Ministry for Cities, Environment, Regions & Transport

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

Project Name: FTAA-2609-1298 R2 Growth Cell

To:	Date:
Panel Convener, Jane Borthwick	22 October 2026

Number of attachments: 8	Attachments: 1. Provisions of section 18 of the Fast-track Approvals Act 2024 2. Project location maps 3. List of relevant Māori groups 4. Te Ture Whaimana o Te Awa Waikato 5. Waikato-Tainui Environmental Plan 6. Waikato Regional Council Joint Management Agreement 7. Waikato District Council Joint Management Agreement (including Schedule B) 8. Excerpt from Ngāti Hauā conservation relationship agreement

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Key points

1. As required by section 49 of the Fast-track Approvals Act 2024 (the Act), the Ministry for Cities, Environment, Regions & Transport (on behalf of the Secretary for the Environment) has prepared this report on Treaty settlements and other obligations (section 18 of the Act) in relation to the substantive application FTAA-2609-1298 R2 Growth Cell.
2. The applicant, CDL Land NZ Limited, proposes to develop an approximately 140.5-hectare site adjacent to the Waikato Expressway, on the eastern edge of Hamilton, into a residential and industrial development. The project comprises 1,168 residential allotments, 57 industrial allotments, a neighbourhood retail centre; a blue-green corridor, and supporting infrastructure. The applicant is seeking approvals that would otherwise by sought under the Resource Management Act 1991 (RMA), Heritage New Zealand Pouhere Taonga Act 2014, 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. Many of those groups must be invited by the panel to comment on a substantive application under section 53(2) of the Act. 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, Ngaati Maahanga, Ngāti Tamainupō, Te Haa o te Whenua o Kirikiriroa, and Hukanui Marae as relevant to the application.
4. The following Treaty settlements 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 are relevant to the panel's consideration of the application, including those relating to the Vision and Strategy – Te Ture Whaimana o Te Awa o Waikato, the Waikato River Authority, the Waikato-Tainui Environmental Plan, and the joint management agreements that Waikato Raupatu River Trust has entered into with Waikato Regional Council and Waikato District Council.
6. In accordance with sections 7, 8, 82, and Schedule 3 clause 5, of the Act, we recommend that in considering this application, the panel convener and panel:
    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 how the provisions for appointing hearing commissioners from the register maintained by the Waikato River Authority 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; and
    e. provide the Waikato Raupatu River Trust, as party to the joint management agreements with Waikato Regional Council and Waikato District Council, with information about the application, and consider how to apply the detailed information-sharing provisions in the joint management agreements to the fast-track process.
7. The Ngāti Hauā settlement provides for a conservation relationship agreement which sets out a consultation process for certain categories of statutory authorisations, which may include the Wildlife Act 1953 approval sought by the applicant. Under section 53(2)(c) of the Act, the panel is required to invite Ngāti Hauā to comment on any substantive application for this project. In doing so, the panel may wish to consider the consultation process in the conservation relationship agreement to inform their engagement with Ngāti Hauā.

Signature



Stephanie Frame
Manager – Fast-track Operations

Introduction

8. For a substantive application that relates to a listed project, under section 49 of the Act, the Environmental Protection Authority (EPA) must request a report from the responsible agency (Secretary for the Environment) that is prepared in accordance with section 18(2) and (3) of the Act (but does not contain the matters in section 18(2)(l) and (m)).

9. 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; and

    b. relevant principles and provisions in Treaty settlements and other arrangements.

10. This report is structured accordingly. We have provided a list of the relevant provisions of section 18 at **Attachment 1**.

Proposed project

11. The applicant, CDL Land NZ Limited, proposes to develop an approximately 140.5-hectare site adjacent to the Waikato Expressway, on the eastern edge of Hamilton, into a residential and industrial development. The project comprises: 1,168 residential allotments; 57 industrial allotments providing approximately 37 hectares of net industrial land; an 8,700m2 neighbourhood retail centre; a blue-green corridor containing retained and enhanced wetlands, stormwater management areas, and open space; 40 public roads; a network of walking and cycling connections; and new wastewater, water supply, stormwater, and utility infrastructure.

