Hako Tūpuna Trust, which was ratified as the post-settlement governance entity for Hako on 26 August 2014.
38. We noted in paragraph 17 that the project site lies in the area of interest for the Marutūāhu Iwi Collective<sup>4</sup>, which represents the iwi identified in paragraph 35(e)(v). The Marutūāhu Rōpū Limited Partnership was established to receive the collective commercial redress provided in the Marutūāhu Iwi Collective Redress Deed initialled by the Crown and the Marutūāhu Iwi Collective on 27 July 2018. The Marutūāhu Rōpū Limited Partnership would therefore qualify as a post-settlement governance entity under the FTCA.
39. In addition, the Marutūāhu Iwi Collective Redress Deed provides for establishment of the Taonga o Marutūāhu Trustee Limited, to receive the Marutūāhu Iwi Collective’s cultural redress. This

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<sup>4</sup> The area of interest covers parts of the Auckland, Waikato and Bay of Plenty Regions and is shown on the map attached to the [Marutūāhu Collective Redress deed summary](#).

redress entity would also qualify as a post-settlement governance entity under the FTCA, but it is yet to be established.

40. We note that the cultural and commercial redress provided under the Marutūāhu Iwi Collective Redress Deed forms part of the individual settlements with each of the Collective's five iwi. None of this redress, to be managed by the two redress entities named above (once the redress deed is signed and given effect through legislation), is affected by the project.
41. For these reasons, we do not consider the Marutūāhu Iwi Collective redress entities to be Treaty settlement entities relevant to the project.

#### ***Other bodies recognised or established under a Treaty settlement Act***

42. A Treaty settlement entity is also defined for the purposes of the FTCA as including a board, trust, committee, authority, or other body, recognised in or established under a Treaty settlement Act.
43. The Tūpuna Maunga o Tāmaki Makaurau Authority (Maunga Authority) was established under the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 as a statutory co-governance authority. The Maunga Authority has six members nominated by the three rūpū entities noted in paragraph 35(e)(iii) – (v), six members nominated by Auckland Council and one Crown appointee. It oversees the administration and management of 13 of the 14 Tāmaki maunga vested in the Tūpuna Taonga o Tāmaki Makaurau Trust.
44. As explained in paragraph 59, we consider that the Tūpuna Taonga o Tāmaki Makaurau Trust and the Maunga Authority are relevant Treaty settlement entities for the project.

## **Relevant principles and provisions of the Treaty settlements**

### **Ngāti Whātua o Ōrākei, Te Kawerau ā Maki, Ngāi Tai ki Tāmaki, Ngāti Tamaoho, Ngāti Paoa and Te Ākitai Waiohū Treaty settlements**

#### ***Crown acknowledgements and apologies***

45. The Crown offers acknowledgements and an apology as part of Treaty settlement redress to atone for historical wrongs, restore honour, and begin the process of healing.
46. In the Ngāti Whātua o Ōrākei settlement, the Crown unreservedly apologises to Ngāti Whātua Ōrākei, their ancestors and descendants, for not having honoured its obligations to them under the Treaty of Waitangi. The Crown also says it looks forward to repairing its relationship with Ngāti Whātua Ōrākei based on mutual trust, co-operation and respect for the Treaty of Waitangi and its principles.
47. In the Te Kawerau ā Maki settlement, the Crown unreservedly apologises for not having honoured its obligations to the people of Te Kawerau ā Maki under the Treaty of Waitangi. The Crown states it seeks through the apology and the settlement to atone for its wrongs and lift the burden of grievance so that the process of healing can begin. The Crown says it hopes to form a new relationship with the people of Te Kawerau ā Maki based on mutual trust, co-operation, and respect for the Treaty of Waitangi and its principles.
48. In the Ngāi Tai ki Tāmaki settlement, the Crown unreservedly apologises for its breaches of te Tiriti o Waitangi/the Treaty of Waitangi and its principles, and for the prejudice its acts and omissions have caused. The Crown says it hopes the settlement will lead to a new relationship that fulfils the expectations of the tūpuna and mokopuna of Ngāi Tai ki Tāmaki, marked by cooperation, partnership, and respect for te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

