



Fast-track Approvals Act 2024 – Treaty settlements and other obligations (Section 18) report

Project Name: FTAA-2512-1154 Orchard Grove

To:	Date:
Hon Chris Bishop, Minister for Infrastructure	16 March 2026

Number of attachments: 9	Attachments: <ol style="list-style-type: none">1. Provisions of section 18 of the Fast-track Approvals Act 20242. Project location map3. List of relevant Māori groups4. Te Ture Whaimana o Te Awa Waikato5. Waikato-Tainui Environmental Plan6. Waikato Regional Council Joint Management Agreement7. Waikato District Council Joint Management Agreement (including Schedule B)8. Excerpt from Ngāti Hauā conservation relationship agreement9. Comments received from the Minister for Māori Development and Minister for Māori Crown Relations: Te Arawhiti
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Ministry for the Environment contacts:

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Key points

1. The Ministry for the Environment (on behalf of the Secretary for the Environment) has prepared this report on Treaty settlements and other obligations under section 18 of the Fast-track Approvals Act 2024 (the Act), in relation to the FTAA-2512-1154 Orchard Grove referral application.
2. The applicant, Gordon Litt Farms Limited, proposes a residential development on an approximately 73-hectare site located near Flagstaff, on the northern outskirts of Hamilton. The development will include approximately 815 residential lots, a neighbourhood centre, associated roading, and three waters infrastructure. The applicant is seeking approvals

under the Act that would otherwise be sought under the Resource Management Act 1991 (RMA) and the Wildlife Act 1953.

3. Section 18(2) of the Act requires that the report provide a list of relevant Māori groups, including relevant iwi authorities and Treaty settlement entities. We have identified Te Whakakitenga o Waikato, Ngāti Hauā Iwi Trust, Waikato Raupatu River Trust, the Waikato River Authority (a statutory body established by a settlement), Ngāti Wairere, and Te Haa o te Whenua o Kirikiriroa as relevant Māori groups in relation to the project area.
4. We have identified the following Treaty settlements that are relevant to the project area: Waikato Raupatu Claims Settlement Act 1995, Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, and the Ngāti Hauā Claims Settlement Act 2014.
5. We consider that a number of provisions of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 apply to the project area. In accordance with section 7 and section 16 of the Act, we recommend that in considering this application, you have particular regard to Te Ture Whaimana (Vision and Strategy) and have regard to the Waikato-Tainui Environmental Plan.
6. Pursuant to section 16 of the Act, we consider you have complied with some of the relevant procedural requirements in the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, as they relate to providing notice to the Waikato River Authority and providing information about the application to the Waikato Raupatu River Trust (under the joint management agreement provisions). However, there is also a need to ensure that these, and other, procedural requirements are complied with throughout the process. Accordingly, should you decide to accept this referral application, we propose you direct any panel considering a substantive application for the project to comply with the applicable requirements identified at paragraph 75 of this report (under section 16(2)(c) of the Act).
7. None of the groups invited to comment on the referral application under section 17(1)(d) of the Act provided a response.
8. The Minister for Māori Development and the Minister for Māori Crown Relations: Te Arawhiti support the application for referral, subject to the panel considering a substantive application: having regard to the statutory acknowledgements identified; having particular regard to Te Ture Whaimana o Te Awa o Waikato; giving notice to the Waikato River Authority; considering the provisions for appointing hearing commissioners from the Authority's register; having regard to the Waikato Tainui Environmental Plan; and considering the requirements of the joint management agreements.
9. We do not consider there are any matters raised in this report which make it more appropriate for the proposed approvals to be authorised under another Act or Acts.

Signature



Stephanie Frame
Manager – Fast-track Operations

Introduction

10. Under section 18 of the Act, you must obtain and consider a report on Treaty settlements and other obligations for each referral application, prepared by the responsible agency (Secretary for the Environment).
11. The information which must be provided in this report includes:
 - a. relevant iwi authorities, Treaty settlement entities, applicant groups under the Marine and Coastal Area (Takutai Moana) Act 2011 (MACA), and other Māori groups with interests in the project area;
 - b. relevant principles and provisions in Treaty settlements and other arrangements;
 - c. a summary of comments and further information received from invited Māori groups; and
 - d. advice on whether it may be more appropriate to deal with the matters that would be authorised by the proposed approvals under another Act or Acts.
12. This report is structured accordingly. We have provided a list of the relevant provisions of section 18 at **Attachment 1**.

Proposed project

13. The applicant, Gordon Litt Farms Limited, proposes a residential development on an approximately 73-hectare site located on Reynolds Road/Kay Road/Osborne Road/Resolution Drive, near Flagstaff, on the northern outskirts of Hamilton. The development will include approximately 815 residential lots, a neighbourhood centre, associated roading, and three waters infrastructure. The applicant is seeking approvals under the Act that would otherwise be sought under the following statutes: RMA (including land use, subdivision, earthworks, water permit, and discharge permit) and the Wildlife Act 1953. The land comprises a number of parcels owned by the applicant or other private landowners.
14. We have provided a location map at **Attachment 2**.

Relevant iwi authorities, Treaty settlement entities, and other Māori groups

15. We note that some entities identified below may be included in more than one category. We have included a composite list of all groups at **Attachment 3**.

Iwi authorities

16. Under section 4(2) of the Act, 'iwi authority' has the same meaning as in section 2(1) of the RMA:

the authority which represents an iwi and which is recognised by that iwi as having authority to do so.
17. We consider the following groups to be the relevant iwi authorities for the project area:
 - a. Te Whakakitenga o Waikato, representing Waikato-Tainui; and
 - b. Ngāti Hauā Iwi Trust, representing Ngāti Hauā.

