

Report prepared in accordance with Section 17 Covid-19 (Fast-track Consenting) Act 2020

Application 2023-140 Marton Solar Farm Project

To:	Required action:
Hon David Parker, Minister for the Environment	Consider this report prior to making a decision under section 24 of the FTCA
Date submitted: 15 May 2023	

Ministry for the Environment contacts

Position	Name	Cell Phone	1 st Contact
Principal Author	Stephanie McNicholl		
Acting Manager	Rebecca Perrett	s 9(2)(a)	✓
Acting Director	Lorena Stephen	s 9(2)(a)	

Introduction

1. The Ministry for the Environment has prepared this report in consultation with the Office for Māori Crown Relations – Te Arawhiti and in accordance with section 17 of the Covid-19 Recovery (Fast-track Consenting) Act 2020 (the FTCA).
2. To satisfy obligations under section 6 of the FTCA, you must consider this report before you make any decision under section 24 of the FTCA regarding the application request to refer the Marton Solar Farm Project (project) to an expert consenting panel (panel).

Proposed project

3. The applicant (Energy Farms Limited) proposes to develop an approximately 194-hectare site into a solar farm development located at 1618 Wellington Road, Marton, Manawātū-Wanganui region.
4. The project will involve the construction of approximately 230,000 solar panels, occupying approximately 154 hectares, that will connect to and supply electricity to the National Grid. The solar farm will have an approximate installed capacity of 80-110 peak Megawatts.
5. A location map is in Attachment 1.

Essential information

6. The following information is required under section 17(3) of the FTCA for the project area.

FTCA Section	Information required	Detail	
17(3)(a)	Relevant iwi authorities	2	Refer Iwi authorities section below. <i>Contact details are in Attachment 2</i>
17(3)(b)	Treaty settlements that relate to the project area	2	
17(3)(a)	Relevant Treaty settlement entities	2	
17(3)(c)	Relevant principles and provisions of the Treaty settlements	Details in blue-shaded section below	
17(3)(d)	Groups with a negotiation mandate recognised by the Crown which are yet to commence Treaty settlement negotiations	N/A	
17(3)(d)	Current Treaty settlement negotiations	N/A	
17(3)(e)	Court orders recognising customary marine title or protected customary rights under the Marine and Coastal Area (Takutai Moana) Act 2011 or another Act	N/A – not in CMA	

Supporting information

Project details

7. The project site covers approximately 194-hectares of characteristically rural land. The site has frontage to and access from Wellington Road to the east and from Read Road to the south.
8. The project will comprise
- approximately 230,000 solar panels, occupying approximately 154 hectares
 - arrays and mounting structures, inverter cabinets, underground cables and associated infrastructure
 - 16 inverter stations, one substation and one transformer
 - ancillary buildings, structures and infrastructure (including a storage building, roads, access, security fencing, CCTV poles and other infrastructure)
 - underground electricity cables
9. The project layout is in Attachment 3.

Statutory matters relating to this report

10. No parts of the proposed project will occur in the coastal marine area, meaning:
 - a. pursuant to section 16(1) of the FTCA you are the sole party required to consider this report
 - b. the project is unaffected by the provisions of the Marine and Coastal Area (Takutai Moana) Act 2011 (MACAA) or any other Act pertaining to the grant of protected customary rights or customary marine title.
11. There are no court orders granted under the MACAA or another Act to consider in your referral decision for this project.¹

