

Application 2021-0 64 Browns Bay Road Apartments (Matvin Group Limited)

To:	Required action:
Hon David Parker, Minister for the Environment	Consider this report prior to making a decision under section 24 of the FTCA
Date submitted: 2 December 2021	

Ministry for the Environment contacts

Position	Name	Cell Phone	1 st Contact
Principal Author	Pip Lee		
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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 project to an expert consenting panel (a panel).

Proposed project

3. The applicant proposes to demolish two existing residential dwellings and establish a development comprising approximately 51 residential units, in the eastern Upper North Shore, Auckland.
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 (17)	<p>Ngā Maunga Whakahii o Kaipara Development Trust</p> <p>Ngaati Whanaunga Incorporated Society</p> <p>Ngāi Tai ki Tāmaki Tribal Trust</p> <p>Ngāti Manuhiri Settlement Trust</p> <p>Ngāti Maru Rūnanga Trust</p> <p>Ngāti Paoa Iwi Trust</p> <p>Ngāti Paoa Trust Board</p> <p>Ngāti Tamaoho Trust</p> <p>Ngāti Tamaterā Treaty Settlement Trust</p> <p>Ngātiwai Trust</p> <p>Ngāti Whātua o Ōrākei Trust Board</p> <p>Te Ākitai Waiohū Iwi Authority</p> <p>Te Ara Rangatu o Te Iwi o Ngāti Te Ata Waiohū</p> <p>Te Kawerau Iwi Settlement Trust</p> <p>Te Kupenga o Ngāti Hako Incorporated</p> <p>Te Patukirikiri Iwi Trust</p> <p>Te Rūnanga o Ngāti Whātua</p> <p><i>Contact details are in Attachment 2</i></p>
s17(3)(b)	Treaty settlements that relate to the project area (8)	<p>Ngāti Whātua Ōrākei Claims Settlement Act 2012</p> <p>Ngāti Whātua o Kaipara Claims Settlement Act 2013</p> <p>Te Kawerau ā Maki Claims Settlement Act 2015</p> <p>Ngāi Tai ki Tāmaki Claims Settlement Act 2018</p> <p>Ngāti Tamaoho Claims Settlement Act 2018</p> <p>Te Patukirikiri Deed of Settlement signed 7 October 2018</p> <p>Ngāti Paoa Deed of Settlement signed 20 March 2021</p> <p>Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014</p>
s17(3)(a)	Relevant Treaty settlement entities (12)	<p>Hako Tūpuna Trust</p> <p>Ngā Maunga Whakahii o Kaipara Development Trust</p> <p>Ngaati Whanaunga Ruunanga Trust</p> <p>Ngāi Tai ki Tāmaki Trust</p> <p>Ngāti Maru Rūnanga Trust</p> <p>Ngāti Paoa Iwi Trust</p> <p>Ngāti Tamaoho Settlement Trust</p> <p>Ngāti Tamaterā Treaty Settlement Trust</p> <p>Ngāti Whātua o Ōrākei Trustee Limited</p> <p>Te Ākitai Waiohū Settlement Trust</p>

Section of the FTCA	Information required	Detail
		Te Kawerau Iwi Settlement Trust Te Patukirikiri Iwi Trust <i>Contact details are in Attachment 2</i>
s17(3)(c)	Relevant principles and provisions of the Treaty settlements	<i>See below</i>
s17(3)(d)	Negotiation mandates recognised by the Crown	Ngāti Te Ata Claims Support Whānau Trust Ngāti Koheriki Claims Committee
s17(3)(d)	Current Treaty settlement negotiations	Hako (Ngāti Hako Treaty Settlement Negotiators) Ngaati Whanaunga (Ngaati Whanaunga Ruunanga Trust) Ngāti Maru ki Hauraki (Ngāti Maru Treaty Settlement Negotiators) Ngāti Tamaterā (Ngāti Tamaterā Negotiators) Te Ākitai Waiohua (Te Ākitai Waiohua Settlement Trust) Ngaati Whanaunga (Ngaati Whanaunga Ruunanga Trust) Marutūāhu Iwi Collective
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 and the project does not occur in the coastal marine area.