Treaty settlement entities

18. Under section 4(1) of the Act, "Treaty settlement entity" means any of the following:

- (a) a post-settlement governance entity (PSGE):*
- (b) a board, trust, committee, authority, or other body, incorporated or unincorporated, that is recognised in or established under any Treaty settlement Act:*
- (c) an entity or a person that is authorised by a Treaty settlement Act to act for a natural resource feature with legal personhood:*
- (d) Te Ohu Kai Moana or a mandated iwi organisation (as those terms are defined in section 5(1) of the Maori Fisheries Act 2004):*
- (e) an iwi aquaculture organisation (as defined in section 4 of the Maori Commercial Aquaculture Claims Settlement Act 2004).*

19. Under the Act, a PSGE:

(a) means a body corporate or the trustees of a trust established, for the purpose of receiving redress in the Treaty settlement of a claimant group,—

(i) by that group; or

(ii) by or under an enactment or order of a court; and

(b) includes—

(i) an entity established to represent a collective or combination of claimant groups; and

(ii) an entity controlled by an entity referred to in paragraph (a); and

(iii) an entity controlled by a hapū to which redress has been transferred by an entity referred to in paragraph (a).

20. In keeping with the procedural principles outlined at section 10 of the Act, we only identify those PSGEs which are specified in the relevant Treaty settlement Act or Treaty settlement deed.¹

21. We have identified the following relevant Treaty settlement entities for this project area:

- a. Te Whakakitenga o Waikato, representing Waikato-Tainui, as PSGE for the Waikato Raupatu Claims Settlement Act 1995 and the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010;
- b. Waikato Raupatu River Trust, as recognised in the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, and party to co-management arrangements in that settlement;
- c. Waikato River Authority, a statutory body established under the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010; and
- d. Ngāti Hauā Iwi Trust, representing Ngāti Hauā, as PSGE for the Ngāti Hauā Claims Settlement Act 2014.

22. Te Whakakitenga o Waikato is the sole trustee of the Waikato Raupatu River Trust.

¹ Should a panel be made aware of a Treaty settlement entity established after the Treaty settlement Act is enacted (e.g. on the advice of a PSGE), then there would appear to be nothing to prevent the panel from inviting that entity to comment on the application under section 53(2)(c) of the Act.

Groups mandated to negotiate Treaty settlements

23. The following groups have recognised mandates to negotiate a Treaty settlement over an area which may include the project area, and are in the early stages of negotiating their Treaty settlements with the Crown:
- a. Te Whakakitenga o Waikato, in relation to remaining Waikato-Tainui claims.

Takutai Moana groups and ngā hapū o Ngāti Porou

24. The project area does not include the common marine and coastal area, and accordingly there are no relevant applicant groups under MACA, and no court orders or agreements that recognise protected customary rights or customary marine title within the project area.
25. The project area is not within ngā rohe moana o ngā hapū o Ngāti Porou (as set out in the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019).

Iwi or hapū whose practices are recognised under the Fisheries Act 1996 through regulation or bylaws

26. The project area does not include a taiāpure-local fisheries area or a mātaihai reserve.
27. However, the project area incorporates farm drains and a modified stream which flow into the Otama-ngenge Stream, and then into the Waikato River north of Hamilton. The fisheries in all waterbodies in the Waikato River catchment below Karapiro (and the Lower Waipa River) are subject to the Waikato-Tainui (Waikato River Fisheries) Regulations 2011, made under the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 and Fisheries Act 1996. These regulations provide for Waikato-Tainui (as represented by the Waikato Raupatu River Trust) to manage customary fishing in the Waikato-Tainui fisheries area.

Owners of identified Māori land where electricity infrastructure or land transport infrastructure is proposed

28. Section 23 of the Act provides that, in making a decision on a referral application under section 21, the Minister may determine that, for the purposes of the project, an activity described in section 5(1)(a) is not an ineligible activity if it:
- a. is the construction of electricity lines or land transport infrastructure by (or to be operated by) a network utility operator that is a requiring authority; and
 - b. would occur on identified Māori land that is Māori freehold land or General land owned by Māori that was previously Māori freehold land.
29. This project does not involve an activity described in section 23(1) (i.e. including both (a) and (b)) of the Act.

Iwi authorities and groups representing hapū who are party to relevant Mana Whakahono ā Rohe or joint management agreements

30. If the project area is within the boundaries of either a Mana Whakahono ā Rohe or joint management agreement (JMA), and the application includes a proposed RMA approval described in section 42(4)(a) to (d) (resource consent, certificate of compliance, or designation), we are required to identify the relevant iwi authority/group that represent hapū that are parties to these arrangements.

31. The approvals sought include resource consents, and the project area is within the boundaries of two JMAs, with the Waikato Regional Council and the Waikato District Council respectively, over matters relating to the Waikato River and activities within its catchment that may affect the Waikato River, as provided for by the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010. These JMAs are relevant because:
- a. the project area incorporates farm drains and a modified stream which flow into the Otama-ngenge Stream, which is part of the Waikato River catchment; and
 - b. the approvals being sought include resource consents for the proposed discharge of stormwater.
32. The relevant party that represents iwi/hapū for the JMAs over the lower Waikato River is the Waikato Raupatu River Trust (one of the Treaty settlement entities referred to above).
33. We discuss the implications of the JMAs further below.