12. The wider R2 Growth Cell occupies approximately 211 hectares between the existing Rototuna and Greenhill urban areas and the Waikato Expressway. The project area is generally bounded by Gordonton Road and the existing urban area of Rototuna to the west, Pukeroa Road and the Greenhill area to the south, and the Waikato Expressway to the east and north. Puketaha Road traverses the central part of the project area. The applicant owns all of the land within the project area except for one title, for which the applicant has entered into an unconditional sale and purchase agreement.

13. The applicant is seeking approvals that would otherwise by sought under the RMA (including land use, subdivision, earthworks, discharge of stormwater, take and divert groundwater, damming and diversion of surface water, structures in streams), Heritage New Zealand Pouhere Taonga Act 2014 (archaeological authority), and the Wildlife Act 1953 (authority to capture, handle, and relocate native lizards).

14. We have provided location maps 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**, including contact details.[1]

[1] These are the contact details we could locate in the time available, and in some cases they will be the generic email address for the entity.

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.[2]

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

[2] 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.

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.

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 mātaitai reserve.

27. However, the project area incorporates watercourses which are part of the lower Waikato River catchment (see further below). The fisheries in all waterbodies in the Waikato River catchment below Karapiro, and the Lower Waipā 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 39 of the Act provides that before a substantive application is lodged for a listed project or a referred project, the Minister may determine under section 23 or 24 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 joint management agreements

30. If the project area is within the boundaries of a 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.[3] These JMAs are relevant because:

    a. the project area incorporates watercourses which are part of the Waikato River catchment (see further below); and

    b. the approvals being sought include resource consents for activities which may affect the Waikato River (such as the proposed discharge of stormwater and damming/diversion of water).

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 as other groups with relevant interests in the project area:

    a. Ngāti Wairere (hapū of Waikato-Tainui);

    b. Ngaati Maahanga (hapū of Waikato-Tainui);

    c. Ngāti Tamainupō (hapū of Waikato-Tainui);

    d. Te Haa o te Whenua o Kirikiriroa (collective representing Ngaati Maahanga, Ngāti Tamainupō, Ngāti Korokī Kahukura, and Ngāti Hauā); and

    e. Hukanui Marae.

[3] The applicant advises that R2 was previously identified as one of five growth cells to be transferred from Waikato District to Hamilton City to accommodate a range of urban uses required for the development of Hamilton. However, as this boundary adjustment has yet to take effect we have drafted this report on the basis that the project area is currently within the jurisdiction of Waikato District Council.

Relevant principles and provisions in Treaty settlements and other arrangements

Treaty settlements

35. 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.

36. 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

37. 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

38. 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.

39. 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.

40. The redress mechanisms provided for in Treaty settlements should be viewed in the context of these intentions.

Waikato River arrangements

41. There are three stream or drain catchments within the project area:

    a. the northern and northwestern parts of the project area discharge into the Komakorau Stream catchment, which continues north to join the Waikato River near Taupiri;

    b. the central parts of the project area convey overland flows toward the Mangaiti Gully, which is part of the Kirikiriroa Stream catchment, joining the Waikato River in Hamilton City approximately 3 kilometres west; and

    c. the southern parts of the project area are part of the Chedworth catchment, which also drains into the Kirikiriroa Stream.

42. The application proposes a number of activities which could affect these watercourses, including discharge of stormwater, damming and diversion of surface water, and structures

in streams. The potential stormwater effects include changes to runoff volumes, peak flows and drainage patterns, flooding and erosion effects, and the discharge of contaminants from roads, industrial areas and other impervious surfaces. The applicant proposes managing stormwater through an integrated treatment train comprising on-lot controls, road and industrial pre-treatment, piped reticulation, defined overland flow paths, blue-green conveyance corridors, constructed wetlands, culverts, flood storage areas, and controlled outlets. The applicant anticipates that these measures will ultimately improve water quality both within the project area and the downstream environment.

43. The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010[4] 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 paragraph 70.