Supporting material

Project details

6. The project site is located on two suburban properties covering 3308 square metres at 201 and 203 Browns Bay Road, Browns Bay, Auckland, as shown in Attachment 3. The site topography falls to the north, away from Browns Bay Road.
7. As shown in Attachments 4 and 5, the proposed development will include:
 - a. four buildings up to six storeys high, containing approximately 51 one- and two-bedroom residential units
 - b. basement and deck parking areas
 - c. outdoor courtyard spaces and gardens
 - d. associated infrastructure including roads, vehicle access and three-waters services.

Statutory matters relating to this report

8. 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.
9. There are therefore no court orders granted under the MACAA or another Act to consider in your referral decision for this project.¹

Iwi authorities

Methodology and information sources

10. This report must identify the relevant iwi authorities for a 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.
11. 'Area of interest' can mean different things depending on context and can be difficult to define precisely on a map, particularly on small scale maps depicting large geographical areas. For the purposes of this report, we have used information from the following sources as a basis for identifying iwi areas of interest:
 - a. the Iwi Areas of Interest viewer, an online application managed by the Ministry of Māori Development - Te Puni Kōkiri (TPK)
 - b. 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
 - c. 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
 - d. area of interest maps included in signed Treaty settlement deeds or other Treaty settlement documents
 - e. Auckland Council's [online interactive map](#) depicting tribal regions and iwi in the Auckland Region.
12. The FTCA does not define iwi authority, so pursuant to section 7(2) of the FTCA, it 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.
13. To identify the relevant iwi authorities for the identified areas of interest, we sourced and 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. information supplied directly by Auckland Council in response to the invitation to comment on the referral application under section 21(2)(a) of the FTCA.

¹ 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.

Iwi authorities relevant to project

14. The project site lies within the areas of interest, identified from one or more of the sources in paragraph 11, for the following 19 iwi or groups: Hako, Ngaati Whanaunga, Ngāi Tai ki Tāmaki, Ngāti Koheriki, Ngāti Manuhiri, Ngāti Maru (Hauraki), Ngāti Paoa, Ngāti Tamaoho, Ngāti Tamaterā, Ngātiwai, Ngāti Whātua, Ngāti Whātua o Ōrākei, Ngāti Whātua o Kaipara, Te Ākitai Waiohua, Ngāti Te Ata, Te Kawerau ā Maki, Te Patukirikiri, Ngā Mana Whenua o Tāmaki Makaurau (the Tāmaki Collective) and the Marutūāhu Iwi Collective.
15. There are 17 relevant iwi authorities. Ngāti Paoa is represented by two iwi authorities and with the exception of the Tāmaki Collective and the Marutūāhu Iwi Collective, the remaining parties all have one associated iwi authority, as follows:
 - a. Ngā Maunga Whakahii o Kaipara Development Trust
 - b. Ngaati Whanaunga Incorporated Society
 - c. Ngāi Tai ki Tāmaki Tribal Trust
 - d. Ngāti Manuhiri Settlement Trust
 - e. Ngāti Maru Rūnanga Trust
 - f. Ngāti Paoa Iwi Trust
 - g. Ngāti Paoa Trust Board
 - h. Ngāti Tamaoho Trust
 - i. Ngāti Tamaterā Treaty Settlement Trust
 - j. Ngātiwai Trust
 - k. Ngāti Whātua o Ōrākei Trust Board
 - l. Te Ākitai Waiohua Iwi Authority
 - m. Te Ara Rangatu o Te Iwi o Ngāti Te Ata Waiohua
 - n. Te Kawerau Iwi Settlement Trust
 - o. Te Kupenga o Ngāti Hako Incorporated
 - p. Te Patukirikiri Iwi Trust
 - q. Te Rūnanga o Ngāti Whātua.

Treaty settlements and Treaty settlement entities

16. 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. The Te Arawhiti i-Cat database listed in paragraph 11(c) and documents on the [NZ Government Treaty settlements website](#) were the primary information sources for our analysis.