Any other Māori groups with relevant interests

34. We have identified the following groups as other groups with relevant interests in the project area:
- a. Ngāti Wairere (hapū of Waikato-Tainui); and
 - b. Te Haa o te Whenua o Kirikiriroa (collective representing Ngaati Maahanga, Ngāti Tamainupō, Ngāti Korokī Kahukura, and Ngāti Hauā).
35. For your information, the applicant advises they have consulted with Waikato-Tainui, Ngāti Hauā, and Ngāti Wairere.

Relevant principles and provisions in Treaty settlements and other arrangements

Treaty settlements

36. Under section 4(1) of the Act, a Treaty settlement includes both a Treaty settlement Act and a Treaty settlement deed which is signed by both the Crown and representatives of a group of Māori.
37. The following Treaty settlements relate to land, species of plants or animals, or other resources within the project area:
- a. Waikato Raupatu Claims Settlement Act 1995;
 - b. Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010; and
 - c. Ngāti Hauā Claims Settlement Act 2014.

Relevant principles and provisions

38. Section 7 of the Act requires all persons exercising powers and functions under the Act to act in a manner consistent with Treaty settlements. The relevant principles and provisions for each of these settlements are set out below.

Crown acknowledgements and apologies

39. The Crown offers acknowledgements and an apology to relevant groups as part of Treaty settlement redress to atone for historical wrongs that breached te Tiriti o Waitangi/the Treaty of Waitangi, to restore honour, and begin the process of healing.
40. As part of the apology included in the Waikato Raupatu Claims Settlement Act 1995, the Crown sought to atone for the acknowledged injustices and begin the process of healing and to enter a new age of co-operation with the Kiingitanga and Waikato.
41. In the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 and Ngāti Hauā Claims Settlement Act 2014, the Crown acknowledged that its actions denied the hapū of Waikato-Tainui, including Ngāti Hauā, their rights and interests and mana whakahaere over the Waikato River. The Crown also acknowledged the deterioration of the health of the river as a source of distress for the people of Waikato-Tainui, and in its apology undertook to embark on a new relationship founded on mutual trust, co-operation, and respect for the Treaty of Waitangi and its principles.
42. The redress mechanisms provided for in Treaty settlements should be viewed in the context of these intentions.

Waikato River arrangements

43. The project area is located within the Waikato River catchment. Amongst other approvals, the application seeks resource consents for the proposed discharge of stormwater and diversion of water. According to the application documents, the project area incorporates farm drains and a modified stream which flows west into the Otama-ngenge Stream, and from there into the Waikato River approximately 2km northwest of the project area.
44. The applicant proposes a stormwater strategy that includes quality treatment through the use of wetlands and other measures prior to discharge into the existing drain, which will be widened and realigned into a 'greenway'. The strategy will be refined as part of ongoing engagement with Ngāti Hauā, Ngāti Wairere and Waikato-Tainui to ensure the project supports the health and wellbeing of the Waikato River.
45. The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010² provides for a suite of interconnected arrangements for co-governance and co-management of the Waikato River, and activities within its catchment affecting the Waikato River. In the following subsections, we have set out those provisions of the Waikato River arrangements which most closely relate to your consideration of this application under the Act. In light of the complexity of these arrangements, we have also provided a summary of our advice at paragraphs 73-75.

Vision and Strategy – Te Ture Whaimana o Te Awa o Waikato

46. The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 provided for and recognised Te Ture Whaimana o Te Awa o Waikato (Te Ture Whaimana) as applying to the Waikato River and activities within its catchment affecting the Waikato River. The guiding principles of interpretation at section 5 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 provide that it is the intention that Te Ture Whaimana is the primary direction-setting document for the Waikato and Waipā Rivers and activities

² The Ngāti Tūwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010 and the Ngā Wai o Maniapoto (Waipa River) Act 2012 apply the same or similar redress to other parts of the Waikato River, outside the project area.

within their catchments affecting the rivers. This is also reiterated in section 8 of the Act, including affirming the status of Te Ture Whaimana as:

- a. prevailing over any inconsistent provisions in a national policy statement, coastal policy statement, or national planning standard; and
- b. deemed to be part of the Waikato regional policy statement, and any regional or district plan that affects the river or activities within the catchment must give effect to Te Ture Whaimana.

47. The vision contained in Te Ture Whaimana is “for a future where a healthy Waikato River sustains abundant life and prosperous communities who, in turn, are all responsible for restoring and protecting the health and wellbeing of the Waikato River, and all it embraces, for generations to come”. Te Ture Whaimana responds to four fundamental issues, and includes more specific objectives to realise the vision, and strategies to achieve the objectives. We have included the latest version of Te Ture Whaimana as **Attachment 4**.

48. There are a number of provisions in the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 that relate to Te Ture Whaimana and its application in various RMA planning and consenting processes. Specifically, and of direct relevance to the application, section 17 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 requires a person carrying out functions or exercising powers under certain statutes (including the Act) that relate to the Waikato River or activities in its catchment, to have particular regard to Te Ture Whaimana.

49. Section 16 of the Act also requires that, if a Treaty settlement provides for the consideration of any document, then you are required to give the same or equivalent effect to that document in your decision-making.³ On that basis, we consider you will need to have particular regard to Te Ture Whaimana.

50. Section 82 of the Act also imposes the same requirement on a panel considering a substantive application. Should you decide to accept this referral application, the panel will also need to have particular regard to Te Ture Whaimana through its decision-making.