49. The Crown states, in the Ngāti Tamaoho settlement, that its acts and omissions and its promotion of injurious laws and policies have harmed Ngāti Tamaoho, undermined their rangatiratanga and contributed to the loss of Ngāti Tamaoho autonomy. The Crown apologises to the iwi of Ngāti Tamaoho, their tūpuna and mokopuna for its failure to honour its obligations under te Tiriti o Waitangi/the Treaty of Waitangi and recognises that this failure has harmed successive generations of Ngāti Tamaoho. The Crown says it looks forward to building a new relationship with Ngāti Tamaoho based on co-operation, mutual trust, and respect for te Tiriti o Waitangi/the Treaty of Waitangi and its principles.
50. In the Ngāti Paoa Deed of Settlement the Crown apologises to Ngāti Paoa for the suffering it has inflicted through its acts and omissions, and for the laws and policies enacted in Aotearoa/New Zealand that have led to the loss of Ngāti Paoa whenua and taonga te reo Māori. The Crown apologises to the tupuna and mokopuna of Ngāti Paoa for its failure to uphold its obligations under te Tiriti o Waitangi/the Treaty of Waitangi and its principles. The Crown seeks to atone for these injustices and hopes that through this settlement it can rebuild the relationship that it established with Ngāti Paoa in 1840, begin the process of healing and enter a new age of co-operation with Ngāti Paoa.
51. In the Te Ākitai Waiohua settlement, the Crown acknowledges its failure to deal with long-standing grievances of Te Ākitai Waiohua. The Crown regrets its actions which breached te Tiriti o Waitangi/the Treaty of Waitangi and its principles and caused significant prejudice and suffering for Te Ākitai Waiohua. The Crown apologises that its actions have not only separated Te Ākitai Waiohua from their wāhi tapu but hindered the socio-economic development of their people and the ability of Te Ākitai Waiohua to grow as an iwi. The Crown says it hopes the settlement marks the beginning of a new relationship with Te Ākitai Waiohua based on partnership, trust and mutual respect for te Tiriti o Waitangi/the Treaty of Waitangi and its principles.
52. Affording respect to the individual views of each iwi on resource management matters and enabling meaningful participation of Treaty partners in decision-making relating to the management and use of natural and physical resources are important ways in which the Crown can give effect to these statements and aspirations, and uphold its relationship with each iwi.

#### ***Other redress***

53. No other cultural or commercial redress provided by the settlements would be directly affected by the project. None of the above settlements create co-governance or co-management processes which would affect decision-making under the RMA for projects such as the one proposed.
54. We note that cultural associations with ancestral lands, water, sites, wāhi tapu, and other taonga – regardless of whether or not they are specifically identified in a Treaty settlement or affected by settlement redress – are deemed to be matters of national importance that must be recognised and provided for in decision-making under Part 2 section 6(e) of the RMA.
55. As a general principle, an absence of specific settlement redress does not indicate the absence of an iwi's cultural association with ancestral lands, sites, wāhi tapu or other taonga within an area. Local tangata whenua and their representatives would be best placed to advise on such matters in the first instance.

#### **Tāmaki Collective Redress Act**

56. The Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 and its associated deed provide collective redress for the shared interests of the 13 iwi and hapū of the Tāmaki Collective in maunga, motu and lands within Tāmaki Makaurau (Auckland). These provisions do not settle any historical Treaty claims; this is addressed instead through the specific settlements with each

iwi/hapū. The redress provided through the Act is provided ‘on account’ of those individual Treaty settlements.