Iwi authorities

Methodology and information sources

12. This report must identify the relevant iwi authorities for the project, in accordance with section 17(3)(a) of the FTCA. Under section 7(1) of the FTCA, a relevant iwi authority for a referred project means an iwi authority whose area of interest includes the area in which a project will occur.
13. 'Area of interest' can mean different things depending on context and perspective and can be indicative (such as an area identified at the outset of Treaty settlement negotiations), formally agreed (such as in a deed of settlement or memorandum of understanding) or self-nominated. An area of interest can be difficult to define precisely on a map, particularly where a boundary that has been depicted on a small-scale map is scaled up and used precisely in relation to an individual site or property.
14. For the purpose of this report, we have considered information from the following sources as a starting point for identifying iwi areas of interest:
 - a. Te Arawhiti Internal Crown Asset Tracking Tool (i-Cat), an online database that records areas of interest associated with Treaty settlements and Treaty settlement negotiations
 - b. area of interest maps in signed Treaty settlement deeds or other Treaty settlement negotiation documents (including deeds of mandate)
 - c. the Iwi Areas of Interest viewer, an online application managed by the Ministry of Māori Development – Te Puni Kōkiri (TPK)
 - d. Te Kāhui Māngai (TKM), an online directory of iwi and Māori organisations maintained by TPK, which includes information on rohe (tribal areas) provided by those organisations.
15. Generally, the areas of interest shown on these databases for an iwi or group do not always completely align, and sometimes the differences can be significant. We carefully consider the reasons for such discrepancies, including the reliability or accuracy of the information shown and the local context and decision-making environment, before deciding which areas of interest we consider apply to a project under FTCA process.
16. The FTCA does not specifically define iwi authority but pursuant to section 7(2) of the FTCA, 'iwi authority' has the same meaning as in the Resource Management Act 1991 (RMA): the authority which represents an iwi and which is recognised by that iwi as having authority to do so.

¹ Section 17(3)(e) of the FTCA requires this report to identify any court orders granted under the MACAA or another Act which recognise, in relation to the project area, customary marine title or protected customary rights.

17. To identify iwi authorities associated with the identified areas of interest, we considered information from:
 - a. the sources noted above including the TKM online directory
 - b. Horizons Regional Council (HRC) and Rangitīkei District Council (RDC) as relevant local authorities.

Iwi authorities relevant to project

18. We have identified, via the information sources, the relevant iwi authorities for the project area, as:
 - a. Ngā Wairiki-Ngāti Apa Charitable Trust representing Ngāti Apa iwi
 - b. Tūwharetoa Māori Trust Board representing Ngāti Tūwharetoa iwi.
19. We note in their invited comments, both local authorities identified Ngāti Apa iwi.
20. RDC identified Ngāti Apa as mana whenua and as appropriate to confirm iwi and hapū groups and marae. RDC also noted there is a Tūtohunga/Memorandum of Understanding in place between Rangitīkei District Council and Te Tangata Whenua o Rangitīkei.

Other iwi authorities, treaty settlement entities and parties which may have an interest in the project

21. We note in their invited comments, HRC identified the proximity of Ngāti Raukawa. We recommend including their representative body as an 'other' party which may have an interest.

Treaty settlements and Treaty settlement entities

22. This report must identify the Treaty settlements that relate to the project area and relevant Treaty settlement entities, in accordance with sections 17(3)(b) and 17(3)(a) respectively. We use information relevant to the project area from the iCat online database and [NZ Government Treaty settlements website](#), together with advice from the Office for Māori Crown Relations – Te Arawhiti.
23. Under the FTCA, a Treaty settlement includes both a Treaty settlement Act and a Treaty settlement deed which is signed by both the Crown and the representative Māori group.
24. [Ngāti Apa \(North Island\) Claims Settlement Act 2010](#) is a settlement of historical Treaty claims relating to the project area. The Act gives effect to certain provisions of the deed of settlement signed by Ngāti Apa iwi and the Crown on 8 October 2008. [Ngāti Apa \(North Island\) deed of settlement documents](#) can be accessed on the NZ Government Treaty settlements website.
25. [Ngāti Tūwharetoa Claims Settlement Act 2018](#) is a settlement of historical Treaty claims relating to the project area. The Act gives effect to certain provisions of the deed of settlement signed by Ngāti Tūwharetoa iwi and the Crown on 8 July 2007. [Ngāti Tūwharetoa deed of settlement documents](#) can be accessed on the NZ Government Treaty settlements website.

Relevant Treaty settlement entities

Post-settlement governance entities

26. Under the FTCA, a Treaty settlement entity includes a post-settlement governance entity, defined as a body corporate or trustees of a trust established by a claimant group for receiving redress, or for participating in arrangements established under a Treaty settlement Act.

27. We have identified the following post-settlement governance entities associated with the Treaty settlements:
 - a. Te Rūnanga o Ngā Wairiki Ngāti Apa under the [Ngāti Apa \(North Island\) Claims Settlement Act 2010](#)
 - b. Te Kotahitanga o Ngāti Tūwharetoa under the [Ngāti Tūwharetoa Claims Settlement Act 2018](#).

