



TE MANATŪ WAKA
MINISTRY OF TRANSPORT



TE TAI ŌHANGA
THE TREASURY



Te Tūāpapa Kura Kāinga
Ministry of Housing and Urban Development

17 March 2022

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Hon Michael Wood
Minister of Transport

Action required by:

Monday, 21 March 2022

Hon Grant Robertson
Minister of Finance

Hon Dr Megan Woods

Minister of Housing

AUCKLAND LIGHT RAIL - MANA WHENUA SPONSOR REPRESENTATION

Purpose

Seek your agreement to the approach for identifying mana whenua Sponsor representation on the Auckland Light Rail Project.

Key points

- Mana whenua representation as Sponsors is a central component of the Auckland Light Rail governance and organising model and is vital to the success of the project.
- Whilst it is important for mana whenua representation to be confirmed early to allow all Sponsors to set direction for the project, the Crown's engagement with mana whenua regarding representation must acknowledge the complex layers of iwi/hapū representation in Tāmaki Makaurau, as well as the importance of self-nomination.
- Given the range of impacts that the Auckland Light Rail project will have across Tāmaki Makaurau, no singular existing grouping is considered appropriate to represent mana whenua at Sponsors level. A tailored approach is therefore needed.
- Officials propose an approach whereby the Crown invites nominations from the 15 iwi/hapū who have an interest in the ALR Project through one of three rōpu – Marutūāhu, Ngāti Whātua, and Waiohua Tāmaki. Within this rōpu framework, hapū/iwi would be invited to determine representation themselves, through their own processes.
Note - Following feedback from iwi leadership, officials have since amended the governance arrangements, so that 13 iwi from Tāmaki Makaurau will be engaged, rather than 15.
- If agreed, Officials recommend that joint Ministers write to each of the iwi/hapū regarding this process and invite them to meet as a rōpu to select a representative by early April.
- This approach is similar to the model applying to the Maunga Authority and the Independent Māori Statutory Board (IMSB) which also has a rōpu approach central to the appointment of members.

- The approach has been informed by specialist advice from s 9(2)(a), who has extensive knowledge and experience working with mana whenua, including on behalf of the Crown in Treaty settlement processes.
- Officials have also consulted on the proposed approach with Te Arawhiti, Auckland Council, and the ALR Unit (including the existing Board Char, Mr Leigh Auton). There is general acknowledgment that the proposal is likely to be the most appropriate to the circumstances, and that no progress can be made without first approaching mana whenua with a proposed approach.
- There is a risk that hapū/iwi may not want to engage in this way, and either propose an alternative approach or decline to participate. If iwi/hapū respond with an alternative approach, this would be considered in good faith but would likely delay confirmation of their representatives to the Sponsors.
- There is also a risk that the arrangements for nomination amongst hapū/iwi cannot be made in time for representation to be reported to Ministers as part of the Cabinet report back in April. Officials consider that it is only by first engaging with individual hapū/iwi around a suggested process that we can understand the most appropriate way forward and gain certainty on timings.
- Officials from the Crown and Auckland Council will likely need to engage directly with hapū/iwi after letters have been sent in order to engage on the proposed process and understand their views. The details of this engagement have not currently been worked through.
- In March Cabinet will be considering a s 9(2)(f)(iv) investment in Kāinga Ora large scale projects, which have intersecting interests with the ALR project. As part of this investment, a similar governance structure and representation from Ministers, and potentially Council and mana whenua is proposed. Where possible, Officials will align approaches to mana whenua engagement and support, and the arrangements at Sponsor levels.

Recommendations

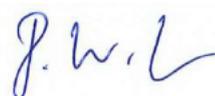
We recommend you:

Note - Following feedback from iwi leadership, officials have since amended the governance arrangements, so that 13 iwi from Tāmaki Makaurau will be engaged, rather than 15.