57. A significant part of the collective redress is concerned with governance and management arrangements over the maunga of central Auckland and some of the islands of Tīkapa Moana (the Hauraki Gulf). Tūpuna Maunga are vested in the Tūpuna Taonga o Tāmaki Makaurau Trust and the Maunga Authority is responsible for their day-to-day administration and management.
58. The project site lies directly on the sightline between Ōhinerau/Mt Hobson and Maungawhau/Mt Eden, two of the tūpuna maunga. It is located less than 500 metres from the summit of the former, and less than 1500 metres from the latter. A third maunga, Mount St John (Te Kōpuke/Tītīkōpuke) lies approximately 500 metres to the south. Owing to the proximity of these maunga to the project site, and the potential for cultural effects arising from the project, we consider the Tūpuna Taonga o Tāmaki Makaurau Trust (as owner of the maunga) and the Maunga Authority (as administrator) to be relevant Treaty settlement entities for the project.
59. Some commercial redress is also included in the Tāmaki collective arrangements, in the form of rights of first refusal (RFR) over Crown properties over a wide area of Auckland<sup>5</sup>, and second rights to purchase deferred selection properties not selected or acquired by iwi/hapū under their individual settlements.
60. Although the proposed project site lies within the RFR area, none of the land within it is Crown-owned. Therefore, the project would not affect any commercial redress available to Ngā Mana Whenua o Tāmaki Makaurau under the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014, which is managed by the Whenua Haumi Roroa o Tāmaki Makaurau Limited Partnership. We have therefore not identified this body as a Treaty settlement entity relevant to the project.

## Current negotiation mandates and settlement negotiations

61. Section 17(3)(d) of the FTCA requires this report to identify any recognised negotiation mandates for, or current negotiations for, Treaty settlements that relate to the project area.
62. Treaty settlement negotiations have commenced but are yet to be concluded with Ngāti Maru (Hauraki), Ngāti Tamaterā, Hako and the Marutūāhu Iwi Collective. Additionally, the Crown is negotiating a Treaty settlement with Te Rūnanga o Ngāti Whatua on behalf of Ngāti Whātua, and a settlement of remaining historical Treaty claims with the mandated Waikato-Tainui negotiator, Rahui Papa, on behalf of Waikato-Tainui. The project site lies within the areas of interest for each of these settlements.
63. The project area also falls within the areas of interest of:
  - a. Ngāti Te Ata
  - b. Ngāti Koheriki.
64. The Crown recognised the mandate of the Ngāti Te Ata Claims Support Whānau Trust to negotiate a Treaty settlement in May 2011, and signed terms of negotiation with the Trust in June 2011. Negotiations have paused, but Crown-recognition of the mandate has not been withdrawn. Ngāti

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<sup>5</sup> Part 3 of [Attachments to Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed](#).

Te Ata has yet to establish a post-settlement governance entity to receive redress under their settlement.

65. The Crown recognised the Treaty settlement negotiation mandate of Ngāti Koheriki Claims Committee in June 2013. Negotiations have yet to commence, but Crown-recognition of the mandate has not been withdrawn. Ngāti Koheriki has yet to establish a post-settlement governance entity to receive redress under their settlement.

## **Details in this report affect certain provisions of the FTCA**

### **Notices of referral decisions**

66. Under section 25 of the FTCA, you must give notice of the decisions made on an application for referral of a project to a panel, and the reasons for your decisions, to the applicant and anyone invited to comment under section 21 of the FTCA.
67. You did not invite comment on the referral application from iwi authorities or other Māori groups. However, if you decide to refer this project to a panel, the notice of decisions and associated reasons must be given to:
- a. the relevant iwi authorities and Treaty settlement entities identified in this report
  - b. any other iwi authorities or Treaty settlement entities you consider have an interest in the matter
  - c. any group that is or party to either a joint management agreement or Mana Whakahono ā Rohe under the RMA that relates to the project area.
68. The relevant iwi authorities and Treaty settlement entities for receipt of the notice are identified in paragraph 5; contact details are in Attachment 2.
69. As explained in paragraphs 19 to 22, we recommend that you consider Ngā Maunga Whakahii o Kaipara Development Trust, Makaurau Marae Māori Trust, Te Patukirikiri Iwi Trust and Hauraki Māori Trust Board as iwi authorities which may have an interest in the project. Pursuant to this, we recommend that you provide them with a copy of the application and notice of decision if you decide to refer the project.
70. There are no relevant joint management agreements or Mana Whakahono ā Rohe to consider.
71. The Minister for Treaty of Waitangi Negotiations has requested that the notice of decisions and a copy of the referral application is forwarded to Ngāti Koheriki Claims Committee, the mandated entity for Ngāti Koheriki Treaty settlement negotiations. This is because the project site lies in the Ngāti Koheriki area of interest and the iwi is not currently represented by either an iwi authority or a Treaty settlement entity recognised under the FTCA – meaning it is not covered by notification requirements prescribed by the FTCA. Contact details (if you agree to the Minister’s request) are in Attachment 2.

