

Application 2020.028 Kapuni Green Hydrogen Project (Hiringa Energy Ltd & Ballance Agri-Nutrients Ltd)

To:	Required action:
Hon David Parker, Minister for the Environment	Consider this report prior to making a decision under section 24 of the Act

Ministry for the Environment contacts

Position	Name	Cell Phone	1 st Contact
Principal Author	Pip Lee		
Responsible Manager	Sara Clarke	s9(2)(a)	ü
Director	Keita Kohere	s9(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 Act).
2. To satisfy obligations under section 6 of the Act, you must consider this report before making a decision under section 24 of the Act on whether to refer a project to an expert consenting panel.

Proposed project

3. The applicant proposes to develop a renewable ('green') hydrogen hub at Kapuni, Taranaki. Electricity will be generated from four large wind turbines to be sited on a property known as the PKW Farm, to provide baseload power to the nearby Ballance Agri-Nutrients Kapuni ammonia-urea manufacturing plant and to produce hydrogen from water via electrolysis.
4. A location map is in Attachment 1.
5. Initially the resulting 'green' hydrogen will be used to produce ammonia and 'green' urea (nitrogen fertilizer) at the Ballance Kapuni plant. (The plant currently sources its hydrogen for use in ammonia and urea production from natural gas). It is proposed to transition over a 10-year period to use the 'green' hydrogen as a fuel for the transport sector as the hydrogen fuel market develops.

Essential information

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

Section of the Act	Information required	Detail
s17(3)(a)	Relevant iwi authority	Te Korowai o Ngāruahine Trust <i>Contact details are in Attachment 2</i>
s17(3)(b)	Relevant Treaty settlement	Ngāruahine Claims Settlement Act 2016
s17(3)(a)	Relevant Treaty settlement entity	Te Korowai o Ngāruahine Trust <i>Contact details are in Attachment 2</i>
s17(3)(c)	Relevant principles & provisions of the Treaty settlement	<i>See below</i>
s17(3)(d)	Negotiation mandates recognised by the Crown	None
s17(3)(d)	Current Treaty settlement negotiations	None directly relevant – but see text on Taranaki Maunga negotiations
s17(3)(e)	Court orders recognising customary marine title or protected customary rights under the Marine & Coastal Area (Takutai Moana) Act 2011	None, and the project does not affect the coastal marine area.

Supporting material

Proposed project

7. The proposed project area is at Kapuni, approximately 10 kilometres from the coast on the southern part of the volcanic ring plain that surrounds Mt Taranaki, in South Taranaki District.
8. The proposed works involve the following activities:
 - a. Installation of four wind turbines with up to 24 MW of generation capacity on the PKW Farm.
 - b. Construction and installation of an electrolysis plant and hydrogen production, storage and loadout infrastructure within the Ballance Kapuni plant site.
 - c. Installation of underground power cables and associated buildings and structures to convey electricity from the turbines to the Ballance Kapuni plant, and to allow excess power to be fed into the local distribution network. Currently there are two options for the connection route between the turbines and the plant – see Attachment 1.
9. The wind turbines will have a hub height of approximately 149 metres and a rotor diameter of 162 metres, resulting in an overall maximum height of approximately 230 metres. This would exceed the height of the New Plymouth Power Station chimney, which at 198 metres is the second tallest structure in New Zealand. In comparison, turbines at the Waipipi Wind Farm located between Waverley and Pātea are 160 metres high.

10. The applicant also advises that additional water needed for the project can be accommodated within the limits of existing water permits held by Ballance for take and use of water from the Waingongoro River (which lies outside the project area)¹ and the Kapuni Stream. A minor variation to the purpose of the permits, to allow the additional use of the water for the hydrogen plant, was granted by the Taranaki Regional Council on 15 January 2021.
11. Parts of the project area where the turbines and underground cables are to be sited are Māori freehold land – see Attachment 1. The applicant advises that it will have an agreement with the owners of this land and the remainder of the PKW Farm site (the Proprietors of Parinihinihi ki Waitotara Block) to establish and operate the proposed infrastructure.
12. Te Aroha o Tītokowaru (also known as Ōkaiawa) Marae located at 404 Inaha Rd, lies approximately 2 kilometres southeast of the proposed turbine site - see Attachment 3. The principal hapū associated with the marae is Ngāti Manuhiakai of the iwi Ngāruahine.
13. No parts of the proposed project will occur in the coastal marine area, meaning it is unaffected by the provisions of the Marine & Coastal Area (Takutai Moana) Act 2011 (MACAA). You are therefore the sole party required to consider this report.

