

Re: Assessment of statutory requirements relating to iwi authorities - Delmore

1. Description of the project site in relation to identified Māori areas

Clause 5(1)(b) of Schedule 5 of the Act requires an application to provide:

- (b) a description and map of the site at which the activity is to occur, including whether the site is within or adjacent to—
- (i) a statutory area (as defined in the relevant Treaty settlement Act); or
 - (ii) *ngā rohe moana o ngā hapū o Ngāti Porou*; or
 - (iii) a protected customary rights area under the [Marine and Coastal Area \(Takutai Moana\) Act 2011](#); and

A map of the site is appended to the AEE. The site is not within or adjacent to a statutory area, to *ngā rohe moana o ngā hapū o Ngāti Porou*, or a protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011. It is within protocol areas for several iwi. This is discussed below.

2. Treaty Settlements

Overview

Clause 5(1)(i) of Schedule 5 of the Act requires an application to provide:

- (i) information about any Treaty settlements that apply in the area covered by the consent application, including—
- (i) identification of the relevant provisions in those Treaty settlements; and
 - (ii) a summary of any redress provided by those settlements that affects natural and physical resources relevant to the project or project area; and

There are nine Treaty settlements applying to the site. These are:

- Ngāti Manuhiri Claims Settlement Act 2012 (associated Deed of Settlement signed on 21 May 2011). The related iwi authority is Ngāti Manuhiri Settlement Trust. The Trust has prepared a cultural impact assessment.
- Te Kawerau a Maki Claims Settlement Act 2015 (associated Deed of Settlement signed on 22 February 2014). The related iwi authority is Te Kawerau Iwi Settlement Trust. The Trust has prepared a cultural investigation report.
- Ngā Tai ki Tāmaki Claims Settlement Act 2018 (associated Deed of Settlement signed on 7 November 2015). The related iwi authority is Ngā Tai ki Tāmaki Trust.
- Te Patukirikiri Deed of Settlement 2018 (signed on 07 October 2018). The related iwi authority is Te Patukirikiri Iwi Trust.
- Ngāti Whātua o Kaipara Claims Settlement Act 2013 (associated Deed of Settlement signed on 9 September 2011). The related iwi authority is Ngā Maunga Whakahii o Kaipara Development Trust.
- Ngāti Paoa Deed of Settlement 2021 (signed on 20 March 2021). The related iwi authorities are Ngāti Paoa Trust Board and Ngāti Paoa Iwi Trust.

- Te Ākitai Waiohua Deed of Settlement 2021 (signed on 12 November 2021). The related iwi authority is Te Ākitai Waiohua Iwi Authority.
- Marutūāhu Collective Redress Deed (signed 24 September). This provides collective cultural and commercial Treaty redress in respect of the shared interests of the Marutūāhu iwi: Ngāti Maru, Ngāti Paoa, Ngāti Tamaterā, Ngaati Whanaunga and Te Patukirikiri. All iwi have been contacted by Vineway Ltd about Delmore and Ngaati Whanaunga has prepared a cultural impact assessment.
- Hauraki Māori Trust Board Act 1988. Ngāti Paoa and Te Patukirikiri are member iwi of the Hauraki Māori Trust Board which was established under the Act. Both iwi have been contacted by Vineway Ltd about Delmore.

The Ngā mana whenua o Tāmaki Makaurau Collective Redress Deed (signed 5 December 2012 and amended 23 August 2013) and related Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed and related Act 2014, do not apply to Delmore because the site is located outside the Tāmaki Makaurau Area to which both the Deed and the Act apply (as shown in the Attachment 1 to the Deed). Even if it did apply, it would not be relevant to Delmore and the site because it only relates to specific maunga in Auckland, none of which are at or near the site, and to various areas of Crown land and the site is not Crown land.

For completeness, it is noted that as defined by the FTAA a Treaty settlement deed does not include an agreement in principle or any document that is preliminary to a signed and ratified deed. There are four documents falling within this exclusion potentially relevant to the project site:

- The Deeds of Settlement initialled by Ngaati Whanaunga; Ngāti Maru (Hauraki) and Ngāti Tamaterā according to the record on the Māori Crown Relations office website,
- The agreement in principle to settle historical claims signed by the Crown and Ngāti Whātua.

Despite these not being Treaty settlements for the purposes of the FTAA definition, Vineway Ltd has contacted these iwi about Delmore.

Analysis

The Ngāti Manuhiri Claims Settlement Act 2012

The Ngāti Manuhiri Claims Settlement Act 2012 gave effect to certain provisions of the deed of settlement signed by Ngāti Manuhiri and the Crown on 21 May 2011. Deeds to amend the settlement deed were signed in February and June 2012.

The deed of settlement acknowledged that Ngāti Manuhiri suffered injustices that impaired the economic, social and cultural development of Ngāti Manuhiri and recorded the matters required to give effect to a settlement of all the historical claims of Ngāti Manuhiri.

The Land Settlement provided redress to Ngāti Manuhiri in the form of land, money, the right of first refusal of certain Crown lands, facilitation of ongoing relationships with government agencies, imposition of overlay classifications and statutory acknowledgements placed over land sites, place name changes and an apology from the Crown.

Delmore and the site are not impacted by the Act or Deed because only Crown assets are involved in the redress offered, and because none of the statutory acknowledgement areas identified apply.