Treaty settlements relating to the project area

17. 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.

18. The project site falls within or very close to² the area of interest covered by Treaty settlements with the following 8 iwi/groups:
- a. Ngāti Whātua Ōrākei
 - b. Ngāti Whātua o Kaipara
 - c. Te Kawerau ā Maki
 - d. Ngāi Tai ki Tāmaki
 - e. Ngāti Tamaoho
 - f. Te Patukirikiri
 - g. Ngāti Paoa
 - h. Ngā Mana Whenua o Tāmaki Makaurau.
19. 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.
20. The Ngāti Whātua o Kaipara Claims Settlement Act 2013 gives effect to certain provisions of the deed of settlement signed by Ngāti Whātua o Kaipara and the Crown on 9 September 2011, and amendment deeds signed in 2012 and 2020. [Relevant settlement documents](#) are available on the NZ Government Treaty settlements website.
21. 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 February 2014, and amendment deeds signed in 2015 and 2019. [Relevant settlement documents](#) are available on the NZ Government Treaty settlements website.
22. 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 available on the NZ Government Treaty settlements website.
23. 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 available on the NZ Government Treaty settlement website.
24. The Crown and Te Patukirikiri signed a deed of settlement on 7 October 2018. Legislation has yet to be enacted. [The deed and associated documents](#) are available on the NZ Government Treaty settlement website.
25. 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 available on the NZ Government Treaty settlement website.
26. 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,

² The scale of the area of interest map in the Ngāti Whātua o Kaipara Deed of Settlement is not precise enough to determine if the area of interest includes the project site.

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

Post-settlement governance entities

27. Under the FTCA, a Treaty settlement entity includes a post-settlement governance entity, which is 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.
28. 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. Ngā Maunga Whakahii o Kaipara Development Trust
 - c. Te Kawerau Iwi Settlement Trust
 - d. Ngāi Tai ki Tāmaki Trust
 - e. Ngāti Tamaoho Settlement Trust
 - f. the following trusts and partnerships associated with the Tāmaki collective arrangements:
 - i. Whenua Haumi Roroa o Tāmaki Makaurau Limited Partnership, established 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 & motu (including vesting of sites)
 - iii. Ngāti Whātua Rōpū Limited Partnership, representing 3 members of the Tāmaki Collective: Ngāti Whātua Ōrākei, Ngāti Whātua o Kaipara and Te Rūnanga o Ngāti Whātua (whose individual areas of interest include the project area)
 - iv. Waiohū-Tāmaki Rōpū Limited Partnership, representing 5 members of the Tāmaki Collective, including Te Kawerau ā Maki, Ngāi Tai ki Tāmaki, Ngāti Tamaoho, Te Ākitai Waiohū and Ngāti Te Ata (whose individual areas of interest include the project site)
 - v. Marutūāhu Rōpū Limited Partnership, representing Ngāti Maru (Hauraki), Ngāti Paoa, Ngāti Tamaterā, Te Patukirikiri and Ngaati Whanaunga (whose individual areas of interest include the project site).
29. As explained further in paragraphs 49–52, none of the cultural or commercial redress provided under the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 and managed by the entities named in paragraph 28(f) is affected by the proposed project.
30. A post-settlement governance entity may exist ahead of finalisation and enactment of a Treaty settlement. The following post-settlement governance entities in this category are also relevant:
 - a. Te Patukirikiri Iwi Trust, which was ratified as the post-settlement governance entity for the Treaty settlement with Te Patukirikiri on 2 September 2013