### **Expert consenting panel membership**

72. If a project is referred to a panel, the appointed panel must include one person nominated by the relevant iwi authorities under clause 3(2)(b) of Schedule 5 of the FTCA.
73. In the event iwi authorities nominate more than one person, the panel convener must decide which nominee to appoint. The panel convener has discretion to increase the panel membership to accommodate the matters specified in clauses 3(6)(a) – 3(6)(e) of Schedule 5 of the FTCA, which include matters unique to any relevant Treaty settlement Act.

74. Relevant iwi authorities for the project are identified in paragraph 5.

### **Panel invitations to comment**

75. A panel must invite comments on a resource consent application or notice of requirement for a referred project from the parties listed in clause 17(6) of Schedule 6 of the FTCA. This includes:

- a. the relevant iwi authorities, including those identified in this report
- b. a Treaty settlement entity relevant to the referred project, including an entity that has an interest under a Treaty settlement in an area where a referred project is to occur, and an entity identified in this report
- c. any applicant group under the MACAA identified in the report obtained under section 17(1).

76. The relevant iwi authorities and Treaty settlement entities for the proposed project are listed in paragraph 5.

77. A MACAA applicant group means one or more iwi, hapū, or whānau groups that seek recognition under Part 4 of the MACAA of their protected customary rights or customary marine title by either a recognition order granted by the High Court; or an agreement negotiated with the Crown (through The Office for Māori Crown Relations – Te Arawhiti). There are no MACAA applicants relevant to the project area.

78. A panel may also invite comments from any other person it considers appropriate.

79. As we have identified that Ngā Maunga Whakahii o Kaipara Development Trust, Makaurau Marae Māori Trust, Te Patukirikiri Iwi Trust and Hauraki Māori Trust Board may have an interest in the project area, we recommend that you direct a panel to seek comment from these parties if you decide to refer the project.

80. The Minister for Treaty of Waitangi Negotiations has requested that you direct a panel to invite comments from the Ngāti Koheriki Claims Committee, as this body is not covered by the panel consultation requirements prescribed by the FTCA. If you decide to refer the project, your direction to the panel under section 24(2)(e) of the FTCA would be required to give effect to this request.

### **Provision of cultural impact assessment**

81. Any resource consent application that is submitted to a panel for determination must include a cultural impact assessment prepared by or on behalf of the relevant iwi authority, or a statement of any reasons given by the relevant iwi authority for not providing that assessment.<sup>6</sup> The Environmental Protection Authority (which provides support services to a panel) will not confirm an application as complete and ready for consideration by a panel until this requirement has been satisfied.

82. Where there is more than one relevant iwi authority, the project applicant will need to engage with each to determine their requirements for a cultural impact assessment, including whether they wish to prepare one individually or jointly, or whether they may wish to defer to another iwi in respect of the matter. The relevant iwi authorities for the project are listed in paragraph 5.

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<sup>6</sup> Clause 9(5) of Schedule 6 of the FTCA.