Other bodies recognised or established under a Treaty settlement Act

28. A Treaty settlement entity is also defined for the purposes of the FTCA as including a board, trust, committee, authority, or other body, recognised in or established under a Treaty settlement Act.
29. No such entity established by the Claims Settlement Acts noted above is relevant to the proposed project.

Relevant principles and provisions of the Treaty settlements for:

[Ngāti Apa and Ngāti Tūwharetoa](#)

Crown acknowledgements and apologies

30. As part of all of the identified Treaty settlement, the Crown offers acknowledgements and an apology as part of Treaty settlement redress to atone for historical wrongs, restore honour, and begin the process of healing.

Relevant principles and provisions of the Ngāti Apa (North Island) Treaty settlement

31. The Crown recognises the efforts and struggles of the ancestors of Ngāti Apa (North Island) in pursuit of their claims for justice and redress from the Crown and makes this apology to Ngāti Apa (North Island) and their descendants.
32. The Crown acknowledges Ngāti Apa (North Island) have been raising grievances with the Crown for over a hundred years. The Crown has failed to deal with the long-standing grievances of Ngāti Apa (North Island) in an appropriate way and that recognition of the grievances is long overdue.
33. From 1848 the Crown purchased over 400 000 acres of land in which Ngāti Apa (North Island) held interests. Through these land transactions, Ngāti Apa (North Island) endeavoured to establish a relationship with the Crown.
34. The 1849 Rangitikei–Turakina purchase stated approximately 35 000 acres would be reserved for all of Ngāti Apa (North Island) to collect and settle on. Later native land legislation enabled these reserved lands to pass through the Native Land Court, which awarded land interests to individuals rather than to all the tribe, excluding many Ngāti Apa (North Island) from ownership of the tribal reserve lands. The Crown’s failure to ensure that the arrangements recorded in the 1849 deed were given effect was a breach of the Treaty of Waitangi and its principles:
35. Over 100 000 acres of land in which Ngāti Apa (North Island) held interests was subject to native land laws introduced in the 1860s, in addition to reserves from the Rangitikei–Turakina purchase. The operation and impact of the native land laws, in particular the awarding of land to individual Ngāti Apa (North Island) rather than to iwi or hapū, made the lands that Ngāti Apa (North Island) were able to retain more susceptible to partition, fragmentation and alienation. This contributed to the erosion of the traditional tribal structures of Ngāti Apa (North Island), which were based on collective tribal and hapū custodianship of land. The Crown failed to take steps to adequately protect those structures. This had a prejudicial effect on Ngāti Apa (North Island) and was a breach of the Treaty of Waitangi and its principles:

36. Lands transferred by Ngāti Apa (North Island) for settlement purposes have contributed to the development of New Zealand, and that some of the significant benefits that Ngāti Apa (North Island) expected to flow from its relationship with the Crown were not realised:
37. The cumulative effect of the Crown's actions and omissions, including Crown purchases and the operation and impact of native land laws, left Ngāti Apa (North Island) virtually landless. The Crown's failure to ensure that Ngāti Apa (North Island) retained sufficient lands for its present and future needs was a breach of the Treaty of Waitangi and its principles:
38. Today most Ngāti Apa (North Island) live outside their rohe, and that the loss of their traditional lands has impacted on the access of Ngāti Apa (North Island) to resources such as rivers, lakes, forests, wetlands, and traditional walking paths:
39. Ngāti Apa (North Island) have lost control over many of their significant sites, including wāhi tapu, and that this has had an ongoing impact on their physical and spiritual relationship with the land.
40. The Crown profoundly regrets and unreservedly apologises to Ngāti Apa (North Island) for the breaches of the Treaty of Waitangi, and its principles, acknowledged above.
41. The Crown regrets and apologises for the cumulative effect of its actions and omissions over the generations to the present day which have had a detrimental impact on the traditional tribal structures of Ngāti Apa (North Island), their access to customary resources and significant sites, economic and social development, and their physical, cultural, and spiritual wellbeing.
42. Accordingly, with this apology the Crown seeks to atone for its past wrongs, begin the process of healing and make a significant step towards re-building a lasting relationship based on mutual trust and cooperation with Ngāti Apa (North Island).