- b. Ngāti Paoa Iwi Trust, which was ratified as the post-settlement governance entity for the Ngāti Paoa Treaty settlement on 25 September 2013
 - c. Hako Tūpuna Trust, which was established and confirmed as the post-settlement governance entity for Hako on 26 August 2014
 - d. 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
 - e. 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
 - f. Te Ākitai Waiohua Settlement Trust, which was ratified as the post-settlement governance entity for the Te Ākitai Waiohua Treaty settlement in June 2014. Te Ākitai Waiohua initialled a deed of settlement with the Crown on 23 December 2020
 - g. Ngaati Whanaunga Ruunanga Trust, which was ratified as the post-settlement governance entity for the Ngaati Whanaunga Treaty settlement in December 2017, following the initialling of a deed of settlement by Ngaati Whanaunga and the Crown on 25 August 2017.
31. The Marutūāhu Rōpū Limited Partnership was established to receive the collective commercial redress provided in the Marutūāhu Iwi Collective Redress Deed that was initialled by the Crown and the Marutūāhu Iwi Collective on 27 July 2018, and thus meets the definition of a post-settlement governance entity under the FTCA.
32. The Marutūāhu Iwi Collective represents the iwi noted in paragraph 28(f)(v). The Marutūāhu Iwi Collective area of interest³ covers parts of the Auckland, Waikato and Bay of Plenty Regions, and includes the project site.
33. The Marutūāhu Iwi Collective Redress Deed also provides for establishment of the Taonga o Marutūāhu Trustee Limited, to receive the Marutūāhu Iwi collective cultural redress. This redress entity would also qualify as a post-settlement governance entity under the FTCA however it is yet to be established.
34. 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 Browns Bay Road Apartments project.

Other bodies recognised or established under a Treaty settlement Act

35. 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.
36. No such entities established by any of the above-named Treaty settlement Acts are relevant to the proposed project.

³ The area of interest is shown on the map attached to the [Marutūāhu Collective Redress deed summary](#).

Relevant principles and provisions of the Treaty settlements

Ngāti Whātua o Ōrākei, Ngāti Whātua o Kaipara, Te Kawerau ā Maki, Ngāi Tai ki Tāmaki, Ngāti Tamaoho, Te Patukirikiri and Ngāti Paoa Treaty settlements

Crown acknowledgements and apologies

37. The Crown offers an apology as part of Treaty settlement redress to atone for historical wrongs, restore its honour and begin the process of healing.
38. In the Ngāti Whātua o Ōrākei settlement, the Crown unreservedly apologises to Ngāti Whātua Ōrākei, to 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.
39. The Crown acknowledges among other things, in the settlement with Ngāti Whātua o Kaipara, that the cumulative effect of its breaches of the Treaty of Waitangi and its principles significantly undermined the tino rangatiratanga of Ngāti Whātua o Kaipara, their economic and social development, and physical, cultural and spiritual well-being with effects that continue to be felt to the present day. The Crown profoundly regrets and unreservedly apologises for its actions, which have resulted in the virtual landlessness of Ngāti Whātua o Kaipara. The Crown says it intends to improve and strengthen its historically close relationship with Ngāti Whātua o Kaipara based on the Treaty of Waitangi and its principles so as to create a solid foundation for the future.
40. To Te Kawerau ā Maki, the Crown unreservedly apologises for not having honoured its obligations to them 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.
41. 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.
42. 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.
43. In the Te Patukirikiri Deed of Settlement, the Crown apologises to the people of Te Patukirikiri for the prejudice they have suffered as a result of its actions, and its breaches of te Tiriti o Waitangi/the Treaty of Waitangi and its principles. The Crown states it hopes that the settlement will mark the beginning of a new relationship with Te Patukirikiri based on good faith and cooperation.
44. 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 Maori. 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.

45. Respect for both the individual views of each iwi on resource management matters and enabling their meaningful participation as 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 acknowledgements and uphold its relationship with each iwi.

Other redress

46. None of the above settlements create co-governance or co-management processes that would affect decision-making under the RMA for the Browns Bay Road Apartments project.
47. No areas covered by a statutory acknowledgement or any other form of cultural or commercial redress in any of the settlements would be directly affected by the proposed project.
48. Importantly however, 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 a statutory acknowledgement - 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.