## Attachment 1 – Location



## Attachment 2 – Contact information

Iwi/hapū	Representative body	Contact details	Relevant RMA Iwi authority	Relevant Treaty settlement entity	Other party	Contact person	Copies to
Hauraki	Hauraki Māori Trust Board	PO Box 33 Paeroa 3640			Iwi authority which may have an interest in the matter	CEO/GM: John McEnteer <a href="mailto:general@hauraki.iwi.nz">general@hauraki.iwi.nz</a>	
Hako	Te Kupenga o Ngāti Hako		Represents Hako as an iwi authority for RMA purposes			CEO & RMA Contact: Pauline Clarkin <a href="mailto:hako@xtra.co.nz">hako@xtra.co.nz</a>	
	Hako Tūpuna Trust			Post-settlement governance entity [confirmed 26 August 2014]		Contact: Josie Anderson <a href="mailto:hako@xtra.co.nz">hako@xtra.co.nz</a>	
Ngā Mana Whenua o Tāmaki Makaurau	Tūpuna Taonga o Tāmaki Makaurau Trust			Post-settlement governance entity (received cultural redress for the maunga & motu under Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014)		C/- Don Wackrow Wackrow Williams & Davies Limited, Barristers & Solicitors, PO Box 461 Shortland Street, Auckland 1140 s 9(2)(a)	
	Tūpuna Maunga o Tāmaki Makaurau Authority (Maunga Authority)			Co-management body for Tāmaki maunga, established under Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014		Dominic Wilson Head of Co-governance s 9(2)(a)	
Ngāi Tai ki Tāmaki	Ngāi Tai ki Tāmaki Trust	PO Box 141 Clevedon	Represents Ngāi Tai ki Tāmaki as	Post-settlement governance entity		Tumu Whakahaere: Lynette Penrose <a href="mailto:admin@ngaitaitamaki.iwi.nz">admin@ngaitaitamaki.iwi.nz</a>	RMA contact: Jacquie Lindsay s 9(2)(a)

		Auckland 2248	an iwi authority for RMA purposes	under the Ngāi Tai ki Tāmaki Claims Settlement Act 2018			
Ngāti Koheriki	Ngāti Koheriki Claims Committee	PO Box 250 Whitianga 3542			Mandate recognised by the Crown for Treaty settlement negotiations	Chair: Joe Johnson s 9(2)(a)	Kiwi Johnson s 9(2)(a)
Ngāti Maru (Hauraki)	Ngāti Maru Rūnanga Trust		Represents Ngāti Maru (Hauraki) as an iwi authority for RMA purposes	Post-settlement governance entity [deed of settlement initialled 8 September 2017]		CEO: David Taipari <a href="mailto:office@ngatimaru.iwi.nz">office@ngatimaru.iwi.nz</a>	RMA Contact: William Peters
Ngāti Paoa	Ngāti Paoa Iwi Trust	PO Box 106-153 Auckland 1010	Represents Ngāti Paoa as an iwi authority for RMA purposes	Post-settlement governance entity [deed of settlement signed 20 March 2021]		Tumuaki (Chairperson): Tania Tarawa <a href="mailto:kaiarahi@ngatipaoaiwi.co.nz">kaiarahi@ngatipaoaiwi.co.nz</a>	
	Ngāti Paoa Trust Board	PO Box 204-144 Highbrook Auckland 2161	Represents Ngāti Paoa as an iwi authority for RMA purposes			Principal Officer/RMA contact: Dave Roebeck <a href="mailto:nptb@ngatipaoatrustboard.co.nz">nptb@ngatipaoatrustboard.co.nz</a>	
Ngāti Tamaoho	Ngāti Tamaoho Trust	PO Box 272-1652 Papakura Auckland 2244	Represents Ngāti Tamaoho as an iwi authority for RMA purposes			CEO: Geneva Harrison <a href="mailto:info@tamaoho.maori.nz">info@tamaoho.maori.nz</a>	RMA Contact: Lucie Rutherford <a href="mailto:rmaofficer@tamaoho.maori.nz">rmaofficer@tamaoho.maori.nz</a>
	Ngāti Tamaoho Settlement Trust			Post-settlement governance entity under the Ngāti Tamaoho Claims Settlement Act 2018			