Relevant principles and provisions of the Ngāti Tūwharetoa Treaty settlement

43. To the resilient iwi that is Ngāti Tūwharetoa, to your Ariki, your beloved tūpuna, your hapū, and your whānau, the Crown offers this long overdue apology: the Crown unreservedly apologises for the ways it has dishonoured its obligations to you under te Tiriti o Waitangi/the [Treaty of Waitangi](#) and its principles.
44. Ngāti Tūwharetoa's relationship with the Crown is one characterised by your iwi generosity of spirit. Time and again, your hapū have shared taonga precious to you for the benefit of your fellow New Zealanders. At other times, the Crown has taken your whenua and your resources from you. The Crown regrets, profoundly, its actions, omissions, and policies that have debilitated Ngāti Tūwharetoa's social, cultural, spiritual, political, and economic structures. The Crown understands, and is deeply remorseful that, by removing the ability of your whānau and hapū to safeguard your whenua and taonga, your ability to nurture yourselves has been hindered.
45. In particular, the Crown apologises for the grief Ngāti Tūwharetoa feel over the loss of their warriors in wars with the Crown, specifically at Orakau and Te Pōrere. The Crown acknowledges that your great Ariki, Horonuku Te Heuheu Tukino IV, could never unconditionally "gift" the peaks of Tongariro Maunga because he could not own them—indeed, it is the mountains that own Ngāti Tūwharetoa. The Crown expresses deep remorse, therefore, that it did not always honour the reciprocal obligations established by Horonuku's tuku of the peaks of Tongariro Maunga in 1887, with which the Ariki had intended to protect the sacred maunga.
46. The Crown sincerely apologises for failing to protect Ngāti Tūwharetoa from the partitioning, fragmentation, and alienation of your iwi's whenua, facilitated by the operation of the Native Land Court. The social, political, and economic upheaval you

have suffered as a consequence has led to great economic hardship and lost opportunities for Ngāti Tūwharetoa.

47. The Crown is deeply sorry that the geothermal and hydro-electric power generation schemes it has constructed in your rohe, for the benefit of all New Zealanders, have come at great cost for Ngāti Tūwharetoa. These schemes have caused environmental degradation to the waterways and lakes of the central North Island, which are, to Ngāti Tūwharetoa, akin to veins which sustain the beating heart of Te Ika a Maui—Lake Taupo (Taupomoana). The Crown is profoundly remorseful that its actions forever changed the character of Lake Rotoaira and its fishery, and denigrated its sacred mauri. The Crown also humbly apologises for the destruction and defilement the construction of these schemes has had upon Ngāti Tūwharetoa's kōiwi and sacred spaces.
48. Through this settlement, and with this apology, the Crown recognises how your resilience as hapū and as an iwi depends upon your deep connection to the whenua and your desire to protect it. The Crown looks forward to building an enduring relationship of mutual trust and co-operation with Ngāti Tūwharetoa based on te Tiriti o Waitangi/the [Treaty of Waitangi](#) and its principles, and to support you in the revitalisation of ngā hapū o Ngāti Tūwharetoa.

Redress within the Treaty settlements

Resource management matters

49. Affording respect to the views of iwi on resource management matters and enabling iwi to meaningfully participate as a Treaty partner in resource management decision-making within their takiwā/area of interest are important ways in which the Crown can give effect to these acknowledgements and apologies.

Other redress of the Treaty settlement

50. The Treaty settlement does not create any new co-governance or co-management processes which would affect decision-making under the RMA for the project. The proposed project does not directly affect any specific commercial or cultural redress provided by the Treaty settlement.
51. As a general principle, an absence of specific settlement redress does not indicate the absence of an iwi cultural association with ancestral lands, sites, wāhi tapu or other taonga within an area. Local tangata whenua and their representatives would be best placed to advise on such matters in the first instance.
52. Importantly, cultural associations with ancestral lands, water, sites, wāhi tapu, and other taonga – regardless of whether or not they are specifically identified in a Treaty settlement – are deemed to be matters of national importance that must be recognised and provided for in decision-making under Part 2 section 6(e) of the RMA.