Tāmaki Collective Redress Act

49. 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. 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.
50. 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). Although the project site lies at the northern boundary of the Auckland Volcanic Field, it is not close to any of the Tūpuna Maunga and is unlikely to have any significant effect on them or the connectivity between them.
51. 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 Auckland⁴, and second rights to purchase deferred selection properties not selected or acquired by iwi/hapū under their individual settlements.
52. 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.

⁴ Part 3 of [Attachments to Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed](#).

Current negotiation mandates and settlement negotiations

53. Treaty settlement negotiations have commenced but are yet to be concluded with the following iwi and groups identified in paragraphs 30–31: Hako, Ngāti Maru (Hauraki), Ngāti Tamaterā, Te Ākitai Waiohua, Ngaati Whanaunga and the Marutūāhu Iwi Collective.
54. The project area also falls within the areas of interest for:
- a. Ngāti Te Ata
 - b. Ngāti Koheriki.
55. 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 Te Ata has yet to establish a post-settlement governance entity to receive redress under their settlement.
56. 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 decision

57. 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.
58. 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.
59. The relevant iwi authorities and Treaty settlement entities for receipt of the notice are identified in paragraph 5; contact details are in Attachment 2.
60. We have not identified any other relevant iwi authorities or Treaty settlement entities who may have an interest in the project, and there are no relevant joint management agreements or Mana Whakahono ā Rohe to consider.
61. The Minister for Treaty for Waitangi Negotiations has requested that the notice of decisions and a copy of the referral application is forwarded to Ngāti Koheriki Claims Committee. Contact details are in Attachment 2.

Expert consenting panel membership

62. 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.
63. 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 clause 3(6)(a) – 3(6)(e), which include matters unique to any relevant Treaty settlement Act.
64. Relevant iwi authorities for the project are identified in paragraph 5 and Attachment 2.

Panel invitations to comment

65. 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.
66. The relevant iwi authorities and Treaty settlement entities for the proposed project are listed in paragraph 5; contact details are in Attachment 2.
67. The Minister for Treaty of Waitangi Negotiations has requested that you direct a panel to invite comments from Ngāti Koheriki Claims Committee.
68. A panel may also invite comments from any other person it considers appropriate. We have not identified any further parties.

Provision of Cultural Impact Assessment

69. 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.⁵ 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.
70. Where there is more than one relevant iwi authority, it 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 Browns Bay Road Apartments project are listed in paragraph 5.

⁵ Clause 9(5) of Schedule 6 of the FTCA.

Attachment 1 – Location



Attachment 2 – Contact information

Iwi/hapū	Representative body	Contact details	RMA Iwi authority	Treaty settlement entity	Other	Contact person	Copies to
Hako	Te Kupenga o Ngāti Hako Incorporated		Represents Ngāti Hako as an iwi authority for RMA purposes			CEO & RMA contact: Pauline Clarkin hako@xtra.co.nz	
	Hako Tūpuna Trust			Post-settlement governance entity [confirmed 26 August 2014]		Contact: Josie Anderson hako@xtra.co.nz	
Ngaati Whanaunga	Ngaati Whanaunga Incorporated Society		Represents Ngaati Whanaunga as an iwi authority for RMA purposes			Boni Renata General Manager s 9(2)(a)	
	Ngaati Whanaunga Ruunanga Trust			Post-settlement governance entity [DOS initialled 25 Aug 2017]			
Ngāi Tai ki Tāmaki	Ngāi Tai ki Tāmaki Tribal Trust	PO Box 141 Clevedon Auckland 2248	Represents Ngāi Tai ki Tāmaki as an iwi authority for RMA purposes			Chairperson: James Brown c/- s 9(2)(a) (office manager)	Kaitiaki Unit kaitiaki@ngaitaitamaki.iwi.nz
	Ngāi Tai ki Tāmaki Trust			Post-settlement governance entity under the Ngāi Tai ki Tāmaki Claims Settlement Act 2018			
Ngāti Manuhiri			Represents Ngāti Manuhiri as an			Chairperson: Terrence (Mook) Hohneck	RMA Contact: kaitiaki@ngatimanuhiri.iwi.nz