Iwi and iwi authorities

Information sources

14. Under section 7(1) of the Act, 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.
15. The Act does not define iwi authority, so under section 7(2) of the Act, it 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.
16. To identify the relevant iwi authorities for RMA purposes, information was sourced from:
 - a. The Iwi Areas of Interest viewer, an online application managed by the Ministry of Māori Development - Te Puni Kōkiri
 - b. Te Kāhui Māngai (TKM), an online directory of iwi and Māori organisations maintained by the Ministry of Māori Development - Te Puni Kōkiri
 - c. Ministry for the Environment
 - d. South Taranaki District Council and Taranaki Regional Council, as the relevant local authorities.

Iwi authorities relevant to project

17. The Te Puni Kōkiri websites identify Ngāruahine to be the relevant iwi for the project area. South Taranaki District Council and the Taranaki Regional Council also advised, in their responses to your invitation to comment under section 21, that they consider Ngāruahine to be the relevant iwi.
18. The TKM website identifies Te Korowai o Ngāruahine Trust as the iwi authority representing Ngāruahine RMA interests.

¹ Refer to the second map in Attachment 5 for the location of the Waingongoro River in relation to the project area.

Treaty settlement and Treaty settlement entity

19. Information from the first two sources listed in paragraph 16, the [NZ Government Treaty settlements website](#), and the Office for Māori Crown Relations – Te Arawhiti was used to identify relevant Treaty settlements and any associated Treaty settlement entities of relevance to the proposed project.

Relevant Treaty settlement

20. The Treaty settlement with Ngāruahine is the only settlement of direct relevance to the proposed project area. It applies to the area of interest shown in Attachment 4.
21. Ngāruahine, the Trustees of Te Korowai o Ngāruahine Trust and the Crown signed a deed of settlement on 1 August 2014. An amendment deed was signed on 6 November 2014 and a second amendment deed was signed on 5 April 2016.
22. Legislation to enact the settlement is contained in the [Ngāruahine Claims Settlement Act 2016](#). The [deeds](#), [accompanying documents](#) and a [settlement summary](#) are located on the NZ Government Treaty settlement website.

Relevant Treaty settlement entity

23. Under the Act, a Treaty settlement entity includes a post-settlement governance entity, which is 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.
24. Te Korowai o Ngāruahine Trust is the post-settlement governance entity for the Ngāruahine settlement.
25. A Treaty settlement entity is also defined for the purposes of the Act as including a board, trust, committee, authority, or other body, recognised in, or established under a Treaty settlement Act. The Ngāruahine Claims Settlement Act 2016 did not establish any such entities.

Relevant principles and provisions of the Ngāruahine Treaty settlement

Crown acknowledgements and apologies

26. The Crown offers an apology as part of Treaty settlement redress in order to atone for historical wrongs, restore its honour, and begin the process of healing.
27. As part of the apology in the Ngāruahine Claims Settlement Act 2016, the Crown says it is sorry for the immense prejudice it caused by confiscating land that had sustained Ngāruahine tūpuna for centuries. The raupatu was indiscriminate, unjust, and unconscionable. The Crown deeply regrets the serious damage its actions have caused to Ngāruahine and its people.
28. It also says that for generations the Crown has failed to live up to its obligations to Ngāruahine under the Treaty of Waitangi. The effects of its actions have damaged their autonomy, cultural and spiritual heritage, and ability to exercise customary rights and responsibilities.
29. The Crown solemnly apologises to Ngāruahine for all its breaches of the Treaty of Waitangi and its principles. It hopes the settlement and apology will relieve the burden of grievance that Ngāruahine has carried for so many years and will assist Ngāruahine to heal the wounds of the past.
30. It also looks forward to building a relationship of mutual trust and co-operation with Ngāruahine founded on respect for the Treaty of Waitangi and its principles.

Cultural redress

31. Cultural redress is intended to restore and strengthen an iwi's traditional, historical and spiritual connection with its traditional lands and resources, and provide for the exercise of rangatiratanga and kaitiakitanga over them – sometimes exclusively and sometimes in conjunction with others.

Tupuna Koro o Taranaki

32. In the opening paragraphs of the cultural redress section of the Ngāruahine deed of settlement, Ngāruahine and the Crown acknowledged that Tupuna Koro o Taranaki (Mt Taranaki) is of great traditional, cultural, historical and spiritual importance to iwi of Taranaki.
33. The Ngāruahine settlement does not provide an apology or any cultural redress from the Crown in relation to any of the historical claims relating to Tupuna Koro o Taranaki. It provides for the trustees of Te Korowai o Ngāruahine Trust and the Crown, as soon as practical, to work together with the mandated representatives of other iwi of Taranaki to develop an apology and cultural redress in relation to their respective historical Treaty claims relating to Tupuna Koro o Taranaki. The guarantee of negotiations to provide redress at a later point is a form of redress that is considered to conditionally settle the historical claims of Ngāruahine relating to Mt Taranaki.