Current negotiation mandates and settlement negotiations

53. There are no recognised mandates for negotiation of any further historical Treaty claims, or any current or anticipated negotiations for settlement of historical Treaty claims, affecting the proposed project site.

Details in this report affect certain provisions of the FTCA

Notices of referral decisions

54. Under section 25 of the FTCA, you must give notice of the decisions made on an application for referral of a project to a panel, and the reasons for your decisions, to the applicant and anyone invited to comment under section 21 of the FTCA.
55. You did not invite comment on the referral application from iwi authorities or other Māori groups. However, if you decide to refer this project to a panel, the notice of decisions and associated reasons must be given to:
 - a. the relevant iwi authorities and Treaty settlement entities identified in this report
 - b. any other iwi authorities or Treaty settlement entities you consider have an interest in the matter
 - c. any group that is or party to either a joint management agreement or Mana Whakahono ā Rohe under the RMA that relates to the project area.
56. We have identified two relevant iwi authorities and two Treaty settlement entities for receipt of the notice of decisions. Contact details are in Attachment 2.
57. We have identified one 'other' party who may have an interest in the project, for receipt of the notice of decisions if you decide to refer the project. Contact details are in Attachment 2.
58. There are no relevant joint management agreements or Mana Whakahono ā Rohe to consider.

Expert consenting panel membership and invitation to comment

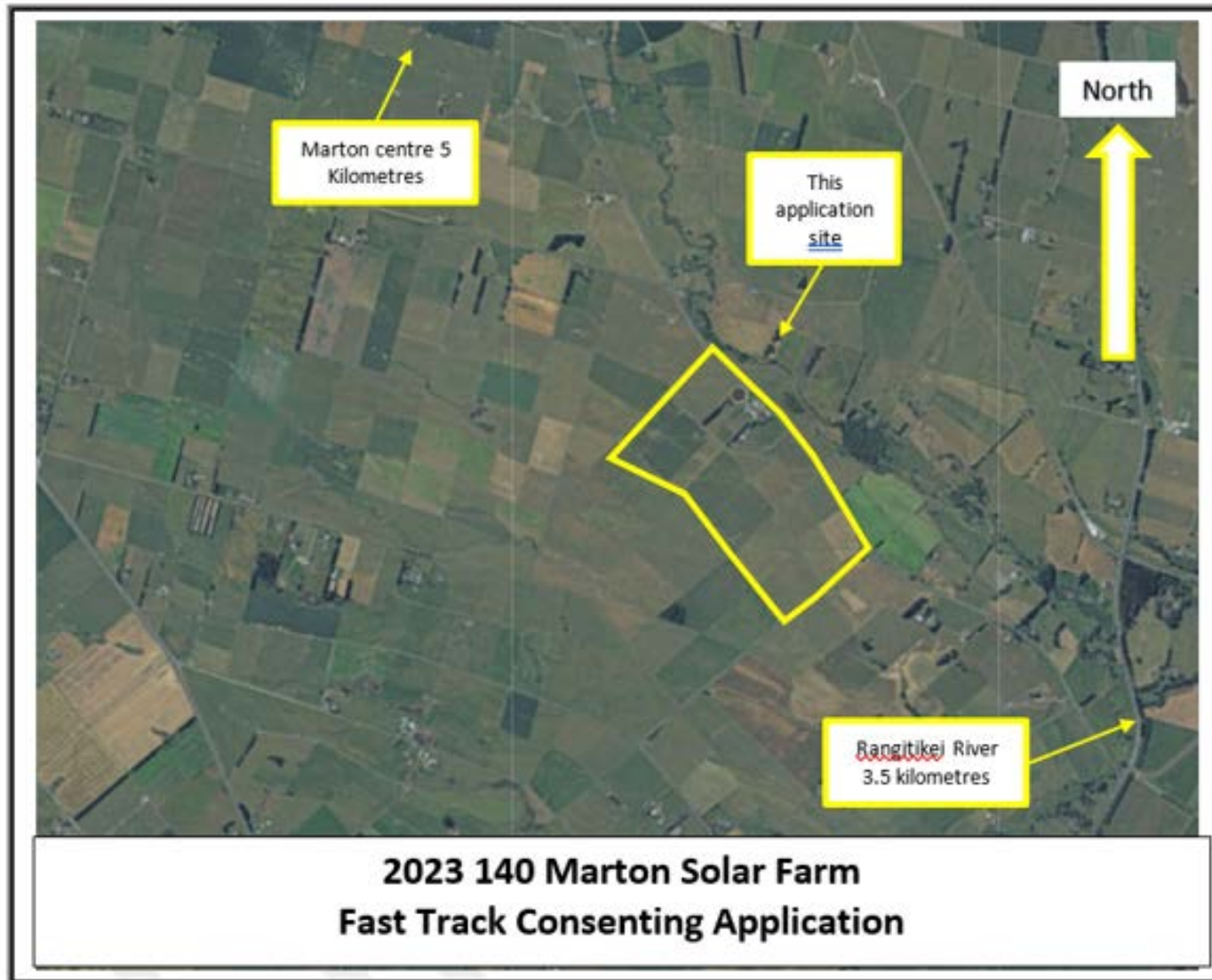
59. If a project is referred to a panel, the appointed panel must include one person nominated by the relevant iwi authorities under clause 3(2)(b) of Schedule 5 of the FTCA.
60. In the event iwi authorities nominate more than one person, the panel convener must decide which nominee to appoint. The panel convener has discretion to increase the panel membership to accommodate the matters specified in clauses 3(6)(a) – 3(6)(e) of Schedule 5 of the FTCA, which include matters unique to any relevant Treaty settlement Act.
61. A panel must invite comments on a resource consent application or notice of requirement for a referred project from the parties listed in clause 17(6) of Schedule 6 of the FTCA. This includes:
 - a. the relevant iwi authorities, including those identified in this report
 - b. a Treaty settlement entity relevant to the referred project, including an entity that has an interest under a Treaty settlement in an area where a referred project is to occur, and an entity identified in this report
 - c. any applicant group under the MACAA identified in the report obtained under section 17(1).
62. If you decide to refer, we have identified two relevant iwi authorities and two Treaty settlement entities for the proposed project, from whom a panel must invite comment.
63. We have identified one 'other' party who may have an interest in the project. We recommend you direct a panel under section 24(2)(e) of the FTCA to invite comment from each iwi if you decide to refer the project.
64. A panel may also invite comments from any other person it considers appropriate.

