

To: Antonia Croft – Ministry for the Environment
From: Sam Le Heron and Fraser McNutt – Barker & Associates Limited
Date: 8 July 2025
Re: Rogerson Block, SL1 FTAA – 2506 – 1073 – Further Information Request

Dear Antonia,

Thank you for the phone discussion on 4th July, and subsequent Teams meeting on the 7th July 2025 to discuss the further information request for the Rogerson Block, SL1 (FTA – 2506 – 1073) Referral Application. We value the opportunity to provide this further information to MFE as the application is being assessed as part of the Referral Lodgement process.

We will respond directly to each of the points raised: (copied from email received 7th July 2025 following our Teams meeting);

- 1. Inclusion of a statement of the applicant's legal interest in the project land, this needs to specifically cover all property parcels and in particular property reference SA68B/153 that shows multiple property owners against title.**

Please see Attachment 1 – JW Trustees, which summarised the following: 'JW Trustees is listed as a part owner of the Rogerson property, due to Graeme Rogerson's son, Gary Bruce Rogerson, being a one-sixth owner of the back in question, and having that ownership held on his behalf by JW Trustees, through his legal representatives, Webb Gould Law, of Hamilton.'

Dave Macpherson is our client representative, and able to provide this clarification on the JW Trustees. Should any further clarification be required to understand these interests further we would be happy to answer any further clarifications.

- 2. Clarification of term of construction aspect of the project (application states 3 years however the planning document states 5 years)**

The proposed construction aspect of the project, including all stages, is anticipated to be 5 years.

- 3. Inclusion of the list of the Treaty settlements that apply to the project area and a summary of the relevant principles and provisions. As discussed, this is required even if there are no relevant principles or provisions applicable to the properties.**

The relevant Treaty Settlements, Waikato – Tainui Claims Settlements Act (1995) and Waikato – Tainui Raupatu Claims (Waikato River) Settlement Act 2010 are both relevant to the wider area. Please see a more detailed assessment outlined below in Section 1 Treaty Settlements.

- 4. Inclusion of further Waikato Regional Council consultation information, noting that the meeting minutes provided in the application did not show attendance of WRC however the planning**

document mentioned engagement and consultation. This can be a confirmation that the minutes circulated after the meeting accurately confirm WRC's involvement.

The meeting minutes circulated after the meeting accurately reflects the attendance. Whilst Waikato Regional Council (WRC) were not in attendance at the FutureProof briefing on Rogerson Block, WRC were an invited party being a FutureProof partner. In the Waikato the FutureProof Forum is understood to be the preferred and supported forum for consultation, to ensure alignment and wider collective understanding of FutureProof Partner views when considering more strategic issues like growth cells and sizeable developments. Whilst WRC were not in attendance at the Teams meeting, WRC staff would have received the pre-circulated material that went with the meeting invite (including the Rogerson Block Master Plan) which was circulated two weeks in advance of the meeting date. In addition, numerous WRC staff received the subsequent minutes and follow up communication, including the draft and then final 'Rogerson Block-Statement of Facts Referral Application letter final' outlined as Attachment 14 – Pre Lodgement Referral Future Proof Consultation Letter in the submitted Referral application. In addition, a snip of the email receipt of Attachment 14 is below, which includes WRC Staff member Miffy Foley as a Cc recipient. The description of the FutureProof Partners Pre-Lodgement Engagement was intended to highlight the various representations that formed the group, not those that specifically attended, as the minutes confirmed this. Our understanding of how this forum operates is that they present a shared view, hence the representation and follow up statement of facts Letter accurately represent the FutureProof Partners considerations of the Rogerson Block, and the pre-lodgement engagement.

Rogerson Block Fast Track Referral Application: FP Statement of Facts letter



Chris Dillon <Chris.Dillon@hcc.govt.nz>
To: Fraser McNutt, Sam Le Heron
Cc: Mark Davey, Robert Brodnax, Miffy Foley, Quentin Budd (Guest)

This message was sent with High importance.

Rogerson Block - Statement of Facts Referral Application letter final.pdf
4 MB

Reply Reply All Forward

Fri 13/06/2025 3:28 pm

Hi Fraser, Sam

Please find attached the Statement of Facts Letter in relation to the application for FT referral of the land known as the "Rogerson Block", sent on behalf of all the FP partners.

If you have any questions please don't hesitate to contact me.