	Minister of Transport	Minister of Finance	Minister of Housing
1 agree to the approach for identifying mana whenua Sponsor representation on the ALR project	Yes / No	Yes / No	Yes / No
2 agree for joint Ministers to write to the 15 iwi outlining the approach	Yes / No	Yes / No	Yes / No
3 agree for the Minister of Transport to finalise a letter to be sent on behalf of joint Ministers	Yes / No	Yes / No	Yes / No
4 agree that alternative approaches will not be explicitly invited, but that any alternative approaches proposed by iwi/hapū will be considered in good faith	Yes / No	Yes / No	Yes / No



Gareth Fairweather
Acting Director, System Strategy and Investment, Ministry of Transport



David Taylor
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Manager, Urban Development Delivery, Place-based Policy and Programmes Group, Ministry of Housing and Urban Development

Hon Michael Wood
Minister of Transport

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Hon Grant Robertson
Minister of Finance

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Hon Dr Megan Woods
Minister of Housing

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- Minister's office to complete:**
- Approved
 - Declined
 - Seen by Minister
 - Not seen by Minister
 - Overtaken by events

Comments

Contacts

Name	Telephone	First contact
Bryn Gandy, Acting Chief Executive, Ministry of Transport	(s 9(2)(a))	
Gareth Fairweather, Acting Director System Strategy & Investment, Ministry of Transport		✓
Chris Gulik, Auckland Strategic Adviser, Ministry of Transport		
Fiona Stokes, Principal Advisor, the Treasury		
Mary Barton, Senior Policy Advisor - Places and Partnerships, Ministry of Housing and Urban Development		

PROACTIVELY RELEASED BY
 TE MANATŪ WAKA MANATŪ WAKA
 MINISTRY OF TRANSPORT

AUCKLAND LIGHT RAIL - MANA WHENUA REPRESENTATION

- 1 Sponsors for the Auckland Light Rail (ALR) project will exercise a 'guardianship' role across the ALR Programme. They will consider how decisions that need to be made by Cabinet or Auckland Council serve the best interests of the project. They will also provide guidance to the ALR Board on expected outcomes and how these are achieved.
- 2 This note outlines a process to confirm mana whenua Sponsor representatives, which has been developed by the Ministry of Transport, the Treasury and the Ministry of Housing and Urban Development (MHUD) and in consultation with Auckland Council, Te Arawhiti, mana whenua representatives of the ALR Unit's Board and the ALR Board Chair, Mr Leigh Auton.

Interest from mana whenua in the ALR project is strong

- 3 There are multiple iwi and hapū with layers of interests across Tāmaki Makaurau, with groups having stronger or longer associations in different places. Exclusivity for one group's interests is uncommon.
- 4 Fifteen different iwi and hapū of Tāmaki Makaurau have an interest in the ALR Project. These are:
 - the thirteen iwi/hapū who make up Ngā Mana whenua o Tāmaki Makaurau, the body established to receive collective Treaty settlement redress in Auckland
 - Waikato-Tainui iwi
 - Makaurau marae – for Te Ahi Waru hapū.
- 5 Mana whenua of Tāmaki Makaurau (Ngāti Manuhiri, Ngāti Rehua, Ngāti Wai, Te Uri o Hau) have interests located outside the core ALR project area – in the city's 'northern reaches' (north of Silverdale) and to the east on Aotea-Great Barrier Island.

Existing multi-iwi forums provide guidance for ALR mana whenua representation

- 6 There are a number of existing multi-iwi forums in Tāmaki Makaurau which seek to accommodate these layers of interests in different ways. For example:
 - **Treaty settlement bodies** (including the Maunga Authority and Whenua Haumi Roroa o Tāmaki Makaurau Limited Partnership) - Two representatives are appointed to these entities by each of three 'rōpu' representing the iwi of, respectively, the Marutūāhu, Ngāti Whātua and Waiohua Tāmaki kinship groups
 - **Mahi Ngatahi process** – a right of first refusal process for iwi to develop housing on Crown land is offered to the same three rōpū in a carousel process.
 - **The Independent Māori Statutory Board** – the 19 mana whenua appoint a selection body, which in turn selects seven mana whenua representatives and two representatives of mātāwaka.