The Deed also requires the Minister for Conservation to enter into a Conversation protocol with Ngāi Manuhiri. The protocol is the 4th document in the Documents appended to the Deed. The protocol area does not appear to extend over the site (protocol area map, attachment to protocol). However, if it does, the two aspects of the protocol potentially relevant to Delmore are the emphasis placed on freshwater riparian planting and the aspiration to protect ecosystems and indigenous flora and fauna. Delmore includes extensive riparian planting and wider native planting, which has been designed with ecological and landscape input to ensure ecological benefits are maximised (refer to the Ecological Impact Assessment). Delmore has also been carefully designed to avoid adverse effects on the Reserve, by setting all development at least 10m back from the Nukumea Reserve boundary as recommended by DoC. It is also planting this buffer area in native vegetation, also selected with DoC's input.

Ngā Tai ki Tāmaki Claims Settlement Act 2018 (associated Deed of Settlement signed on 7 November 2015)

Ngā Tai ki Tāmaki Claims Settlement Act 2018 gave effect to certain provisions of the deed of settlement signed on 7 November 2015. Amendment deeds were signed in June 2016, July 2017 and June 2018.

The deed of settlement acknowledges that Ngā Tai ki Tāmaki suffered injustices that impaired the economic, social and cultural development of Ngā Tai ki Tāmaki and records the matters required to give effect to a settlement of all the historical claims of Ngā Tai ki Tāmaki.

The Land Settlement provides redress to Ngā Tai ki Tāmaki in the form of land, money, the right of first refusal of Crown lands, an agreed historical account, imposition of overlay classifications and statutory acknowledgements/deeds of recognition placed over land sites recognising their interest, relationship agreements with government agencies, place name changes and an apology from the Crown.

Only Crown assets are involved in the redress offered, and the statutory acknowledgments are over Crown owned land only; therefore, Delmore and the site is unaffected by the Deed in this regard.

The Deed includes provision for a protocol to be prepared between the Minister of Conservation and the Director General of Conservation and Ngā Tai ki Tāmaki. This requires the Minister and Director General to consult with Ngā Tai ki Tāmaki about the management of 5 specific Reserve and Conservation Areas, and to prepare specific management plans for these areas. These do not include the site or the Nukumea Scenic Reserve to the north of the site (cl 1.2 Document 2 to the Deed).

The Deed also includes provision for a protocol between Ngā Tai ki Tāmaki and the Ministry for Primary Industries. The protocol sets out how the Minister and Director General will exercise their powers in relation to matters set out in the protocol (cl7). The site is within the protocol area (protocol Appendix A). However, the protocol only applies to functions and duties relating to agriculture, forestry, fisheries, biosecurity, and food safety, none of which are relevant to Delmore or the site.

None of the acknowledgment areas identified in the Deed apply to the site. However, one area of acknowledgment applies to parts of the coastal marine area at Ōrewa. Although the site also does not directly adjoin the coastal marine area, it is acknowledged that the coastal environment is the ultimate receiving environment for discharges from the project site. Based on the technical

assessments supporting the application, Delmore is not expected to have any impact on the coastal marina area at Ōrewa, because of its distance from the coast and because:

The stormwater management approach has been designed to meet best practice water sensitive design and treatment requirements.

Earthworks will be carefully managed to minimise erosion and sediment generation and in accordance with an erosion and sediment control plan, and geotechnical recommendations to manage stability risks.

The master-plan includes the protection of native vegetation, streams and wetlands on the site, with incursions only as required to provide for essential crossings. It also includes an extensive enhancement to these natural features, which contribute to water quality and ecosystem values.

Wastewater is intended to be discharged to Watercare's network. If this is not possible for all or part of the development, then an on-site wastewater system will be constructed that provides the highest quality treatment available using reverse osmosis technology. Treated water would only be discharged on-site to the extent possible while retaining ecosystem health, and removed using an alternative method.

Te Patukirikiri Deed of Settlement 2018 (signed on 07 October 2018) Te Patukirikiri Deed of Settlement was signed on 7 October 2018.

The deed of settlement acknowledges that Te Patukirikiri suffered injustices that impaired the economic, social and cultural development of Te Patukirikiri and records the matters required to give effect to a settlement of all the historical claims of Te Patukirikiri.

The Land Settlement provides redress to Te Patukirikiri in the form of land, money, the right of first refusal of Crown lands, an agreed historical account, change of conservation status of a scenic reserve, statements of association, relationship agreements with government agencies, and an apology from the Crown. It is noted that the settlement does not provide for redress in relation to the Hauraki Gulf. Agreement has been reached to address this relationship in the future.

Only Crown assets are involved in the redress offered to Te Patukirikiri, and the statements of association are over Crown owned land only; therefore, the site is unaffected by the redress offered.

Ngāti Whātua o Kaipara Claims Settlement Act 2013 (associated Deed of Settlement signed on 9 September 2011)

The Ngāti Whātua o Kaipara Deed of Settlement Act 2013 gave effect to certain provisions of the deed of settlement signed on 9 September 2011. Amendment deeds were signed in August 2012 and July 2020.

The Deed acknowledges that Ngāti Whātua o Kaipara suffered injustices that impaired the economic, social and cultural development of Ngāti Whātua o Kaipara and records the matters required to give effect to a settlement of all the historical claims of Ngāti Whātua o Kaipara.

The Land Settlement provides redress to Ngāti Whātua o Kaipara in the form of land, money, the right of first refusal of Crown lands, statutory acknowledgements; letters of introduction to certain Ministers/crown agencies, organisations and the Auckland Council, assigning place names and place name changes, relationship agreements with government agencies, and an apology from the Crown. It is noted that the settlement does not provide for redress in relation to the Kaipara Harbour. Agreement has been reached to address this relationship in the future.

Only Crown assets are involved in the property redress offered to Ngāti Whātua o Kaipara, and the statutory acknowledgements are over Crown owned land only; therefore, the site is unaffected by the redress offered.