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

44. The project site is located within the statutory area of Te Ture Whaimana o Te Awa o Waikato (Te Ture Whaimana). The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 provided for and recognised 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 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.

45. 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**.

46. 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.

47. 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.

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[4] 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.

48. Section 82 of the Act requires that if a Treaty settlement provides for the consideration of any document, then the panel must give it the same or equivalent effect in its decision-making.[5] The panel must therefore have particular regard to Te Ture Whaimana in their decision making under the Act.

49. The application notes that the proposed development is consistent with the objectives and strategies of Te Ture Whaimana, by: avoiding further degradation of the Waikato River system; protecting and enhancing fisheries, flora and fauna; involving mana whenua to inform the cultural values of freshwater, ecological, archaeological and monitoring measures; and by expressly promoting a whole-of-river approach to advance the health and wellbeing of the river. The panel will need to make its own assessment of the extent to which the application is in keeping with Te Ture Whaimana.

Waikato River Authority

50. The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 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.[6] 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.

51. Of relevance to the consideration of this application, sections 26-27 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 require the Waikato Regional Council to give notice to the Waikato River Authority of certain applications for resource consent, including applications to take, use, dam, or divert water in the Waikato River, or to be allowed to make a point source discharge to the Waikato River.

52. Under section 53(2)(c) of the Act, the panel must direct the EPA to invite written comments on a substantive application from any relevant Treaty settlement entities including, to avoid doubt, an entity that has an interest under a Treaty settlement (or an entity operating in a collective arrangement provided for under a Treaty settlement) within the area to which the application relates. Those invited to comment, including relevant Treaty settlement entities, will be provided access to the application information.

53. The Waikato River Authority and Waikato Raupatu River Trust, as Treaty settlement entities, should be invited to comment on the application under section 53(2) of the Act. We consider the process of inviting comment (including providing information about the application) is comparable to the notification requirement referred to above.

54. The Waikato River Authority provisions also have implications for the appointment of a panel to consider this application. Under section 28 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, if the Waikato 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

[5] 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.

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

or iwi who appoint members of the Waikato River Authority (section 25). The chair must be appointed by both the Authority and the Council.

55. 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. We note 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

56. 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 (under section 104(1)(c) of the RMA).

57. Under section 82 of the Act, discussed above, the panel will be required to comply with the same obligation as applies to a consent authority in terms of having regard to the Waikato-Tainui Environmental Plan.

58. The latest version of the Waikato-Tainui Environmental Plan – Tai Tumu, Tai Pari, Tai Ao – is designed to enhance Waikato-Tainui participation in resource and environmental management. The Plan outlines issues, objectives, policies, and methods on a range of matters which may be relevant for this application, including natural heritage, fresh water, wetlands, land, land use planning, and infrastructure. We have included a copy of the Plan at **Attachment 5**.

59. The applicant has assessed the project against the objectives, and associated policies, in the Waikato-Tainui Environmental Plan relating to matters such as customary activities, natural heritage and biodiversity, natural hazards, fresh water, wetlands, land use planning, and infrastructure. However, the panel will also need to consider those aspects of the Waikato-Tainui Environmental Plan which relate to the decision-making process. 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.

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

Joint management agreements

61. 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. [7]

62. In relation to this application, 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 to dam, divert, take, or use water from or in the Waikato River, or to discharge a contaminant or water into the Waikato River) as soon as practicable after the application is received. [8] Inviting the Waikato Raupatu River Trust to comment on this application under section 53(2) of the Act, including providing access to the application information, is comparable to this provision.

63. There are a range of other provisions in the JMAs themselves that relate to the resource consent process. Our advice is 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

64. As noted above, some of the approvals being sought by the applicant (such as the discharge to, and diverting of, water) 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 at **Attachment 6**.

65. Schedule Three to this 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;

    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, but that matter is not assessed in the Assessment of Environmental Effects, the Council may

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

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

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.