Provision of cultural impact assessment

65. Any resource consent application submitted to a panel for determination must include a cultural impact assessment prepared by or on behalf of the relevant iwi authorities, or a statement of any reasons given by the relevant iwi authorities for not providing that assessment.² The Environmental Protection Authority which provides support services to a panel, will not confirm an application as complete and ready for consideration by a panel until this requirement is satisfied.
66. There is more than one relevant iwi authority. The project applicant will need to engage with each to determine their requirements for a cultural impact assessment, including whether they wish to prepare one individually or jointly, or whether they may wish to defer to another iwi in respect of the matter. Relevant iwi authorities are listed in Attachment 2.

² Clause 9(5), 13(1)(k) and 13(1)(l) of Schedule 6 of the FTCA.

Attachment 1 – Project Location – Surrounding Area



Attachment 2 – Contact information

Iwi/hapū	Settlement documents / Status	Representative body	RMA relevant iwi authority	Treaty settlement entity (PSGE)	Other party	Contact person
Ngāti Apa	Ngāti Apa (North Island) Claims Settlement Act 2010	Ngā Wairiki-Ngāti Apa Charitable Trust	Iwi authority for RMA purposes			CEO: Grant Huwyler s 9(2)(a) cc: GM Environment – Chris Shenton s 9(2)(a)
		Te Rūnanga o Ngā Wairiki Ngāti Apa		Post-settlement governance entity		info@ngatiapa.iwi.nz
Ngāti Tūwharetoa	Ngāti Tūwharetoa Claims Settlement Act 2018	Tūwharetoa Māori Trust Board	Iwi authority for RMA purposes			Chair: John Bishara info@tuwharetoa.co.nz
		Te Kotahitanga o Ngāti Tūwharetoa		Post-settlement governance entity		Chair: Rakeipoho Taiaroa info@tst.maori.nz
Ngāti Raukawa		Te Runanga o Raukawa Incorporated			Other party may have an interest	CEO/RMA contact: Rārite Mātaki s 9(2)(a)

Attachment 3 – Planned Layout