The Deed provides for the Minister and Director General of Conservation to enter into the Te Kawenata Taiao o Ngāti Whātua o Kaipara (or Conservation Charter), with Ngāti Whātua o Kaipara. Te Kawenata applies to the Nukumea Scenic Reserve because it relates to the entire “Ngāti Whātua o Kaipara Area of Interest” which is shown on page 17 of the schedule to the Deed containing Te Kawenata. By way of summary, it requires DOC and Ngāti Whātua o Kaipara to work together to identify and implement ways in which Ngāti Whātua o Kaipara can exercise kaitiakitanga within areas administered by DOC within the Area of Interest and participate in conservation management and decision-making. Delmore is not located within DOC land within the Area of Interest, so Te Kawenata is not directly relevant. However, it is adjacent to the Nukumea Scenic Reserve. Delmore has been carefully designed to avoid adverse effects on the Reserve, by setting all development at least 10m back from the Reserve boundary as recommended by DoC. It is also planting this buffer area in native vegetation, also selected with DoC’s input. As a result, Delmore is not expected to undermine any of the commitments made in Te Kawenata, and it may provide DOC and Ngāti Whātua o Kaipara (and the Marutūāhu Iwi) with future opportunities for working together.

The Deed also provides for a right of first refusal to Ngāti Whātua o Kaipara, along with the Marutūāhu Iwi (discussed below) for the Nukumea Reserve. For the reasons just explained, Delmore is not inconsistent with and will in no way undermine this right.

Ngāti Paoa Deed of Settlement 2021 (signed on 20 March 2021)

The Ngāti Paoa Deed of Settlement 2021 was signed on 20 March 2021.

The deed of settlement acknowledges that Ngāti Paoa suffered injustices that impaired the economic, social and cultural development of Ngāti Paoa and records the matters required to give effect to a settlement of all the historical claims of Ngāti Paoa.

The Settlement seeks to provide redress to Ngāti Paoa in the form of land, money, the right of first refusal of Crown lands, an agreed historical account, overlay classifications, statutory acknowledgements, statements of association, name changes to certain sites of interest, relationship agreements with government agencies, and an apology from the Crown. It is noted that the settlement does not provide for redress in relation to the Hauraki Gulf. Agreement has been reached to address this relationship in the future.

Only Crown assets are involved in the redress offered to Ngāti Paoa, and the overlay classifications, statutory acknowledgements, and statements of association are over Crown owned land only; therefore, the project site is unaffected by the redress offered.

Te Ākitai Waiohua Deed of Settlement 2021 (signed on 12 November 2021)

The Te Ākitai Waiohua Deed of Settlement was initialled on 23 December 2022 and was signed on 12 November 2021.

The deed of settlement acknowledges that Te Ākitai Waiohua suffered injustices that impaired the economic, social and cultural development of Te Ākitai Waiohua and records the matters required to give effect to a settlement of all the historical claims of Te Ākitai Waiohua.

The Land Settlement provides redress to Te Ākitai Waiohua in the form of land, money, the right of first refusal of Crown lands, leaseback agreements, statutory acknowledgements, letters of

introduction to certain Ministers/crown agencies, organisations and the Auckland Council, an agreed historical account, agreements with MPI with respect to fisheries, statements of association, relationship agreements with government agencies, and an apology from the Crown. It is noted that the settlement does not provide for redress in relation to the Manukau or Waitemata Harbours. Agreement has been reached to address this relationship in the future.

Only Crown assets are involved in the redress offered to Te Ākitai Waiohū, and the statutory acknowledgements/statements of association/leaseback agreements are over Crown owned land only; therefore, the project site is unaffected by the redress offered.

Te Kawerau ā Maki Claims Settlement Act 2015

The purpose of the Act is to record the acknowledgements and apology given by the Crown to Te Kawerau ā Maki in the deed of settlement and to give effect to certain provisions of the deed of settlement that settles the historical claims of Te Kawerau ā Maki (s 3).

Te Kawerau ā Maki's area of interest for the purpose of the Act includes the project site (s 13 and Attachments to Deed).

Under Part 2 subpart 1 of the Act the Minister for Arts, Culture, and Heritage must issue a protocol on the terms set out in the Deed and the Crown must comply with the protocol while it is in force. The protocol in the Deed requires the chief executive of the Ministry for Culture, and Heritage to (among other things) notify Te Kawerau ā Maki of any Taonga Tūturu found within the Protocol area (which includes the project site), and provide for the care, recording and custody of any that are found. If Te Kawerau ā Maki lodges a claim of ownership with the Chief Executive and there are no competing claims for any Taonga Tūturu found within the Protocol Area or identified as being of Te Kawerau ā Maki origin found anywhere else in New Zealand, the Chief Executive will, if satisfied that the claim is valid, apply to the Registrar of the Māori Land Court for an order confirming ownership of the Taonga Tūturu. If there are competing claims a process for managing these applies.

The application is consistent with the intent of this Protocol. It includes detailed conditions providing for oversight of excavations by an archaeological expert and Te Kawerau ā Maki (and other iwi with an interest in the project site), and for Te Kawerau ā Maki to be advised if any discoveries are made. Refer to conditions (8), (9), (133).

Part 2 subpart 2 provides for statutory acknowledgement areas. These areas are described in Schedule 1 to the Act and are areas of particular cultural, historical, spiritual, and traditional association to Te Kawerau ā Maki. Subpart 3 provides for whenua rāhui which are identified in Schedule 2. The project site is not within or adjacent to a statutory acknowledgement area or a whenua rāhui and so is consistent with their protection.