Kind Regards

Chris Dillon

Chris Dillon MNZPI, BREP(Hons)
Principal Planner | Urban and Spatial Planning Unit

5. Discussion regarding the building line restriction (BLR) is shown on the Record of Title (received via Agenda setting on Friday 4th July)

The original email invite included item 5, outlined above. Please see Attachment 2 – BLR and Consent Notices, which highlights that there is a BLR restriction, shown in 'purple' on page 5 of the Attachment 2. This covers a portion of the site as it enters into the rear block, however, as per the overall Master Plan and layout, the access arrangement for the Rogerson Block, SL1 Referral Project is not proposed at this location. The BLR is not considered material to the overall Rogerson Block, SL1 Referral Application, whereby under Section 327A of the Local Government Act (1974) an application for the cancellation of the Building Line Restriction (S135726) can be made to Hamilton City Council (relevant territorial authority). It is anticipated that the BLR will be cancelled in its entirety if the Rogerson Block, SL1 Referral Project is approved and given effect to onsite. The formal

Barker & Associates

+64 375 0900 | admin@barker.co.nz

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application to cancel the BLR would not be applied for until such time that the consents for the Rogerson Block, SL1 Project were being commenced in accordance with the relevant conditions of any approved consent decision(s) via FT Panel resolution. We are very familiar with the intent of the BLR in this case and would expect Hamilton City Council to support its cancellation, where a comprehensive connection point is provided further south on Tuhikaramea Road (via a roundabout). Should any further clarification be required on this point we would be happy to address this further. This in our view would be a procedural matter and one that we have managed with HCC many times before.

1.0 Treaty Settlements

1.1 Relevant Treaty Settlements

Waikato-Tainui has signed two treaty settlements with the Crown. The first related to Waikato-Tainui's lands claim, and the second related to its Waikato River claim. Both settlements have now been enacted into legislation, as follows:

- Waikato Raupatu Claims Settlement Act 1995 (lands claim); and
- Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (Waikato River claim).

The Rogerson Block, SL1 site is within the area covered by an additional treaty settlement, being the Ngāti Hauā Claims Settlement Act 2014. A summary of the relevant principles and provisions in those settlements is included below.

1.2 Waikato – Tainui Claims Settlements Act 1995

The Waikato Raupatu Claims Settlement Act 1995 ("1995 Settlement Act") was the first historical Treaty of Waitangi grievance settled with the Crown.

The purpose of the Act is to:

- a. Record the apology given by the Crown to Waikato in the deed of settlement signed on 22 May 1995 by both representatives of the Crown and representatives of Waikato, being an apology by the Crown for, among other things, sending its forces across the Mangatawhiri river in July 1863, unfairly labelling Waikato as rebels, and subsequently confiscating their land; and
- b. Give effect to certain provisions of that deed of settlement, being a deed that settles the Raupatu claims.

Part 1 of the 1995 Settlement Act sets out the Crown's acknowledgements of its past failings and of Waikato grievances, including an apology. Part 2 of the Act deals with the provisions relating to settlement, discussing, among other things, the settlements relating to land and trusts and the appointment of members to the Conservation Board.

The preamble sets out Waikato long-established principles of the 1995 Settlement Act, which are:

- "Land for land"
 - "i riro whenua atu, me hoki whenua mai" ("as land was taken, land must be returned")

- “Ko te moni hei utu mo te hara” o “The money is the acknowledgment by the Crown of their crime”

The key provisions of the 1995 Settlement Act are:

- The formal apology from the Crown, acknowledging its wrongdoing; and
- A settlement valuation of \$170 million, which includes the return of land, cash payments, a right of first refusal, and a relativity clause.

While the Rogerson Block, SL1 site is located within the treaty settlement catchment area of interest, there are no statutory acknowledgement areas in the 1995 Settlement Act, and the project area does not include any land subject to this settlement.

1.3 Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010

Waikato-Tainui’s claim to the Waitangi Tribunal (Wai 30) included a claim to the Waikato River as well as its lands claim in the 1995 Settlement Act. However, the Waikato River claim was expressly excluded from the 1995 Settlement. The Waikato River claim was settled through the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (the “2010 Settlement Act”). The overarching purpose of the 2010 Settlement Act is to restore and protect the health and wellbeing of the Waikato River for future generations

Part of the purpose of the 2010 Settlement Act is to have regard to the principles described in the Kiingitanga Accord. The relevant principles, as described in the Kiingitanga Accord under Schedule 1 of the 2010 Settlement Act, are:

- ***Te mana o te awa (the spiritual authority, protective power, and prestige over the river):*** To Waikato-Tainui, the Waikato River is a tūpuna which holds mana and in turn represents the mana and mauri of the tribe. To Waikato-Tainui, the Waikato River is a single, indivisible being that flows from Te Taheke Hukahuka to Te Pūaha o Waikato.
- ***Mana whakahaere (authority and rights of control):*** Mana whakahaere embodies the authority that Waikato-Tainui and other River tribes have established in respect of the Waikato River over many generations to exercise control, access to, and management of the Waikato River and its resources in accordance with tikanga (values, ethics and norms of conduct). Loss of their lands mean Waikato-Tainui also lost the ability to exercise mana whakahaere in respect of the Waikato River and accordingly, the ability to ensure the River’s health and wellbeing.
- ***Health and wellbeing:*** The principle of health and wellbeing reflects the overarching purpose of the settlement, which is to restore and protect the health and wellbeing of the Waikato River. The health and wellbeing of Waikato-Tainui and its special relationship with the Waikato River is inherently connected with the health and wellbeing of the Waikato River.
- ***Co-management:*** The principle of co-management included the highest level of good faith engagement with consensus decision-making as a general rule while having regard to statutory frameworks and the mana whakahaere of Waikato-Tainui and other Waikato River iwi. To be effective, co-management must be implemented and achieved at a number of levels and across a range of management agencies, bodies, and authorities. Co-management must also include provisions for effective Waikato-Tainui input and participation through engagement at an early stage in statutory and management processes and other actions that may affect the health and wellbeing of the Waikato River.