66. Under Schedule 3 clause 5 of the Act, the panel must comply with any applicable procedural requirements in JMAs. While inviting Waikato Raupatu River Trust to comment on the application fulfils the information-sharing provisions at section 47 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, the panel must also give careful attention to the other procedural requirements found in the JMA itself, including the relevant protocol provisions set out at paragraph 65.

Waikato District Council JMA

67. Similarly, the Waikato District Council JMA, and particularly Schedule B, also contains provisions relating to the process for resource consent applications (we have provided both the JMA and Schedule B at **Attachment 7**).

68. The requirements for the Waikato District Council under the JMA include an obligation to operate consistently with the JMA and its 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).[9] 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 otherwise 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.[10]

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

[10] 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 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.

Summary of advice

70. In accordance with sections 7, 8, 82, and Schedule 3 clause 5, of the Act, we recommend that in considering this application, the panel convener and panel:

    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 how the provisions for appointing hearing commissioners from the register maintained by the Waikato River Authority 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. provide the Waikato Raupatu River Trust, as party to the JMAs with Waikato Regional Council and Waikato District Council, with information about the application, and consider how to apply the detailed information-sharing provisions in the JMAs to the fast-track process.

Ngāti Hauā conservation relationship agreement

71. 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. [11]

72. 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.

73. We have included the relevant excerpt from the relationship agreement at **Attachment 8**.

74. DOC advise that they are still working with Ngāti Hauā to identify the categories of statutory authorisations that are of significance. In the interim, as a matter of practice DOC consults Ngāti Hauā on all Wildlife Act 1953 applications within their area of interest.

75. Under section 53(2)(c) of the Act the panel will be required to invite Ngāti Hauā to comment this application. Although the statutory authorisations of significance to Ngāti Hauā have

[11] Paragraph 26.1 of the Ngāti Hauā conservation relationship agreement refers.

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.

New Zealand Transport Agency land

76. The Office of Treaty Settlements and Takutai Moana – Te Tari Whakatau (Te Tari Whakatau) advise that the project area is in the vicinity of a number of parcels of New Zealand Transport Agency land which were acquired for use in connection with the construction of the Waikato Expressway. Waikato-Tainui and Ngāti Wairere have both expressed interest in the use of those parcels as potential settlement redress. Te Tari Whakatau cannot confirm the precise location of this land, but from what they can ascertain these sites are not proposed for direct development through this application.

77. Finally, we note that iwi and hapū are likely to have cultural associations with ancestral lands, water, sites, wāhi tapu, and other taonga beyond what is specifically identified in a Treaty settlement or other arrangements. Local tangata whenua and their representatives would be best placed to advise on such matters in the first instance.

Customary Marine Title/Protected Customary Rights

78. 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

79. As noted above, the project area does not include a taiāpure-local fishery or mātaitai reserve, but is within that part of the Waikato River catchment 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.

Joint management agreement

80. As noted above, the project area is within the boundaries of two JMAs, 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 JMAs above, including where there are obligations to involve the relevant iwi authority/group in decision-making.