Part 2 subpart 4 provides for the use of official geographic names. The project has no impact on these provisions.

Part 2 subpart 5 provides for vesting of cultural redress properties which do not include the project site.

Part 3 subpart 1 provides for the transfer of commercial redress property and deferred selection properties. The project site is not one of these properties.

Part 3 subpart 2 provides for the transfer of license land which is Crown forest land to Te Kawerau ā Maki. The project site is not land of this type.

Part 3 subpart 3 provides for access to protected sites by the owners and occupiers of the land on which the state is located. There are no protected sites on the project site.

Part 3 subpart 4 provides for a right of first refusal over certain land. The project site is neither exclusive nor non-exclusive right of first refusal land. However, Nukumea Reserve adjacent to the project site is non-exclusive right of first refusal land. This means that Te Kawerau ā Maki, through the Settlement Trust or Marutūāhu Iwi collective, has a right of first refusal to purchase the Reserve.

The application is consistent with these rights and interests because it protects and enhances the Reserve's ecological values.

Houses are set back and down from the reserve. There is then extensive planting between built development and the Reserve itself. The lower setting of the houses minimises the risk of adverse effects from light. The northern part of the Stage 2 area, adjacent to the reserve, is then set aside as a large area of restoration planting which provides a buffer and extension to the Reserve itself. All planting has been chosen with DOC input and is designed to return these parts of the site back to its original ecosystem WS11. This accords with the ecological classification of the Reserve itself.

Based on the analysis above, the project is considered by the applicant to be consistent with the Te Kawerau ā Maki Claims Settlement Act 2015

Marutuahu Iwi Collective Redress Deed (signed on 27 July 2018)

The Marutūāhu Iwi Collective Redress Deed (Deed) provides the Marutūāhu Iwi with collective cultural and commercial redress in Tāmaki Makaurau, Mahurangi and Hauraki Gulf / Tīkapa Moana.

It vests 11 area of cultural significance in fee simple in the Marutūāhu Iwi. These do not include the site. It sets out restrictions on transfer and management of specified properties which do not include the site, and for the transfer of specified commercial properties.

The Deed also provides for a right of first refusal to the Marutūāhu Iwi (Ngāti Whatua o Kaipara as discussed above) for the Nukumea Reserve. Delmore has been carefully designed to avoid adverse effects on the Reserve, by setting all development at least 10m back from the Reserve boundary as recommended by DoC. It is also planting this buffer area in native vegetation, also selected with DoC's input. For the reasons just explained, Delmore is not inconsistent with and will in no way undermine this right. This is support by Ngaati Whanaunga's cultural impact assessment, which expresses strong support for Delmore, confirmed in respect of the revised application.

Hauraki Māori Trust Board Act 1988

The Hauraki Māori Trust Board Act 1988 establishes the Trust Board. The beneficiaries of the Trust Board are Ngāti Hako, Ngāti Hei, Ngāti Maru, Ngāti Paoa, Patukirikiri, Ngāti Porou ki Harataunga ki Mataora, Ngāti Pukenga ki Waiau, Ngāti Rahiri-Tumutumu, Ngāi Tai, Ngāti Tamatera, Ngāti Tara Tokanui, and Ngāti Whanaunga.

The Trust Board acts as a joint point of engagement for these iwi. Vineway Ltd has contacted the Trust Board as well as each of its member iwi with an interest in the site

Conclusion

The analysis above demonstrates that the Delmore development is consistent with obligations arising under existing, relevant Treaty settlements.

3. Planning document recognised by a relevant iwi authority

Clauses 5(1)(h) and 5(2)(g) of Schedule 5 of the Act requires an application to provide an assessment against a planning document recognised by a relevant iwi authority and lodged with a local authority. On request, a list of all planning documents recognised by an iwi authority and lodged with Auckland Council was provided by the Council's Team Leader Māori Heritage. A list of 16 documents was provided.

Documents with no relevant provisions

Several of these documents are considered to have no provisions relevant to this application for the reasons below:

- The Waikato-Tainui Environmental Management Plan: Tai Tumu Tai Pari Tai Ao Our Plan our Environment your Future (August 2013). This is because the site is not within Waikato Tainui's rohe.
- Te Pou o te Kahu Pōkere Iwi Management Plan for Ngāti Whātua Ōrākei (2018). This is because the site is outside Ngāti Whātua Ōrākei's rohe as shown at para 2.1 of the Plan.
- Ngāa Tikanga o Ngaati Te Ata Tribal Policy Statement. Awaroa ki Manuka (1991) and Ngāti Te Ata Waiohua Issues and Values: A Paper Prepared by Ngāti Te Ata Waiohua to Assist the Auckland Council. 29 Whiringarangi (2011). This is because these documents are only available on request from the Ngāti Te Ata Waiohua and Ngāti Te Ata Waiohua has advised that Ngaati Te Ata Waiohua did not want to engage in the project and did not provide the plans for assessment.
- Te Uri o Hau Kaitiakitanga o te Taiao (2011) and Environs Holdings Limited Cultural Assessment and Monitoring Protocols and Policies (2021). This is because Te Uri o Hau has advised that the site is outside Te Uri o Hau's rohe.
- Makaurau Marae Māori Trust - Te Ahiwaru Strategic Management Plan (2019-2029) and Makaurau Marae Māori Trust - Ngāti Te Ahiwaru Environmental Plan 2019 Te Whakawhanake o to tatou iwi, hapu, whanau (2019). This is because the Trust represents the coming together of Ngāti Rori, Ngāti Tangiaro, Ngāti Peehi and Ngāti Kaiaua, hapu of Ngāti te Ata whose rohe covers the south of Tāmaki Makaurau, and Ngāti Te Ata has advised that no engagement is required about Delmore.
- Ngāti Rehua Ngātiwai ki Aotea Trust 2013 Hapū Management Plan prepared by Ngāti Rehua Ngātiwai ki Aotea because it applies to Great Barrier Island and surrounding islands, the ancestral lands of Ngāti Rehua Ngātiwai ki Aotea.

