

March 2026

Use of Public Conservation Land Report (section 19)

For the referral application for Orawaahi FTAA-2511-1135



Department of
Conservation
Te Papa Atawhai

**Te Kāwanatanga
o Aotearoa**
New Zealand Government

Contents

1.	Introduction	2
2.	The referral application	2
3.	Existing arrangements for the public conservation lands (s 19(2)(a))	2
3.1.	Administration	3
3.2.	Access	3
3.3.	Uses	3
4.	Risks and potential liabilities to the Crown (s 19(2)(b))	3
4.1.	General caveats	3
4.2.	Risk of non-completion, failure, inability to remediate land	3
4.3.	Frustration of pre-existing activities	3
5.	Outcomes of consultation and Section 19(3) obligations	4

1. Introduction

This report has been prepared by the Director-General of Conservation in accordance with section 19 of the Fast-track Approvals Act 2024 (the Act). It provides information in relation to the use of Public Conservation Land (PCL) as part of the consideration of the referral application for Orawaahi by Knight Investments Ltd.

Section 19 of the Act requires that the Minister obtain and consider a report prepared by the Director-General of Conservation (D-G). Statutory delegations are in place for the Department to provide the report on behalf of the D-G.

It is noted that the definition of PCL in the Act means land to which either or both of the following apply:

- (a) the land is held, managed, or administered under the Conservation Act 1987, the National Parks Act 1980, the Reserves Act 1977, or the Wildlife Act 1953:
- (b) the land is listed in Schedule 4.

Pursuant to s 19(3) of the Act, DOC has liaised with Auckland Council who holds, manages or administers land meeting this definition to inform this report.

The information required under s 19(2)(c) of the Act is not required in this report because Knight Investments Ltd does not require a determination under s 24(2) or (4) for new electricity lines as part of the Orawaahi project and the referral application is not required to provide information under section 13(4)(q) or (r). For completeness, DOC notes that the provisions of s 42(4)(f),(l) and (m) of the Act do not apply, as the proposal does not include a land exchange or access arrangements under the Crown Minerals Act 1991. The provisions of s 42(4)(e) do not apply as the proposal does not seek concessions under cl 1 of Schedule 6 of the Act.

2. The referral application

The project is to establish a master-planned development on approximately 75 hectares at 156 (Lot 1) and Lot 3 DPS 337204 Clarks Beach Road, Auckland. As part of the development, works are proposed on Lot 4 DP116708 which is held as a Local Purpose Reserve (Esplanade) located at the southern edge of the site adjacent to the Coastal Marine Area.

The project involves:

- a. A retirement village of approximately 220 units and supporting communal facilities.
- b. Subdivision to create:
 - i. approximately 700 – 800 residential lots and provision of servicing infrastructure to enable the future construction including by third parties
 - ii. a neighbourhood centre of approximately 6,000 m² gross floor area on 1.7 hectares
 - iii. a service / light industrial / trade supply hub approximately 25,000 m² gross floor area on 5 hectares
- c. A multi-functional green/blue network including neighbourhood parks, recreational walkways and pedestrian and cycle links across the site that connect into existing networks in the Clarks Beach community.

3. Existing arrangements for the public conservation lands (s 19(2)(a))

The area of PCL is vested in Auckland Council under the Reserves Act 1977, as a s 23 Local Purpose (Esplanade) Reserve.

3.1. Administration

Auckland Council has a two-tier governance structure comprising a governing body and local boards, pursuant to s 7 of the Local Government (Auckland Council) Act 2009. Both the governing body and the local boards are responsible for Auckland Council decision making pursuant to s 14, although local boards do not have separate legal standing from Auckland Council pursuant to s 12(3) of this provision.

The Franklin Local Board has some non-regulatory management functions in relation to Auckland local purpose reserves within the Board's area (which would include Lot 4 DP 116708), however, they do not extend to the consideration of proposed activities or uses of this reserve. As the Franklin Local Board is part of Auckland Council, the reserve is both "vested in" and "managed by" Auckland Council.

3.2. Access

Public access is available to and through this reserve, which flanks private property and abuts the Coastal Marine Area (CMA).

3.3. Uses

DOC has requested that Auckland Council provide details of the current uses and any existing permissions relating to this parcel. Auckland Council's Parks and Places team have confirmed that there are no permissions identified on this parcel, and that the reserve is currently undeveloped. No DOC permissions relating to this parcel have been identified.

4. Risks and potential liabilities to the Crown (s 19(2)(b))

4.1. General caveats

The reserve is not administered by the Department, although it does have underlying Crown ownership. This reserve parcel is vested in and administered by Auckland Council under the Reserves Act 1977, thereby meeting the definition of PCL for the purposes of the Act. DOC recommends that engagement is undertaken with Auckland Council in relation to the application.

4.2. Risk of non-completion, failure, inability to remediate land

Partial non-completion or failure of activities on PCL resulting in land disturbance, contamination and sedimentation, hazards, stranded assets and infrastructure can create significant financial, legal, health and safety, and reputational risk for the Crown. It can also create significant demand on DOC resources in terms of staff time and operating budget with respect to Crown land, and upon local authorities in relation to other PCL. For example, if a project fails, the Crown or council will have to manage the land and impacted adjacent lands in accordance with the statutory purpose for which those lands are held, and this may require remediation of the land. In this instance, this risk is considered to be low.

There may be reputational risk to the Crown, and for the fast-track process as a whole, if a granted proposal is not technically feasible or there is an inability to progress the proposal or any part of it, particularly if those parts constitute offsetting or compensation for effects. There may also be a reputational risk for the fast-track process if the process is abused, for example if there was no intention to progress the development but approval is used to, for example, inflate land value.

4.3. Frustration of pre-existing activities

If the fast-tracked activity frustrates pre-existing actors operating with lawful authority from carrying out activities on the land, the Crown is exposed to legal, financial and reputational risk. If a legal challenge succeeds against the Crown, the remedies a court may order will vary in accordance with the degree of frustration, the type of lawful authority the pre-existing actor was operating under and other contextual factors.

Frustration of concessions in the form of a lease, licence to occupy or easement may lead to an order for specific performance of the lease, licence to occupy or easement and / or monetary damages, and costs. It may also lead to pre-existing lessees suing the operators of the fast-tracked activity for nuisance or trespass. Schedule 6 cl 7(3)(b) of the Act states that approval must be declined if “giving effect to the approval would result in the conferral of an interest in land that is incompatible with an existing interest in land.”

Frustration of the activities of those operating under contracts or agreements with the D-G of Conservation (entered pursuant to s 53(2)(i) Conservation Act 1987) in respect of the land may lead to an order for injunctive relief, specific performance, damages, and costs. As there is no Conservation Act PCL involved in this project, there is no risk to the Crown of this nature.

Frustration of concessions in the form of permits and other statutory authorisations that do not create an interest in land may lead to compensation orders and costs. DOC considers the risk to the Crown of this occurring to be low.

5. Outcomes of consultation and Section 19(3) obligations

Section 19(3) of the Act requires the reporting on matters required by s 19(2)(a) and (b) is prepared in consultation with every owner, administrator or manager of the affected public conservation land who is not the Crown. The applicant has submitted a Record of Engagement (Attachment 7) in support of their referral application, which identifies pre-lodgement consultation hui with Auckland Council and the Franklin Local Board (inter alia), and as such it is considered that the requirement to consult under s 19(2)(a) and (b) have already been satisfied.