- **Integration:** *Arising from the principles of te mana o te Awa and mana whakahaere, and inter-related to the principle of co-management, is the principle of integration. The health and wellbeing of the Waikato River and successful co-management require effective integration of management between the relevant government agencies, Crown entities, local authorities and non-governmental agencies who have roles and responsibilities in respect of the Waikato River.*
- **Treaty of Waitangi:** *Te Tiriti o Waitangi/the Treaty of Waitangi and its principles apply to the Kiingitanga Accord and the relationship between the Crown and Waikato-Tainui reflected in the Kiingitanga Accord.*
- **Honour and integrity:** *Underpinning the settlement is the principle of honour and integrity. Waikato-Tainui and the Crown have entered into the settlement in good faith relying on the commitments of each other contained in the 2008 deed and the Kiingitanga Accord with the intention of achieving a full, fair and durable settlement of the raupatu claims of Waikato-Tainui in relation to the Waikato River.*

The relevant provisions are discussed in the subsequent paragraphs.

The 2010 Settlement Act has been included in the Waikato Regional Policy Statement, and the Vision and Strategy for the Waikato River has been created for present and future generations. Section 5 identifies that the Vision and Strategy is intended by Parliament to be the primary direction-setting document for the Waikato River and activities within its catchment affecting the Waikato River. Section 9 of the 2010 Settlement Act outlines the scope of the Vision and Strategy and confirms that the Vision and Strategy applies to the Waikato River and activities within its catchment affecting the Waikato River.

While it is recognised that the Rogerson Block, SL1 site and proposed activities are within the catchment of the Waikato River, the application is not for an activity related to the Waikato River, and the proposal is not considered to affect the health and wellbeing of the Waikato River. Nevertheless, the applicant believes that it is in the best interests that the proposal does not compromise the Vision and Strategy. As part of any substantive application a wider assessment, including a Cultural Impact Assessment, and further consideration and alignment of the proposal with the relevant policy context will occur, whilst continuing to engage relevant iwi and hapu.

1.4 Ngāti Hauā Claims Settlement Act 2014

The Ngāti Hauā claims were settled with the Crown through the Ngāti Hauā Claims Settlement Act 2014. The purpose of the Act is to:

- a. To record in English and te reo Māori the acknowledgements and apology given by the Crown to Ngāti Hauā in the deed of settlement; and
- b. To give effect to certain provisions of the deed of settlement that settles the non-raupatu historical claims of Ngāti Hauā.

The key provisions of the Act relate to:

- Cultural and commercial redress, with the right of first refusal; and
- Statutory acknowledgement, and a deed of recognition for the statutory areas.

The Rogerson Block, SL1 project is within the overall interest area for the 2014 Settlement but to the best of our knowledge will not involve activity occurring within a statutory area as described in

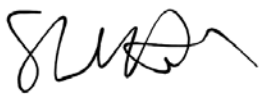
Schedule 1, an overlay area as described in Schedule 1 or the cultural redress properties as described in Schedule 3.

Ngāti Hauā Iwi Trust is the relevant post-settlement government entity for the 2014 Settlement. For completeness, it is noted that the Treaty of Waitangi Act 1975, section 6(4A), states that the Waitangi Tribunal shall not recommend the return to Maori ownership of any private land or the acquisition by the Crown of any private land. The site is on privately owned land. Consequently, the site cannot be subject to a treaty settlement claim, at present or in the future (see Treaty of Waitangi Act 1975, section 6(4A)).

Ongoing consultation with relevant iwi and hapu, and treaty settlement entities, is occurring as part of Te Hira, Norm Hill's, role in supporting iwi engagement for the Rogerson Block, and wider SL1 Growth Cell.

It is also acknowledged that **Te Tai Tumu Tai Pari Tai Ao – Waikato-Tainui Environmental Plan** and **Te Ture Whaimana o te Awa o Waikato** are both important post settlement documents in the Waikato, and as part of any substantive application a comprehensive assessment of these documents will take place, and guidance from the Cultural Impact Assessment to be prepared in parallel with the substantive application.

Should any further clarifications be required, please don't hesitate to contact us further. We look forward to progressing forward with the Rogerson Block, SL1 Referral application.



Sam Le Heron
Senior Associate

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Fraser McNutt
Partner

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