Analysis of documents with relevant provisions

The remaining iwi planning documents lodged with Auckland Council have, or may have, provisions relevant to the Delmore application. These relevant provisions, including objectives, policies, rules, permissions, conditions, and requirements, are summarised below and the application is assessed against them.

Kawarau ā Maki Trust Resource Management Statement (1995)

The Statement outlines the concerns and goals the Kawarau ā Maki Trust have with regard to sustainable management of taonga within the tribal area of Te Kawarau. An assessment against the sections of the Statement is provided the table below.

• Plan Section	• Assessment
<ul style="list-style-type: none"> 2 Kaitiakitanga 	<ul style="list-style-type: none"> Vineway Ltd has worked with Te Kāwarau ā Maki on the project. Its cultural investigation report included 40 detailed recommendations for both construction and final design, which Vineway Ltd has worked through and responded to carefully. Some of the responses relate to practical environmental management actions (e.g. erosion and sediment control), others propose ways to enable Te Kāwarau ā Maki to ensure cultural values are understood and respected during the project (e.g. cultural induction and cultural monitoring), or to enable cultural values to be respected and acknowledged in the long term (e.g. opportunity for cultural harvest, road naming, including cultural markers within the development). Delmore is considered to be consistent with these objectives and policies. Section 3 of the Plan then sets out a process for engagement on resource consent processes.
<ul style="list-style-type: none"> 3 Consents, Plans and Policies 	<ul style="list-style-type: none"> Vineway Ltd first contacted Te Kāwarau ā Maki when Delmore was being initially conceived, and it was beginning to prepare a schedule application. It has worked closely with Te Kāwarau ā Maki since, assisting as needed for it to prepare its cultural investigation report about the project. It has prepared detailed and considered responses to the 40 recommendations in that report. It sees engagement as ongoing, and will continue to work Te Kāwarau with ā Maki. Delmore is considered to be consistent with the direction in Section 3.
<ul style="list-style-type: none"> 4.1 Social, Economic and Cultural Well-being 	<ul style="list-style-type: none"> Vineway Ltd has engaged with Te Kāwarau right from inception of the project. It has received and responded carefully to the 40 recommendations in its cultural values report. Those responses consider all potential effects raised by Te Kāwarau, which could combine to result in adverse outcomes, and propose/identify measures for controlling them based on the observations in Te Kāwarau's report and technical advice. They also provide opportunities for Te Kāwarau to show its spiritual and historical connects with the land through cultural harvest, road names, and cultural markers. Delmore is considered to be consistent with this objective and its policies.
<ul style="list-style-type: none"> 4.2 Heritage 	<ul style="list-style-type: none"> Vineway Ltd has acknowledged and respect Te Kāwarau's role as kaitiaki, and, after on-site confirmation the development would be acceptable with proper design and management, has seen its cultural investigation report as a critical input into those things. It has responded carefully to its recommendations. Its responses are intended to facilitate and respect Te Kāwarau's role as kaitiaki by inviting it to undertake cultural monitoring, and to identify road

	names, and cultural markers. Delmore is considered to be consistent with this objective and its policies.
<ul style="list-style-type: none"> 4.3 Koiwi and Artefacts 	<ul style="list-style-type: none"> A detailed archaeological site investigation has been undertaken. This identified one other Māori historical site, alongside the one already know to be present. The development is designed to avoid these areas, and conditions are proposed to ensure they are not impacted by adjacent works. A heritage authority is still sought for the site in case other sites are uncovered, and archaeological monitoring is proposed in areas where the chance of discovery is higher, specifically along waterway edges. Conditions are also proposed to enable cultural monitoring of earthworks and for immediate notification of Te Kawarau if anything further is discovered. Delmore is considered to be consistent with this objective and its policies.
<ul style="list-style-type: none"> 4.4 Water 	<ul style="list-style-type: none"> Delmore has been designed to avoid existing riparian areas unless there is no practical alternative location for a crossing. It includes extensive riparian planting to significantly offset any planting lost. All riparian areas that are not already subject to protection via consent notice, will be through the conditions of consent. Earthworks during construction will be managed to minimise sediment and erosion through extensive sediment and erosion controls, and through progressive implementation around the site. Development within the steepest reaches has also been avoided, with the north western corner left undeveloped, and steep areas extending into gullies being planted instead. A site-wide stormwater network has been designed to manage stormwater using water sensitive design principles. It is anticipated that wastewater will go into the Watercare network however, if this is not possible, a wastewater system has been designed and will be built on-site. The discharges will be treated and if discharged on site, discharged via irrigation into vegetation or via land through a trench system. They will be managed to ensure aquatic fauna present within the site stay healthy. Delmore is considered to be consistent with this objective and its policies.
<ul style="list-style-type: none"> 4.5 Coastal Marine Area 	<ul style="list-style-type: none"> As well as ensuring a healthy freshwater environment, the design and construction management features described above will also ensure that the ultimate receiving environment – te moana – will be healthy and prosperous. Delmore is considered to be consistent with this objective and its policies.
<ul style="list-style-type: none"> 4.6 Waste 	<ul style="list-style-type: none"> As set out above, it is anticipated that wastewater will go into the Watercare network however, if this is not possible, a wastewater system has been designed and will be built on-site. The discharges will be treated and if discharged on site, discharged via irrigation into