Waikato River Authority

51. The Waikato-Tainui Raupatu Claims (Waikato River) Settlement 2010 Act provides for the establishment of the Waikato River Authority as a statutory body. The purpose of the Waikato River Authority is to (among other things) set the primary direction through Te Ture Whaimana to achieve the restoration and protection of the health and wellbeing of the Waikato River for future generations, and to promote an integrated, holistic and co-ordinated approach to the implementation of Te Ture Whaimana and the management of the Waikato River.⁴ The Waikato River Authority consists of ten members, five members appointed from different River Iwi and five Crown appointees. The Authority does not speak on behalf of, or in place of, iwi or hapū.

52. Of potential relevance to the consideration of this application, sections 26-27 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement 2010 Act require the Waikato Regional Council to give notice to the Waikato River Authority of certain applications for resource consent, including applications involving a point source discharge to the Waikato River.

³ This includes any statutory planning document amended as a consequence. Section 8(2)(b) of the Act states that Te Ture Whaimana in its entirety is deemed to be part of the Waikato regional policy statement.

⁴ Section 22(2) of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement 2010 Act refers.

53. We have identified the Waikato River Authority as a Treaty settlement entity for the purposes of the Act, and you have invited them to comment on this application under section 17 of the Act. Our advice is that this is comparable to the notice provision outlined above. We therefore consider that, in this respect, the requirement under section 16 of the Act for you to comply with any applicable procedural requirements in a Treaty settlement has been met.
54. Should you decide to accept this referral application, for consistency with sections 26-27 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, we suggest that you direct the panel to ask the Environmental Protection Authority (EPA) to invite comments from the Waikato River Authority, as a relevant Treaty settlement entity, on the substantive application under section 53 of the Act.
55. A further implication for consideration of any substantive application for this project relates to the appointment of hearing panels. Under section 28 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, if the Regional Council holds a hearing on the application under the RMA, the committee to hear and make a decision on the application must consist of equal numbers (excluding the chair) of members appointed by the Council and accredited commissioners appointed by the Waikato River Authority from a register it maintains. The register comprises commissioners appointed by Waikato-Tainui or iwi who appoint members of the Waikato River Authority (section 25). The chair must be appointed by both the Authority and the Council.
56. Schedule 3 clause 5 of the Act requires the panel convener to comply with procedural matters in any Treaty settlement Act relating to the appointment of a decision-making body for hearings, or other procedural requirements, as if they were a relevant decision-maker, such as a local authority. In this case, our view is that the panel convener will be required to consider how they will comply with the above requirement as to the proportion of hearing commissioners appointed by the Waikato River Authority from the register of accredited commissioners. The Act also provides for the panel convener to obtain the agreement of the relevant party under the Treaty settlement legislation (i.e. the Waikato River Authority) if they wish to adopt a modified arrangement.

Waikato-Tainui Environmental Plan – Tai Tumu, Tai Pari, Tai Ao

57. Sections 39-40 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 provide for the Waikato Raupatu River Trust to prepare a Waikato-Tainui Environmental Plan, which may then be served on relevant local authorities, amongst others. In considering an application for a resource consent under the RMA, a consent authority must have regard to the Waikato-Tainui Environmental Plan, if it considers the plan to be a matter that is relevant and reasonably necessary to determine the application.
58. The latest version of the Waikato-Tainui Environmental Plan – Tai Tumu, Tai Pari, Tai Ao – outlines detailed policies on matters such as stormwater discharges. We have included a copy of the plan as **Attachment 5**. Section 16(2)(a) of the Act requires you to give the same or equivalent effect to this document in your decision-making, although it will be more relevant for the panel given their more direct role in determining whether or not to grant approval.
59. If a substantive application is lodged for this project, then under section 82 of the Act the panel will be required to comply with the same obligation as applies to a consent authority in terms of having regard to the Environmental Plan.
60. In particular, we note that:

- a. objective 26.3.1 of the Waikato-Tainui Environmental Plan is that “Infrastructure development, upgrade, and maintenance within the Waikato-Tainui rohe occurs in partnership with Waikato-Tainui”;
- b. the associated Policy 26.3.1.1 is “To ensure that infrastructure development, upgrade and maintenance within the Waikato-Tainui rohe occurs in partnership with Waikato-Tainui”; and
- c. an associated method in the plan states that resource consent processes should be developed by the applicant, regulator and/or local authority in partnership with Waikato-Tainui and taking into account kaitiakitanga and maatauranga Maaori.

61. This focus of the Waikato-Tainui Environmental Plan on partnership means that the panel will need to consider how they will provide for Waikato-Tainui participation in the substantive application process.

Joint management agreements

62. As identified at paragraph 31, the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 provides for a JMA between the Waikato Raupatu River Trust and each of the Waikato Regional Council and Waikato District Council (as well as other relevant local authorities) to work together when carrying out certain duties and functions, and exercising certain powers, in the RMA relating to the Waikato River and activities within its catchment. These duties, functions and powers relate to monitoring and enforcement, preparation of planning documents, and applications for resource consents.⁵

63. In relation to this project, the JMA provisions of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 require the local authority to provide the Waikato Raupatu River Trust with information on certain applications for resource consents (including discharging contaminants or water into the Waikato River) as soon as practicable after the application is received.⁶ These information-sharing provisions are similar to those which apply to statutory acknowledgements.

64. There are a range of other provisions in the JMAs themselves that relate to the resource consent process. Our advice is that these provisions are most relevant to the panel when considering the substantive application, and that the panel will need to consider how to comply with these procedural requirements in accordance with schedule 3 clause 5 of the Act. We provide more detail on the relevant JMA provisions below.

Waikato Regional Council JMA

65. Some of the approvals being sought by the applicant, such as the discharge of water and diversion of a waterway, appear to fall within the scope of the Waikato Regional Council JMA, as set out at section 47(1)(a) of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010. We have provided the Waikato Regional Council JMA as **Attachment 6**.