Consultation with departments

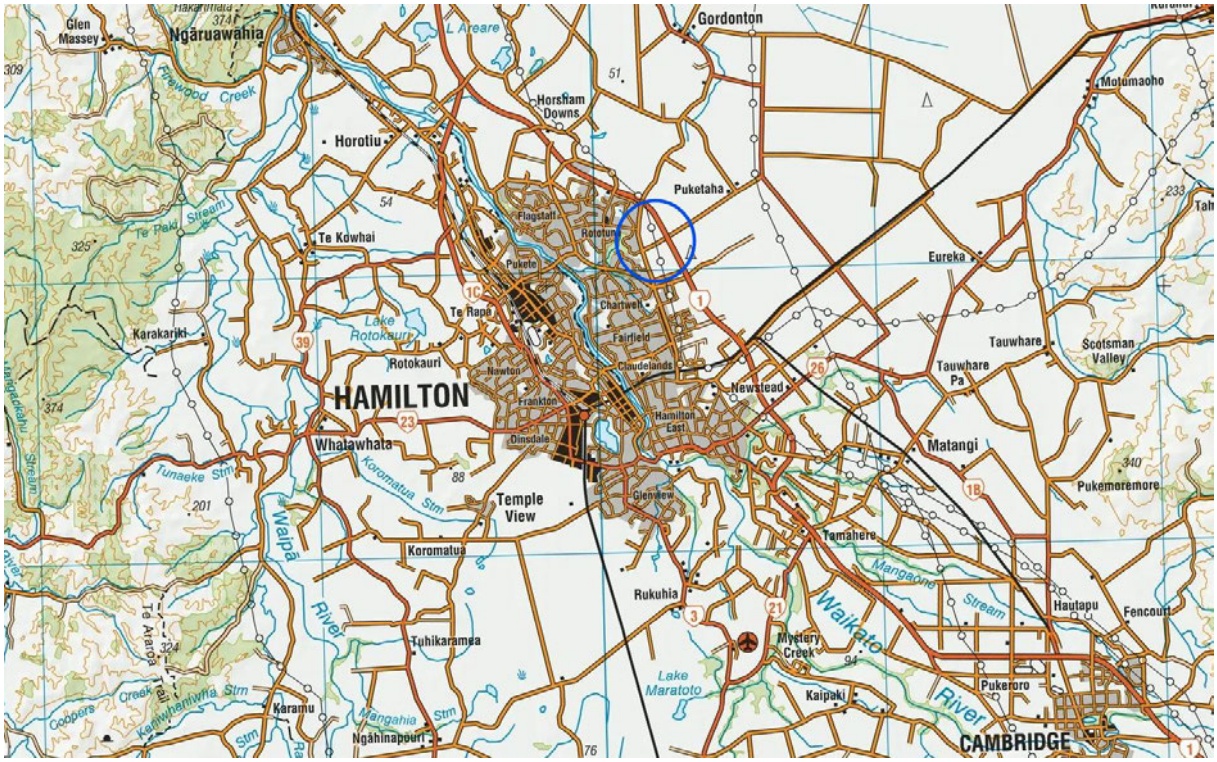
81. In preparing this report, we are required to consult relevant departments. We sought advice from Te Puni Kōkiri and Te Tari Whakatau regarding the relevant Māori groups, and have incorporated their views into this report. We have previously consulted DOC in relation to the Ngāti Hauā conservation relationship agreement, and the Ministry for Primary Industries in relation to customary fisheries in this area.

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, consider a report that is prepared and provided by the responsible agency in accordance with this section.	Not applicable to substantive applications – section 18 report is required by section 49.
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	35-36
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	37-77
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, 78
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, 78
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, 78
18(2)(h)	Whether the project area includes any taiāpure-local fisheries, mātaitai 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, 79
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),	30-33, 80

	(i) iwi authorities and groups that represent hapū that are parties to relevant joint management agreements. (ii) The relevant principles and provisions in those joint management agreements.	
18(2)(k)	Any other Māori groups with relevant interests.	34
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	Not applicable to substantive applications
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.	Not applicable to substantive applications
18(3)	In preparing the report required by this section, the responsible agency must consult relevant departments.	81
18(4)	The responsible agency must provide the report to the Minister not later than 20 working days after the date for providing comments under section 17(6).	N/A
18(5)	However, if the Minister requests further information about a referral application under section 20, the time period specified in subsection (4) ceases to run for the period of time specified in the request.	N/A