	<p>vegetation or via land through a trench system. Discharges will be managed to ensure aquatic fauna present within the site stay healthy. Any discharges that cannot be discharged to land on-site, for example during summer, will still be treated extensively and managed in other ways, including through potential reuse for garden irrigation on site. Delmore is considered to be consistent with this objective and its policies.</p>
<ul style="list-style-type: none"> 4.7 Land and Landscape 	<ul style="list-style-type: none"> Delmore has been designed to respect the natural contours of the landscape. It retains the undulating shape of the land and avoids its gullies and steepest areas. Instead of developing these areas, it includes extensive replanting with native vegetation as well as wetland re-creation in appropriate areas. In response to recommendations from Te Kāwarau it proposes to offer any trees removed for construction to Te Kāwarau for cultural use, and to invite it to provide cultural monitoring and assist with road name selection and putting in place cultural markers. Delmore is considered to be consistent with this objective and its policies.
<ul style="list-style-type: none"> 4.8 Flora and Fauna 	<ul style="list-style-type: none"> As noted, it is proposed to include a condition of consent requiring Vineway Ltd to offer any trees removed to Te Kāwarau for cultural use. As also already described, removal of native vegetation is limited to that needed for essential crossings within the site, with the largest area being to facilitate the NoR 6 road of regional significance. The areas to be removed have been minimised through design and extensive areas of replanting, well in excess of what is lost, will be undertaken across the site. There will also be wetland re-creation. Species used will be native, eco-sourced, and specific to the ecosystem in which they are being planted. Most of the existing areas of native vegetation are already subject to pest management through consent notices. It is proposed that analogous consent notices apply to the new extensive areas of vegetation. Delmore is considered to be consistent with this objective and its policies.
<ul style="list-style-type: none"> 4.9 Design 	<ul style="list-style-type: none"> As already stated, a condition of consent is proposed requiring Vineway Ltd to invite Te Kāwarau to decide on proposed road names, and also to work on including cultural markers in public spaces throughout the site. Delmore is considered to be consistent with this objective and its policies.

Ngaati Whanaunga Environmental Management Plan (2020)

The plan sets out a number of visions and goals and to achieve a healthy and prosperous environment, each containing a list of focus areas; and a description of the state; pressures; impacts and measures of success. The relevant provisions are identified and assessed within the table below.

• Vision	• Assessment
<ul style="list-style-type: none"> • Healthy and prosperous land 	<ul style="list-style-type: none"> • The Delmore masterplan has been designed to respect the underlying contours and typography of the site, and to retain the numerous gully systems and enhance them through extensive planting. Controls developed with experienced technical experts will be in place to ensure that any contaminated soils discovered on site are removed and to protect and conserve surrounding soils, and that hazardous substances for the on-site wastewater treatment plan, if one is required, are stored safely. Delmore is considered to be consistent with this goal and its related actions.
<ul style="list-style-type: none"> • Healthy and prosperous freshwater 	<ul style="list-style-type: none"> • As explained in the Ecological Impact Assessment and the Earthworks Report provided with the application, the development has been designed to avoid existing riparian areas unless there is no practical alternative location for a crossing. It includes extensive riparian planting to significantly offset any planting lost. The total about of revegetation planting is approx. 32.8ha. All riparian areas that are not already subject to protection via consent notice, will be through the conditions of consent. Earthworks during construction will be managed to minimise sediment and erosion through extensive sediment and erosion controls, and through progressive implementation around the site. Development within the steepest reaches has also been avoided, with the north western corner left undeveloped, and steep areas extending into gullies being planted instead. A site-wide stormwater network has been designed to manage stormwater using water sensitive design principles and in a way that respects natural flow paths and uses native vegetated rain gardens. It is anticipated that wastewater will go into the Watercare network, however, if this is not possible, a wastewater system has been designed and will be built on-site. The discharges will be treated and if discharged on site, discharged via irrigation into vegetation or via land through a trench system. They will be managed to ensure the aquatic fauna present within the site stay healthy. Delmore is considered to be consistent with this goal and its related actions.
<ul style="list-style-type: none"> • Healthy and prosperous coastal and marine areas 	<ul style="list-style-type: none"> • As well as ensuring a healthy freshwater environment, the design and construction management features described above will also ensure that the ultimate receiving environment – te moana – will be healthy and prosperous. Delmore is considered to be consistent with this goal and its related actions.
<ul style="list-style-type: none"> • Healthy and prosperous biodiversity 	<ul style="list-style-type: none"> • Delmore includes extensive enhancement planting across the site which is further supported by on-street and on-lot planting. This has been designed with ecological and landscape input, with a focus on restoring degraded and threatened wetland ecosystems, and creating