Settlement Trust			iwi authority for RMA purposes				
Ngāti Maru (Hauraki)	Ngāti Maru Runanga Trust	PO Box 37 Thames 3540	Represents Ngāti Maru (Hauraki) as an iwi authority for RMA purposes	Post-settlement governance entity [DOS initialled 8 Sep 2017]		Manager: David Taipari office@ngatimaru.iwi.nz	
Ngāti Paoa	Ngāti Paoa Iwi Trust	Level 12 Britomart Place Auckland	Represents Ngāti Paoa as an iwi authority for RMA purposes	Post-settlement governance entity [DOS signed 20 March 2021]		Kaiarahi: Haydn Solomon kaiarahi@ngatipaoaiwi.co.nz	Taiao Manager: Crystal Cherrington kaitiaki@ngatipaoaiwi.co.nz environment@ngatipaoaiwi.co.nz
	Ngāti Paoa Trust Board	PO Box 204 144 Highbrook Auckland 2161	Represents Ngāti Paoa as an iwi authority for RMA purposes			Principal Officer: Dave Roebeck nptb@ngatipaoatrustboard.co.nz	
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 info@tamaoho.maori.nz	RMA Contact: Lucie Rutherford rmaofficer@tamaoho.maori.nz
	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 [DOS initialled 20 Sep 2017]		Chair: Antony Royal chair@tamatera.iwi.nz	RMA Kaitiaki rma@tamatera.iwi.nz
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 taiao@ngatiteata.iwi.nz

Ngāti Wai	Ngātiwai Trust		Represents Ngāti Wai as an iwi authority for RMA purposes			Chairperson: Aperahama Edwards	RMA Contact: Alyx Pivac s 9(2)(a)
Ngāti Whātua	Ngāti Whātua o Ōrākei Trust Board	PO Box 42 045 Ōrākei Auckland 1745	Represents Ngāti Whātua o Ōrākei as an iwi authority for RMA purposes			CEO: Jamie Sinclair s 9(2)(a)	RMA Contact: Andrew Brown tokitaiao@ngatiwhatuaorakei.com
	Ngāti Whātua Ōrākei Trustee Limited			Post-settlement governance entity under Ngāti Whātua Ōrākei Claims Settlement Act 2012			
	Ngā Maunga Whakahii o Kaipara Development Trust		Represents Ngāti Whātua o Kaipara as an iwi authority for RMA purposes	Post-settlement governance entity under Ngāti Whātua o Kaipara Claims Settlement Act 2013		Interim CEO: Helen Woods admin@kaiparamoana.com	RMA Contact: Shona Oliver tetaritaiao@kaiparamoana.com
	Te Rūnanga o Ngāti Whātua	PO Box 1784 Whangarei 0140	Represents Ngāti Whātua as an iwi authority for RMA purposes			Manahautū / CE: Alan Riwaka	RMA Contact: Antony Thompson s 9(2)(a)
Te Ākitai Waiohū	Te Ākitai Waiohū Iwi Authority	PO Box 59 185 Māngere Bridge Auckland 2151	Represents Te Ākitai Waiohū as an iwi authority for RMA purposes			Chairperson: Karen Wilson tawia@teakitai.com	RMA Contact: Nigel Denny kaitiaki@teakitai.com
	Te Ākitai Waiohū Settlement Trust			Post-settlement governance entity [DOS initialled 23 Dec 2020]			

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 s 9(2)(a)	Kaitiaki: Robin Taua-Gordon s 9(2)(a)
Te Patukirikiri	Te Patukirikiri Iwi Trust	103 Herewaka Street Thames 3500	Represents Te Patukirikiri as an iwi authority for RMA purposes	Post-settlement governance entity [DOS signed 07 Oct 2018]		CEO: William Peters s 9(2)(a)	
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)

Attachment 3 – Project site detail



Attachment 4 – Project layout



Attachment 5 – Project concept drawing



AERIAL VIEW - LEVEL 0 COMMUNAL GARDEN AND LEVEL 1 LOWER CARPARK (VIEW EAST)