Attachment 2: Project location maps



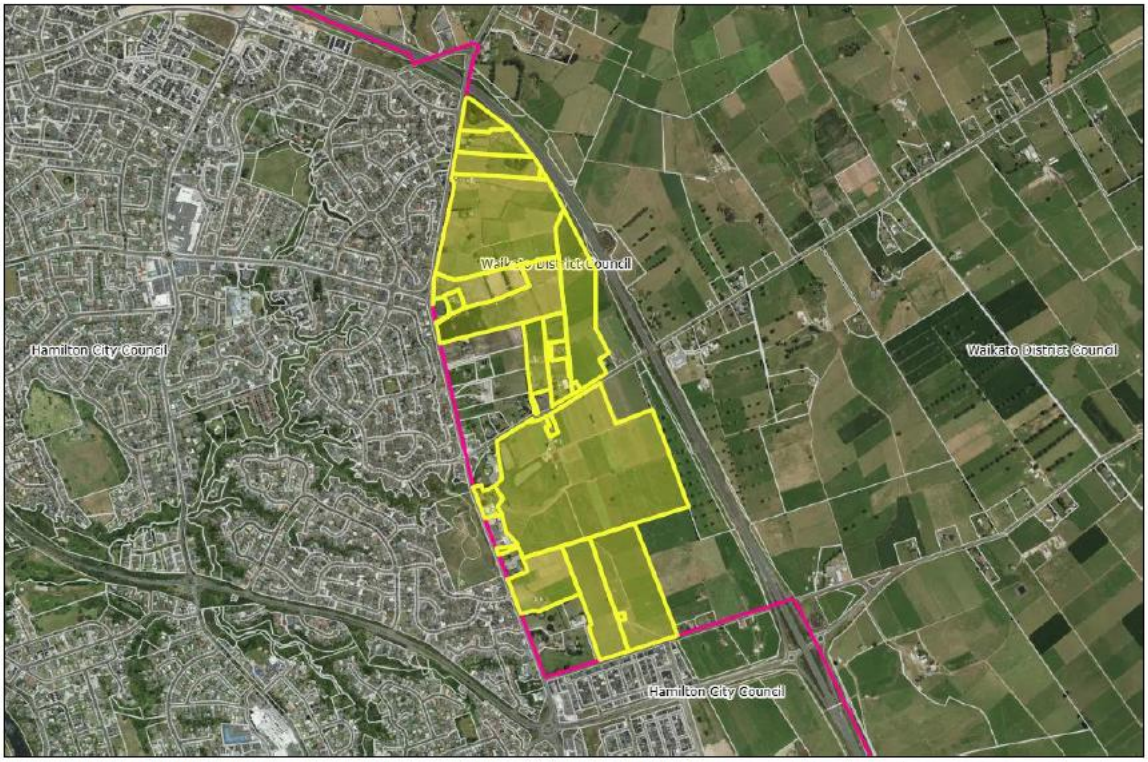


Figure 2: Location of the project area and surrounding environment (Source: GRIP Map). Sites subject to this application are highlighted in yellow



Figure 1: Master Plan for the proposed R2 development

Attachment 3: List of relevant Māori groups

Name of group	Type of group (section of Act)	Contact person	Contact email
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)); negotiating mandate (s18(2)(d))	Jaedyn Falwasser Te Makarini Mapu	[redacted]
Ngāti Hauā Iwi Trust	Iwi authority (s18(2)(a); Treaty settlement entity – Ngāti Hauā Claims Settlement Act 2014 (s18(2)(a))	Lisa Gardiner, CE	[redacted]
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 joint management agreements (s18(2)(j))	(see Te Whakakitenga above)	
Waikato River Authority	Treaty settlement entity – Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (s18(2)(a))	Justine Young, Senior Policy Advisor	[redacted]
Ngāti Wairere	Any other Māori groups with relevant interests (s18(2)(k))	Carolyn Hopa	[redacted]
Ngaati Maahanga/Ngaa Uri o Maahanga	Any other Māori groups with relevant interests (s18(2)(k))	Jo Kukutai Warren Williams	[redacted]

Ngāti Tamainupō	Any other Māori groups with relevant interests (s18(2)(k))	Terei Huirama (Chair) Tineka Wymer (Taiao Lead)	[redacted]
Te Haa o te Whenua o Kirikiriroa	Any other Māori groups with relevant interests (s18(2)(k))	Harry Wilson	[redacted]
Hukanui Marae	Any other Māori groups with relevant interests (s18(2)(k))	Sonny Wilson	[redacted]

Attachment 4: Te Ture Whaimana o Te Awa Waikato

Attachment 5: Waikato-Tainui Environmental Plan

Attachment 6: Waikato Regional Council Joint Management Agreement

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

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