	<p>ecological corridors between surrounding significant natural areas and the Nukumea Scenic Reserve. As also already described, removal of native vegetation is limited to that needed for essential crossings within the site, with the largest area being to facilitate the NoR 6 road of regional significance. The areas to be removed have been minimised through design and extensive areas of replanting, well in excess of what is lost, will be undertaken across the site. Delmore is considered to be consistent with this goal and its related actions.</p>
<ul style="list-style-type: none"> • Healthy and prosperous air 	<ul style="list-style-type: none"> • Any nuisance dust from construction will be managed using best practice techniques set out in the construction management plan. The potential odour effects from the on-site wastewater treatment plant (if used) have been assessed by Air Matters, and are considered de minimus provided they are managed according to best practice, which they are. Delmore is considered to be consistent with this goal and its related actions.
<ul style="list-style-type: none"> • Healthy and prosperous culture and heritage 	<ul style="list-style-type: none"> • Vineway Ltd has been careful to respond to each recommendation provided to ensure that cultural values and associations with the site are respected. Conditions are proposed that require Vineway Ltd to invite Ngaati Whanaunga to provide attend the pre-start meeting when works begin, and to monitor key stages of the construction process. Others are proposed that require Vineway Ltd to invite Ngaati Whanaunga to work with it to select road names and to identify opportunities for cultural markers throughout the development. Delmore is considered to be consistent with this goal and its related actions. • A detailed archaeological site investigation has been undertaken. This identified one other Māori historical site, alongside the one already know to be present. The development is designed to avoid these areas, and conditions are proposed to ensure they are not impacted by adjacent works. A heritage authority is still sought for the site in case other sites are uncovered, and archaeological monitoring is proposed in areas where the chance of discovery is higher – specifically along waterway edges. Conditions are also proposed to enable cultural monitoring of earthworks and for immediate notification of Ngaati Whanaunga if anything further is discovered. Delmore is considered to be consistent with this objective and its policies. • Ngaati Whanaunga expressed strong support for the project. 17 recommendations, relating broadly to general matters, design, pre-commencement, earthworks, archaeology, vegetation restoration and enhancement, employment, and housing, were provided. Vineway Ltd has prepared a detailed response to each recommendation,

	either identifying or proposing specific ways each is or can be responded to.
<ul style="list-style-type: none"> Principles for engagement 	<ul style="list-style-type: none"> In adopting an iterative engagement process, Vineway Ltd has strived to promote effective engagement and environmental outcomes that align Ngaati Whanaunga's sustainable management mission and goals, and to design and manage the project in accordance with Ngaati Whanaunga tikanga. Vineway Ltd is committed to continuing to engage with Ngaati Whanaunga. Its assessment and understanding is that Delmore is consistent with the Ngaati Whanaunga Environmental Management Plan.

Ngaati Whanaunga Strategic Management Plan

The above assessment also applies to the Ngaati Whanaunga Strategic Management Plan as the relevant parts of that Plan are the same as included in the Environment Plan. Although this plan has not been lodged with Auckland Council, it is addressed because it was identified by Ngaati Whanaunga in its CIA.

Ngātiwai Iwi Environmental Policy Document (2015)

The Policy Document identifies the specific environmental issues of concern to Ngātiwai and then sets out objectives, policies, and methods for each of those issues. The issues relevant to Delmore air quality, water, indigenous flora and trees, indigenous fauna, matauranga ngatiwai are assessed in the table below.

<ul style="list-style-type: none"> Plan Issue 	<ul style="list-style-type: none"> Assessment
<ul style="list-style-type: none"> Air quality 	<ul style="list-style-type: none"> The response relating to air set out under the Ngaati Whanaunga Environmental Management Plan (2020) also speaks to the issues, objectives, policies, and methods in this Plan. In addition, Delmore includes the new NoR6 road which will improve efficient transport throughout north Auckland with a consequential reduction in emissions. The road has also been designed to accommodate bus services in the future to enhance public transport through Wainui south and east. Delmore is considered to be consistent with these objectives, policies and methods.
<ul style="list-style-type: none"> Water 	<ul style="list-style-type: none"> The response relating to water set out under the Ngaati Whanaunga Environmental Management Plan (2020) also speaks to the issues, objectives, policies, and methods in this Plan. In addition, earthworks will be restricted to summer months unless an exception is applied for and approved by Auckland Council. The development involves small areas of earthworks within wetlands or streams to enable crossings with no practicable alternative location. Except for the NoR road, and one other crossing with a minor permanent intrusion, the crossings used entirely traverse the waterbody so that it can continue to function as part of the wider

	<p>ecosystem. The NoR 6 road crossing does not entirely traverse the wetland because of its size, but it has only minimal intrusion, so that there is no loss of connectivity. The other crossing with a minor permanent intrusion is because of challenging topography. The vegetation and area lost will be offset by extensive planting and wetland re-creation designed after extensive on-site assessment as explained in the Ecological Impact Assessment. Delmore is considered to be consistent with these objectives, policies and methods.</p>
<ul style="list-style-type: none"> Indigenous flora 	<ul style="list-style-type: none"> The response relating to biodiversity set out under the Ngaati Whanaunga Environmental Management Plan (2020) also speaks to the issues, objectives, policies, and methods in this Plan. In addition, eco-sourced species are used and the NZ Biodiversity Strategy and NPS-IB priorities for restoration (specifically wetland and enhancing connectivity and stepping stones) have guided the approach to vegetation enhancement and ecosystem re-creation on-site. Delmore is considered to be consistent with these objectives, policies and methods.
<ul style="list-style-type: none"> Indigenous tree 	<ul style="list-style-type: none"> The starting point for Delmore's design was that areas of native vegetation and trees would be avoided unless there was no practical alternative location. This means that the loss of native vegetation has been minimised and is only that needed for essential road crossings, with the NoR 6 road of regional significance resulting in the most vegetation loss. A full-site arboricultural assessment has been undertaken and recommendations have been made to avoid remedy or mitigate adverse effects from works on trees to be retained and to address the loss of vegetation removed. Setbacks from existing vegetation to protect the root zone will be employed and a detailed TMP prepared and overseen by an arborist. Any loss will be offset by extensive new planting of native vegetation. Delmore is considered to be consistent with these objectives, policies and methods.
<ul style="list-style-type: none"> Indigenous fauna 	<ul style="list-style-type: none"> On-site fauna assessments have been undertaken and full fauna surveys are currently underway. Native birds, bats, and lizards have been identified as potentially affected. A fauna management plan has been prepared which includes detailed steps for preventing negative impacts on these species, including pre-construction roost, nest and lizard assessments with specific protective and preventative actions applying if any are found, and a bat management protocol being adopted to minimise the risk bats are present when vegetation is felled. Delmore is considered to be consistent with these objectives, policies and methods.