66. Schedule Three to the JMA includes a protocol to be applied to resource consents for those activities within the scope of the JMA, such as:

- a. preferred timing for the Council to provide Waikato-Tainui with a summary of relevant resource consents received, and associated information requirements;

⁵ Sections 41-43 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement 2010 Act refer.

⁶ Section 47 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement 2010 Act refers.

- b. Waikato-Tainui are able to request further information about the application and may then provide comments on their overall position with regards to the application, and their views on whether the application should be notified;
- c. the Council may have regard to this advice when deciding whether to notify the application;
- d. if there are outstanding matters, Waikato-Tainui and the Council will identify a timeframe to address them;
- e. if a pre-application meeting is held with the applicant, Waikato-Tainui will be invited to attend;
- f. where an application indicates a potential adverse effect on the health and wellbeing of the Waikato River in terms of the matters addressed in Te Ture Whaimana (the Vision and Strategy) but that matter is not assessed in the Assessment of Environmental Effects, the Council may take that matter into account when determining the completeness of the application under section 88 of the RMA;
- g. the Council may have particular regard to any advice from Waikato-Tainui regarding the adequacy of the information within the application when considering the need for further information requests under section 92 of the RMA;
- h. there is a detailed process for Council to discuss the application with Waikato-Tainui before making notification decisions (see clause 6.2 of Schedule Three); and
- i. the JMA sets out a process to ensure that the Council recognises and provides for the importance of authorised customary activities and the use of whitebait stands and eel weirs when considering resource consent applications. In particular, the Council will seek to avoid conflicts between resource consents and notified authorised customary activities.

Waikato District Council JMA

67. Similarly, the Waikato District Council JMA, and particularly Schedule B, also contains provisions in relation to the process for resource consent applications (both the JMA and Schedule B are included as **Attachment 7**).
68. The requirements for the Waikato District Council under the JMA include an obligation to operate consistently with the JMA and guiding principles, and to ensure that Waikato-Tainui are aware of certain applications and can comment on them. There is also a commitment to develop criteria for the processing of resource consent applications.
69. At first glance, the resource consents sought by the applicant do not appear to include a matter that would trigger the information sharing provisions of the Waikato District Council JMA (i.e. use of or activities on the surface of the water in the Waikato River).⁷ However, under Schedule B of the JMA, the scope for the provision of information about, and the engagement process for, resource consent matters include all “resource consent matters on which the [Waikato Raupatu River] Trust may have an interest”. Therefore, it is likely that the Waikato District Council would be required to consult the Waikato Raupatu River Trust on some of the other consents being sought by the applicant, such as those for land use and earthworks, even where these may not directly relate to the Waikato River itself.⁸

⁷ Section 47(1)(b) of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement 2010 Act refers.

⁸ This aspect of the JMA is the result of the parties agreeing to extend the process for information sharing on resource consent matters beyond the scope of s47(1)(b) of the Waikato-Tainui Raupatu Claims (Waikato

JMA requirements must be complied with

70. Under section 16 of the Act, you must comply with any applicable procedural requirements in JMAs, including the information-sharing provisions in JMAs provided for by section 47 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.
71. The nature of the fast-track process means that Waikato-Tainui has already been, and will continue to be, involved in the process (through consultation by the applicant, and being invited to comment by you and a panel). This fulfils, in part, the provisions in the JMAs regarding notification. However, there are certain aspects of the notification process that are not replicated in the fast-track process. For example, there is no right to appear and be heard at a hearing as is the case for notified consents under the standard RMA consent process.
72. The proposed stormwater discharge and diversion of a waterway which form part of the application appears to be within the scope of the consents to which the Waikato Regional Council JMA applies and, as noted above, the Waikato District Council JMA may apply to the other approvals being sought. You have already invited the Waikato Raupatu River Trust to comment on the application and, in so doing, have provided them with access to information about the application. We consider this to be comparable to some of the procedural requirements under the JMAs. As noted above, there are other procedural requirements that must be given careful attention in each stage of the process.

Summary of advice

73. In accordance with section 7 and section 16 of the Act, we recommend that in considering this application, you have:
 - a. particular regard to Te Ture Whaimana; and
 - b. regard to the Waikato-Tainui Environmental Plan;as relevant documents which you must give the same or equivalent effect as under the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010. We note that, at face value, a decision to accept this application for referral would not necessarily be inconsistent with these documents, but that this question will need to be considered in more depth by a panel in assessing a substantive application, as the potential decision-maker for the approvals being sought.
74. Pursuant to section 16 of the Act, we consider you have complied with some of the relevant procedural requirements in the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, as they relate to providing notice to the Waikato River Authority, and information about the application to the Waikato Raupatu River Trust (under the JMA provisions). However, there is also a need to ensure that these, and other, procedural requirements are complied with throughout the process (for example, the ability for Waikato-Tainui to comment on the adequacy of information under the JMA, and the provisions relating to the appointment of hearing commissioners).
75. Should you decide to accept this referral application, we propose you direct any panel considering a substantive application for the project to comply with the applicable requirements identified above (as provided for at section 16(2)(c) of the Act), namely to:

River) Settlement Act 2010 (“applications to a territorial authority for resource consent for the use of or activities on the surface of the water in the Waikato River”), to include other resource consent matters in which the Waikato Raupatu River Trust may have an interest. This is provided for at section 52 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, which permits the parties to extend the scope of the JMA by agreement.