Ngāti Tamaterā	Ngāti Tamaterā Treaty Settlement Trust	PO Box 28 Thames 3540	Represents Ngāti Tamaterā as an iwi authority for RMA purposes	Post-settlement governance entity [deed of settlement initialled 20 Sep 2017]		General Manager & RMA contact: s 9(2)(a)	
Ngāti Te Ata	Te Ara Rangatu o Te Iwi o Ngāti Te Ata Waiohua		Represents Ngāti Te Ata as an iwi authority for RMA purposes			Manager: Karl Flavell	RMA Kaitiaki <a href="mailto:taiao@ngatiteata.iwi.nz">taiao@ngatiteata.iwi.nz</a>
Ngāti Whātua	Ngāti Whātua Ōrākei Trust Board	PO Box 90465 Victoria Street, Auckland 1142	Represents Ngāti Whātua Ōrākei as an iwi authority for RMA purposes			CEO: Lisa Davis s 9(2)(a)	RMA contact: Andrew Brown <a href="mailto:tokitaiao@ngatiwhatuaorakei.com">tokitaiao@ngatiwhatuaorakei.com</a>
	Ngāti Whātua Ōrākei Trustee Limited			Post-settlement governance entity under Ngāti Whātua Ōrākei Claims Settlement Act 2012			
	Te Rūnanga o Ngāti Whātua	PO Box 1784 Whangarei 0140	Represents Ngāti Whātua as an iwi authority for RMA purposes			Manahautū / CE: Alan Riwaka <a href="mailto:runanga@ngatiwhatua.iwi.nz">runanga@ngatiwhatua.iwi.nz</a>	RMA Contact: Antony Thompson s 9(2)(a)
	Ngā Maunga Whakahii o Kaipara Development Trust	PO Box 41 Helensville 0840			Iwi authority which may have an interest in the matter	CEO: Sarah Ihaia-Chapman <a href="mailto:admin@kaiparamoana.com">admin@kaiparamoana.com</a>	RMA Contact: Savanna Steele s 9(2)(a)
Te Ahiwaru - Waiohua	Makaurau Marae Māori Trust				Iwi authority which may have an interest in the matter	Kowhai Olsen s 9(2)(a)	
Te Ākitai Waiohua	Te Ākitai Waiohua Iwi Authority	PO Box 59 185 Māngere Bridge Auckland 2151	Represents Te Ākitai Waiohua as an iwi authority for RMA purposes			Chairperson: Karen Wilson <a href="mailto:tawia@teakitai.com">tawia@teakitai.com</a>	RMA Contact: Nigel Denny <a href="mailto:kaitiaki@teakitai.com">kaitiaki@teakitai.com</a>

	Te Ākitai Waiohū Settlement Trust			Post-settlement governance entity [deed of settlement signed 12 November 2021]			
Te Kawerau ā Maki	Te Kawerau Iwi Settlement Trust		Represents Te Kawerau ā Maki as an iwi authority for RMA purposes	Post-settlement governance entity under Te Kawerau ā Maki Claims Settlement Act 2015		Executive Chair: Te Warena Taua <a href="mailto:tewarena.taua@tekawerau.iwi.nz">tewarena.taua@tekawerau.iwi.nz</a>	Kaitiaki: Edward Ashby s 9(2)(a)
Te Patukirikiri	Te Patukirikiri Iwi Trust	103 Herewaka Street Thames 3500			Iwi authority which may have an interest in the matter	CEO/RMA contact: William Peters s 9(2)(a)	
Waikato-Tainui	Te Whakakitenga o Waikato	PO Box 648 Waikato Mail Centre Hamilton 3240	Represents Waikato-Tainui as an iwi authority for RMA purposes			CEO: Donna Flavell <a href="mailto:secretariat@tainui.co.nz">secretariat@tainui.co.nz</a>	RMA contact: Manaaki Nepia s 9(2)(a)

## Attachment 3 – Project concept



# Attachment 4 – Visualisations



From summit of Ōhinerau/Mt Hobson looking west towards Maungawhau/Mt Eden



Birdseye view looking southeast