- **Auckland Council Tāmaki Makaurau Mana Whenua Forum** – comprises representatives of all 19 recognised mana whenua iwi/hapū across Auckland territorial boundaries, with co-chairs to be elected by those 19 members.
- **Panuku Mana Whenua Forum** - representatives of all 19 groups meet weekly with Eke Panuku-Development Auckland.
- **Waka Kotahi Iwi Integration group** – includes representatives from all 19 groups and is facilitated by a ‘neutral’ (non-mana whenua) person engaged by Waka Kotahi

7 Given the range of impacts that the Auckland Light Rail project will have on Māori in Tāmaki Makaurau, no singular existing grouping is considered appropriate to represent mana whenua at Sponsors level. A tailored approach is therefore needed.

Note - Following feedback from iwi leadership, officials have since amended the governance arrangements, so that 13 iwi from Tāmaki Makaurau will be engaged, rather than 15.

Proposed approach for identifying mana whenua sponsors on ALR project

- 8 The approach for identifying mana whenua sponsors needs to ensure the broad range of mana whenua interests are reflected, without compromising the ability of the Sponsors to perform their role effectively.
- 9 It is proposed that Ministers write to the 15 iwi and hapū of Tāmaki Makaurau who have an interest in the ALR project and invite them to meet as three rūpu as set out in the table below, to each select one primary and one delegate representative to the Sponsors.

<i>Marutūahu</i>	<i>Ngāti Whātua</i>	<i>Waiohua-Tamaki</i>
<ul style="list-style-type: none"> • Ngāti Maru • Ngāti Paoa • Ngāti Tamaterā • Ngaati Whanuanga • Te Patukirikiri 	<ul style="list-style-type: none"> • Ngāti Whātua o Ōrākei • Ngāti Whātua o Kaipara/Ngā Maunga Whakahii • Te Runanga o Ngāti Whātua 	<ul style="list-style-type: none"> • Makaurau Marae (for Te Ahi Waru) • Ngāi Tai ki Tāmaki • Ngāti Tamaoho • Ngāti te Ata • Te Aki Tai Waiohua • Te Kawerau ā Maki • Waikato Tainui

- 10 This approach is similar to the model applying to the Maunga Authority and the Independent Māori Statutory Board (IMSB) which also has a rūpu approach central to the appointment of members.
- 11 This approach is different from other arrangements such as the Council’s mana whenua forum (which includes 19 iwi) and Waka Kotahi’s Iwi Integration Group, but these groups include membership from an Auckland catchment wider than the ALR project scope and are not governance bodies selected from the wider group of iwi.

It is likely there will be differing views on the proposed approach

12 The Ministry has engaged with Sponsor agencies, Te Arawhiti and the ALR Unit in developing this proposed approach. There has been broad consensus, acknowledging that there will be no perfect approach. Feedback received has highlighted that:

- The proposal is probably the most appropriate to the circumstances;
- No progress can be made without first approaching mana whenua with a proposed approach and testing their response;
- As the Project moves through its stages, the roles and processes and associated resourcing for mana whenua input may need to be adjusted.

13 As we progress in our engagement, it is likely there will be competing views amongst the multiple iwi and hapū across Tāmaki Makaurau, over the proposed approach. The following potential issues have been identified:

Marutūāhu rōpu

- 14 Ngāti Whātua o Ōrākei have legally challenged the status of Marutūāhu iwi (other than Ngāti Paoa) within the Auckland CBD.
- 15 However, each of the five Marutūāhu iwi has separately registered their interest in the project and the Crown and other bodies have recognised the interest of Marutūāhu iwi in the CBD through Treaty settlements and other engagement forums.
- 16 Sponsors will also need to consider the links between ALR and the Additional Waitematā Harbour Crossing where Marutūāhu interests are not contested by Ōrākei to the same extent. Marutūāhu also have an acknowledged spiritual association with the Manukau Harbour (which the ARL route will traverse).