- a. have particular regard to Te Ture Whaimana;
- b. give notice to the Waikato River Authority of the application (which may be fulfilled by an invitation to comment under section 53 of the Act);
- c. consider the provisions for appointing hearing commissioners from the register maintained by the Waikato River Authority as they may be applied to the fast-track process;
- d. have regard to the Waikato-Tainui Environmental Plan, including how to provide for continued partnership with Waikato-Tainui (as a consistent theme running through the plan); and
- e. consider the detailed information-sharing provisions of the JMAs, as they may be applied to the fast-track process.

Ngāti Hauā conservation relationship agreement

76. The Ngāti Hauā deed of settlement provides for a relationship agreement with the Department of Conservation (DOC) which incorporates the project area. This relationship agreement enables Ngāti Hauā to identify categories of statutory authorisations that may have a significant impact on their spiritual, cultural or historic values. Under the terms of the relationship agreement, statutory authorisations may include approvals under the Wildlife Act 1953, such as that sought by the applicant.
77. For those significant categories of statutory authorisations to be identified by Ngāti Hauā, the relationship agreement provides that DOC and Ngāti Hauā will adopt a specified consultation process, which can be summarised as:
 - a. DOC notifying Ngāti Hauā of the application and timeframe for a response/decision;
 - b. Ngāti Hauā notifying DOC of their views on the proposal within an agreed timeframe;
 - c. DOC acknowledging the views of Ngāti Hauā, providing an opportunity to clarify DOC's understanding of those views, and how they will be reflected in the decision-making process;
 - d. DOC considering whether it is possible to reconcile the views of Ngāti Hauā with other considerations in the decision-making process; and
 - e. DOC recording in its decision the nature of the views of Ngāti Hauā.
78. We have included the relevant excerpt from the relationship agreement at **Attachment 8**.
79. DOC advise that they are still working with Ngāti Hauā to identify the categories of statutory authorisations that are of significance. In the interim, DOC consults Ngāti Hauā on all Wildlife Act 1953 applications within their area of interest.
80. You have invited Ngāti Hauā to comment on this application, and under section 53(2)(c) of the Act a panel will also be required to invite Ngāti Hauā to comment on any substantive application for this project. Although the statutory authorisations of significance to Ngāti Hauā have not been formally identified, the panel may wish to consider the procedures at Attachment 8 to inform their engagement with Ngāti Hauā during the substantive application process.

Customary Marine Title/Protected Customary Rights

81. As noted above, the project area is not within a customary marine title area, protected customary rights area, or within or adjacent to ngā rohe moana o ngā hapū o Ngāti Porou.

Taiāpure-local fisheries/mātaitai reserves/areas subject to bylaws or regulations made under Part 9 of the Fisheries Act 1996

82. As noted above, the project area does not include a taiāpure-local fishery or mātaitai reserve but does include farm drains and a modified stream which flow into Otama-ngenge Stream, which is subject to the Waikato-Tainui (Waikato River Fisheries) Regulations 2011. These regulations provide for the Waikato Raupatu River Trust to manage customary fishing in the Waikato-Tainui fisheries area. Under the regulations, the Waikato Raupatu River Trust has recommended, and the Minister for Oceans and Fisheries has approved, the Fisheries (Declaration of Waikato-Tainui Fisheries Area Bylaws) Notice 2014, which also applies to the management of relevant fisheries in those catchments.

Mana Whakahono ā Rohe/Joint management agreement

83. The project area is within the boundaries of a JMA, and the application includes a proposed approval outlined in section 42(4)(a)-(d) of the Act. We have identified the relevant principles and provisions in the JMA above, including where there are obligations to involve the iwi authority/group in decision-making.

Summary of comments received and advice

Comments from invited Māori groups

84. Pursuant to section 17(1)(d) of the Act, on 29 January 2026 you invited written comments from the Māori groups identified above in paragraphs 15-35, from a list we previously provided you. These groups were provided with access to the application material and had 20 working days from receipt of the copy of the application to respond.

85. You did not receive comments from any of these groups.

Consultation with departments and Ministers

86. In preparing this report, we are required to:

- a. consult relevant departments; and
- b. provide a draft of the report to the Minister for Māori Development and the Minister for Māori Crown Relations: Te Arawhiti (for response within 10 working days).

87. We sought advice from Te Puni Kōkiri and the Office of Treaty Settlements and Takutai Moana – Te Tari Whakatau regarding the relevant Māori groups, and previously from DOC in relation to the Ngāti Hauā conservation relationship agreement, and have incorporated their views into this report. We also consulted the Ministry for Primary Industries in relation to customary fisheries.

88. The Minister for Māori Development and the Minister for Māori Crown Relations: Te Arawhiti support the application for referral, subject to the panel considering a substantive application:

- a. having regard to the statutory acknowledgements identified;
- b. having particular regard to Te Ture Whaimana o Te Awa o Waikato;

- c. giving notice to the Waikato River Authority;
- d. considering the provisions for appointing hearing commissioners from the Authority's register;
- e. having regard to the Waikato Tainui Environmental Plan; and
- f. considering the requirements of the JMAs.

89. We have provided a copy of these comments at **Attachment 9**.

Advice on whether it may be more appropriate to deal with the proposed approvals under another Act/s

90. Under section 18(2)(m), this report must include our advice on whether, due to any of the matters identified in section 18, it may be more appropriate to deal with the matters that would be authorised by the proposed approvals under another Act or Acts.