<ul style="list-style-type: none"> • Ngātiwai rohe 	<ul style="list-style-type: none"> • Vineway Ltd has taken multiple steps to engage with Ngātiwai. It initially contacted Ngātiwai when preparing its schedule application and did so again as part of preparing its substantive application. It has had no response but has ensured that a careful assessment of this Plan has been undertaken in lieu of direct feedback. It has engaged and continues to engage with Ngāti Manuhiri, Ngaati Whanaunga, Te Kōwhiri, Te Kōwhiri, and Te Runanga o Ngāti Whātua as tangata whenua. Delmore is considered to be consistent with these objectives, policies and methods.
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Ngāti Tamaterā Asset Management Strategy (2019)

Vineway Ltd has not been able to access this document. Ngāti Tamaterā was contacted prior to lodgement of the schedule application, again after it was included in the schedule and started to prepare the substantive application for Delmore, and later to specifically request this document. No responses have been received. Vineway Ltd requested the document from Auckland Council but it was unable to be provided because it is held by Auckland Council on the basis it will be internally used only, and others wanting to see the document will be directed to request it directly from Ngāti Tamaterā. Vineway Ltd sees iwi engagement as an ongoing responsibility, and will work with Ngāti Tamaterā if a response is received.

Ngāti Tamaterā Mātauranga Innovation & Digital Strategic Framework Toikuranui (2022)

The same situation applies to this document as set out under the Ngāti Tamaterā Asset Management Strategy (2019).

Rautaki mō mātou kāinga Housing Strategy Ngāti Tamatera Treaty Settlement Trust (2023-2026)

The same situation applies to this document as set out under the Ngāti Tamaterā Asset Management Strategy (2019).

Interim Ngāti Paoa Regional Policy Statement (31 May 2013).

The same situation applies to this document as set out under the Ngāti Tamaterā Asset Management Strategy (2019).

Conclusion

The analysis above demonstrates that the Delmore development is consistent with existing, relevant Māori planning documents (including objectives, policies, rules, permissions, conditions, and requirements in those documents). There are no documents that the panel must give the same or equivalent effect to under section 82, or procedural requirements that the panel must comply with under schedule 3, clause 5 of the Act.

4. Mana whakahono a rohe

There are no manawhaka hono a rohe applying to the site as far as Vineway Ltd is aware.

5. Cultural impact assessments and iwi consultation

Overview

Clauses 6(1)(e) and 6(1)(f) of Schedule 5 of the Act require that an assessment of environmental effects under the FTAA must include the following information:

- Identification of persons who may be affected by the activity and any response to the views of any persons consulted, including the views of iwi or hapū that have been consulted in relation to the proposal; and
- If iwi or hapū elect not to respond when consulted on the proposal, any reasons that they have specified for that decision.

The iwi identified potentially being affected are listed in the iwi consultation summary appended to the application. This details all engagement steps and where a response was received declining the invitation to engage the reasons for this have been recorded.

Three cultural impact assessments were received in respect of the first Delmore application. These are appended to this application along with a copy of documents detailing the applicant's response to each of the recommendations in each of the cultural impact assessments. Ngāti Manuhiri and Ngaati Whanaunga confirmed that the responses to their recommendations were acceptable. Te Kawerau a Maki generally confirmed the responses to their recommendations were acceptable, requesting further information in response to two matters. The applicant provided this information but had no further comment from Te Kawerau a Maki.

The applicant has carried all agreed responses to recommendations over into this application. It has also again contacted all iwi listed in the iwi consultation summary. After considering the changes between this application and the first application Ngāti Manuhiri confirmed that its cultural impact assessment was still valid and did not need amended. NgaatiWhaanaunga visited the site for a second time, after which it has confirmed that the changes to the development as between the first and second applications are acceptable. An addendum to the cultural impact assessment is expected as well as the confirmation already received. Te Kawerau ā Māki did not reply to correspondence. Ngāti Whātua o Kaipara has asked for further information / clarification on some matters and engagement is on-going.

Conclusion

Engagement with iwi has resulted in the adoption of specific design and effects management measures to address issues raised and recommendations provided in the cultural assessments prepared about the Delmore development. Cultural impact assessments have confirmed the Delmore development is acceptable to and support by iwi with an interest in the project site.

6. Customary Marine Title Groups

Clause 5(5)(b) of Schedule 5 of the Act requires that if an activity is to occur in an area that is within the scope of a planning document prepared by a customary marine title group under Section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011 or the environmental covenant prepared by ngā hapū o Ngāti Porou under Section 19 of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, an assessment of the activity against any resource management matters set out in that document must be provided.

This information requirement is not relevant to Delmore as the site is not within the “common marine and coastal area” as defined in s9 of the Marine and Coastal (Takutai Moana) Act 2011, and so does not and cannot have a customary marine title group with customary marine title over the site (as those terms are defined in s9 of Marine and Coastal (Takutai Moana) Act 2011. In addition, the site is not within or adjacent to, and would have no effect on, ngā rohe moana o ngā hapū o Ngāti Porou.

7. Protected Customary Rights

Clause 6(1)(h) of Schedule 5 of the Act requires an application to include an assessment of any effects of the activity on the exercise of a protected customary right.

There are no protected customary rights that relate to the site and as such an assessment under clause 6(1)(h) of Schedule 5 is not required.