Makaurau marae/Te Ahi Waru

- 17 The proposed approach provides for the inclusion of the Makaurau marae in the Waiohua-Tāmaki rōpu even though there is not a clear and acknowledged body representing Ahi Waru hapū and they are not represented on the Maunga Authority.
- 18 However, since the conclusion of the Treaty settlements, Makaurau Marae/Te Ahi Waru have participated in multi-iwi forums such as the Council's Mana whenua kaitiaki forum and the Eke Panuku mana whenua forum without dissent from other iwi. The preferred ALR route also runs close to Makaurau marae.

Waikato-Tainui

- 19 The proposed approach provides for the inclusion of Waikato-Tainui in the Waiohua-Tāmaki rōpu and in the selection process. Alternatively, Waikato-Tainui could be entitled to elect their own representative alongside their Waiohua-Tamaki whanaunga. Waikato-Tainui like the Marutūāhu iwi and Makaurau Marae, have registered their interest in the project.

Note - Following feedback from iwi leadership, officials have since amended the governance arrangements, so that 13 iwi from Tāmaki Makaurau will be engaged, rather than 15.

- 20 The Waiohua Tāmaki hapū/iwi are strongly affiliated to Waikato-Tainui and their marae are members of its tribal parliament so providing a separate representative could create the expectation that other rūpū could nominate two representatives. Waikato-Tainui may defer to their Waiohua-Tamaki whanaunga and not participate in the rūpu selection process.

Links to the Kāinga Ora Large Scale Projects

- 21 Later this month, Cabinet will be considering a s 9(2)(f)(iv) investment into four Kāinga Ora Large Scale Projects (LSPs) in Auckland. The proposal includes funding for two large scale projects (Mangere and Mt Roskill) that are along the proposed ALR corridor. There are intersecting interests between the Large Scale Project investments and the ALR project.
- 22 As part of the LSPs investment, it is proposed that a partnership be established between the Crown, Auckland Council and mana whenua, and that the Ministers on the LSP governance be the same as the ALR Sponsors. Given the similarities, and the intersecting interests, Officials will look, where possible, to align approaches to mana whenua engagement, mana whenua support within the governance, and efficiencies in aligning the ALR Sponsor and LSP partnership meetings.

Te Arawhiti comment

- 23 Through our engagement, Te Arawhiti has made the following comment:

“Te Arawhiti has not been involved in the development of this specific approach for mana whenua involvement on the ALR governance. In previous discussions Te Arawhiti gave support for mana whenua representation in the proposed three-way governance (central government, Auckland Council and mana whenua) at the Sponsor level and advised that determining what this looked like needed to be worked out with mana whenua. Te Arawhiti supports the proposed approach being tested and further refined with mana whenua.”

Risks and uncertainties

Note - Following feedback from iwi leadership, officials have since amended the governance arrangements, so that 13 iwi from Tāmaki Makaurau will be engaged, rather than 15.

- 24 While this proposal may not be the preferred approach of each of the 15 iwi and hapū, it is designed to ensure that a broad range of mana whenua interests are represented.
- 25 The Ministry notes the proposal from Te Arawhiti that the approach is ‘tested’ with iwi. Our view remains that the best way to test this approach is to present it to iwi and hapū, inviting them to engage on this basis.
- 26 Whilst this would still leave the opportunity for mana whenua to propose an alternative way to allocate and select their Sponsors representatives, we do not propose that alternative approaches are explicitly invited by Ministers as this is highly likely to delay our ability to secure mana whenua representation at Sponsors level.
- 27 Any alternative approaches volunteered by the iwi and hapū that are contacted would nevertheless be considered and assessed in good faith.

28 The following general matters are also brought to Ministers' attention:

- Mana whenua representatives at Sponsors level and any advisers they require (including member who may join the Sponsors' Forum) will need to be compensated for their time. At this stage we do not know the scale of this compensation, or how this will be funded. Whilst we will liaise with Auckland Council in this respect, it is likely that the Crown will need to bear the cost of this. This source of this funding has not currently been identified.
- It is possible that the timing for the selection of mana whenua Sponsors may be considered insufficient given the need for individual rōpu to meet and agree representation. This will mean that mana whenua representation may not be confirmed by the time that Cabinet considers a draft Sponsors Agreement in April.

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