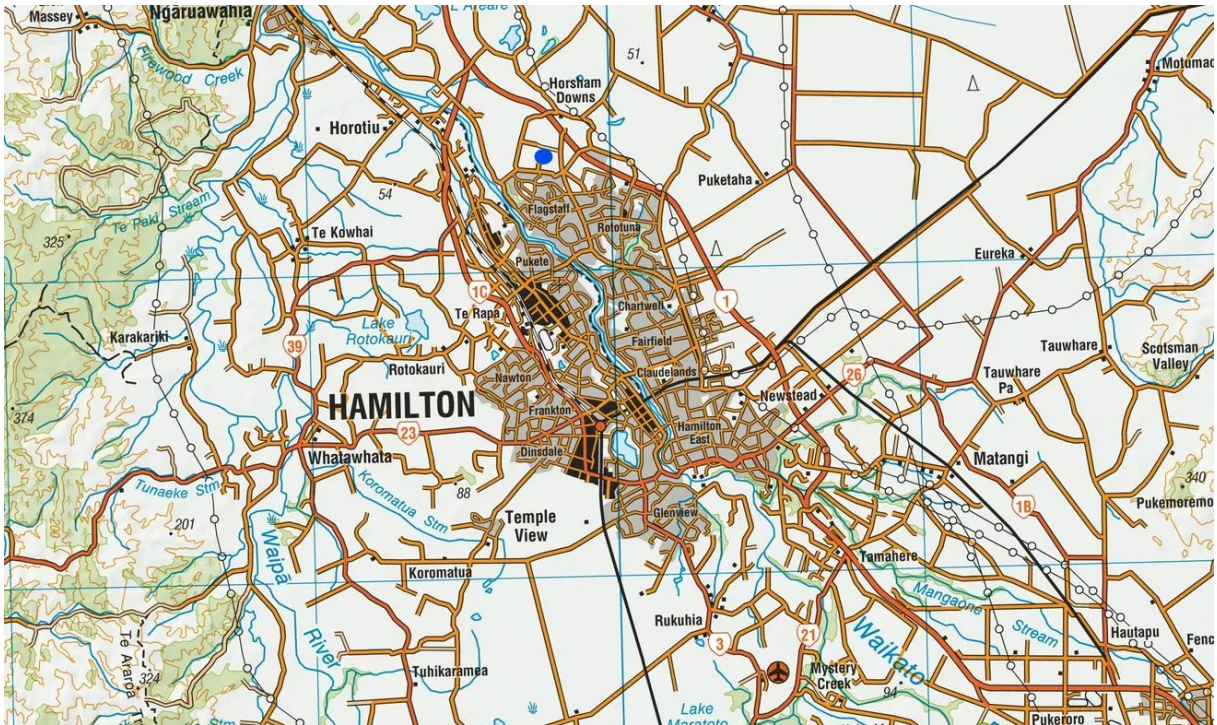
91. We do not consider there are any matters raised in this report which make it more appropriate for the proposed approvals to be authorised under another Act or Acts.

Attachment 1: Provisions of section 18 of the Fast-track Approvals Act 2024

Section	Information required	Paragraph reference in this report
18(1)	The Minister must, for a referral application, obtain and consider a report that is prepared by the responsible agency in accordance with this section.	10-12
18(2)(a)	Any relevant iwi authorities and relevant Treaty settlement entities	16-22
18(2)(b)	Any Treaty settlements that relate to land, species of plants or animals, or other resources within the project area	36-37
18(2)(c)	The relevant principles and provisions in those Treaty settlements, including those that relate to the composition of a decision-making body for the purposes of the Resource Management Act 1991	38-80
18(2)(d)	Any recognised negotiation mandates for, or current negotiations for, Treaty settlements that relate to the project area.	23
18(2)(e)	Any court orders or agreements that recognise protected customary rights or customary marine title within the project area.	24, 81
18(2)(f)	Any applicant groups under the Marine and Coastal Area (Takutai Moana) Act 2011 that seek recognition of customary marine title or protected customary rights within the project area.	24, 81
18(2)(g)	Whether the project area would be within or adjacent to, or the project would directly affect, ngā rohe moana o ngā hapū o Ngāti Porou (and, if so, the relevant provisions of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019).	25, 81
18(2)(h)	Whether the project area includes any taiāpure-local fisheries, mātaihai reserves, or areas that are subject to bylaws or regulations made under Part 9 of the Fisheries Act 1996 (and, if so, who the tangata whenua are).	26-27, 82
18(2)(i)	Whether the project involves an activity that could be the subject of a determination under 23 (and, if so, who the owners of the land are).	28-29
18(2)(j)	If the proposed approvals include an approval described in any of section 42C(4)(a) to (d) (resource consent, certificate of compliance, or designation), <ul style="list-style-type: none"> (i) iwi authorities and groups that represent hapū that are parties to any relevant Mana Whakahono ā Rohe or joint management agreements. 	30-33, 83

	(ii) The relevant principles and provisions in those Mana Whakahono ā Rohe and joint management agreements.	
18(2)(k)	Any other Māori groups with relevant interests.	34-35
18(2)(l)	A summary of— (i) comments received by the Minister after inviting comments from Māori groups under section 17(1)(d) and (e); (ii) any further information received by the Minister from those groups	84-85
18(2)(m)	The responsible agency's advice on whether, due to any of the matters identified in this section, it may be more appropriate to deal with the matters that would be authorised by the proposed approvals under another Act or Acts.	90-91
18(3)	In preparing the report required by this section, the responsible agency must— (a) consult relevant departments; and (b) provide a draft of the report to the Minister for Māori Development and the Minister for Māori Crown Relations: Te Arawhiti.	86-87
18(4)	Those Ministers must respond to the responsible agency within 10 working days after receiving the draft report	88-89

Attachment 2: Project location map



Attachment 3: List of relevant Māori groups

Name of group	Type of group (section of Act)
Te Whakakitenga o Waikato	Iwi authority (s18(2)(a); Treaty settlement entity – Waikato Raupatu Claims Settlement Act 1995 and the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (s18(2)(a)); negotiation mandate (s18(2)(d))
Ngāti Hauā Iwi Trust	Iwi authority (s18(2)(a); Treaty settlement entity – Ngāti Hauā Claims Settlement Act 2014 (s18(2)(a))
Waikato Raupatu River Trust	Treaty settlement entity – Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (s18(2)(a)); representing tangata whenua for customary fisheries regulations (s18(2)(h)); iwi authorities and groups that represent hapū that are parties to any relevant Mana Whakahono ā Rohe or joint management agreements (s18(2)(j))
Waikato River Authority	Treaty settlement entity – Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (s18(2)(a))
Ngāti Wairere	Any other Māori groups with relevant interests (s18(2)(k))
Te Haa o te Whenua o Kirikiriroa (THaWK)	Any other Māori groups with relevant interests (s18(2)(k))

Attachment 4: Te Ture Whaimana o Te Awa Waikato

**Please note that the attachments were included in their entirety as part of this submission, we have provided these as website links as they are publicly available documents:*

<https://waikatoriver.org.nz/wp-content/uploads/2019/03/Vision-and-Strategy-Reprint-2019web.pdf>

Attachment 5: Waikato-Tainui Environmental Plan

**Please note that the attachments were included in their entirety as part of this submission, we have provided these as website links as they are publicly available documents:*

<https://waikatoriver.org.nz/wp-content/uploads/2021/08/WRA11-112-Waikato-Tainui-Environmental-Plan.pdf>

Attachment 6: Waikato Regional Council Joint Management Agreement

**Please note that the attachments were included in their entirety as part of this submission, we have provided these as website links as they are publicly available documents:*

https://www.waikatoregion.govt.nz/assets/WRC/Waikato_Tainui_JMA_web_signed.pdf

Attachment 7: Waikato District Council Joint Management Agreement (including Schedule B)

**Please note that the attachments were included in their entirety as part of this submission, we have provided these as website links as they are publicly available documents:*

https://www.waikatodistrict.govt.nz/docs/default-source/your-district/iwi-in-our-district/waikato-river-joint-management-agreement.pdf?sfvrsn=88b8b6c9_0

https://www.waikatodistrict.govt.nz/docs/default-source/your-council/council-committees-and-boards/waikato-and-waipara-river-settlements/schedule-b---resource-consents-adopted-by-the-joint-committee-on-27-march-2013.pdf?sfvrsn=ebbb9c9_2

Attachment 8: Excerpt from Ngāti Hauā conservation relationship agreement

14 STATUTORY AUTHORISATIONS

14.1 The Department acknowledges authorisations granted to third parties in relation to Conservation Land within the Rohe may impact on the spiritual, cultural or historic values of Ngāti Hauā. The Department will advise and encourage prospective applicants within the Ngati Hauā area of interest to consult with Ngāti Hauā before filing their application.

14.2 From time to time Ngāti Hauā and the Department will identify categories of Statutory Authorisations that may have a significant impact on the spiritual, cultural or historic values of Ngāti Hauā.

14.3 For the categories of any Statutory Authorisations that Ngāti Hauā and the Department agree may be significant to Ngāti Hauā, the Governance Entity and the Department will adopt the following processes:

14.3.1 the Department will notify Ngāti Hauā of the application, timeframe for a decision and the timeframe for a Ngāti Hauā response;

14.3.2 Ngāti Hauā, within an agreed timeframe, will notify the Department of their response including the nature of their interests in the proposal and their views in relation to the proposal;

14.3.3 the Department will acknowledge Ngāti Hauā interests and views as conveyed (providing an opportunity to clarify or correct the Department's understanding of those interests and views), how those interests and views will be included in the decision-making process and any apparent issues or conflict that may arise;

14.3.4 the Department will, in making a decision, consider whether it is possible to reconcile any conflict between Ngāti Hauā interests and views and other considerations in the decision-making process;

14.3.5 the Department will record in writing as part of a decision document the nature of Ngāti Hauā interests and the views of Ngāti Hauā as conveyed.

14.4 The Department will advise Ngāti Hauā of potential opportunities for Ngāti Hauā or its members to obtain statutory authorisations on Conservation Land within the Ngati Hauā area of interest, including in relation to commercial opportunities.

The entire conservation relationship agreement can be found in the documents schedule to the Ngāti Hauā deed of settlement: [Ngāti Hauā Deed of Settlement - Documents Schedule 18 Jul 2013](#)

Attachment 9: Comments received from the Minister for Māori Development and Minister for Māori Crown Relations

Hon Tama Potaka Feedback - Saved
 Feedback · FTA - Feedback ▾

General Documents Related ▾

Feedback Details

Feedback ID * FDB001862T7C2

Title * Hon Tama Potaka Feedback

Regarding [Draft section 18 report for Minister comment](#)

Comments

I support the application progressing to the Expert Panel for substantive consideration, subject to the Expert Panel:

- having regard to the statutory acknowledgements identified;
- having particular regard to Te Ture Whaimana o Te Awa o Waikato; giving notice to the Waikato River Authority;
- considering the provisions for appointing hearing commissioners from the Authority's register;
- having regard to the Waikato Tainui Environmental Plan and
- considering the requirements of the Joint Management Agreements.

Feedback Contacts

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