Significant sites

34. Two cultural redress properties lie approximately 3 kilometres northeast of the proposed turbines, as shown in Attachment 1:
- a. Te Ngutu o te Manu site A, which was vested in the trustees of Te Korowai o Ngāruahine Trust as a historic reserve, with the trustees as the administering body
 - b. Te Ngutu o te Manu site B, currently a recreation reserve owned by South Taranaki District Council. The deed of settlement notes the trustees of Te Korowai o Ngāruahine Trust and the council intend negotiate purchase of the site by the trustees.
35. Te Ngutu o te Manu, or 'the beak of the bird' was a principal Ngāruahine settlement associated with the chief Titokowaru, and the locality was a scene of clashes between Māori and colonial forces in Taranaki during the 1860s. A more detailed historical account is included in the deed of settlement.

Statements of association with streams

36. Statements of association by Ngāruahine of their particular cultural, spiritual, historical and traditional association with 51 streams, tributaries and marginal strips are contained in the deed of settlement.² Two such waterways affected by the proposed project are the Kapuni and Waiokura Streams. As shown in Attachments 1 and 5, tributaries of Waiokura Stream cross the PKW Farm, and tributaries of Kapuni Stream cross both the PKW Farm and the Ballance plant site.
37. The Kapuni Stream and its tributaries lie within the takiwā of the Ngāruahine hapū Ngāti Manuhiakai, while the takiwā of another hapū – Ngāti Tū – includes the Waiokura Stream and its tributaries.
38. The statements of association indicate (among other things) that:

² Part 2 of the [Ngāruahine deed of settlement - documents schedule](#)

- a. the wai that flows through these awa symbolises the link between the past and the present. Each awa has its own mauri and wairua which connect the hapū with the river and the spiritual world. They are significant taonga that provide both physical and spiritual sustenance.
 - b. through their cultural, spiritual, traditional and historic associations with the rivers and their environs, and associated land, flora and fauna, the hapū have a responsibility as kaitiaki in accordance with their kawa and tikanga to restore, protect and manage all those natural and historic resources and sites. This relationship is as important to present day whānau as it was to their tupuna. The continued recognition of the hapū, their identity, traditions and status as kaitiaki is entwined with the rivers in their rohe and associated lands and resources.
39. The settlement legislation provided the Crown's acknowledgement of these statements of association (a statutory acknowledgement) and provided for its use in certain situations:
- a. relevant consent authorities, the Environment Court and Heritage New Zealand Pouhere Taonga must have regard to the acknowledgement in certain decision-making situations
 - b. consent authorities must provide notices of resource consent applications affecting statutory areas to Te Korowai o Ngāruahine Trust
 - c. the trustees and any member of Ngāruahine can cite the statutory acknowledgement as evidence of the association of Ngāruahine with a statutory area before the relevant consent authorities, the Environment Court, Heritage New Zealand Pouhere Taonga or the Environmental Protection Authority (EPA) or a board of inquiry under Part 6AA of the RMA.
40. Despite these limitations, Part 2 section 6(e) of the RMA deems cultural associations with ancestral lands, water, sites, wāhi tapu, and other taonga to be matters of national importance that must be recognised and provided for by all persons exercising functions and powers under the RMA.

Kaitiaki plan

41. The settlement made provision for Ngāruahine to prepare a kaitiaki plan for the kaitiaki area shown in Attachment 4, identifying for that area:
- a. the Ngāruahine values and principles
 - b. resource management issues of significance to Ngāruahine.
42. The kaitiaki plan may be lodged with the relevant local authorities, which must do the following when reviewing or preparing a policy statement or plan:
- a. take it into account, to the extent that it is relevant to resource management issues within their jurisdiction,
 - b. include the statement of the resource management issues of significance to Ngāruahine
 - c. refer to the kaitiaki plan in an evaluation of the proposed statement plan under section 32 of the RMA.
43. Ngāruahine may also lodge the kaitiaki plan with any government department which has a role in the management of land and natural resources in the kaitiaki area, and that department may have regard to the kaitiaki plan when exercising powers and functions within the kaitiaki area that relate to the purpose of the kaitiaki plan.

44. We are not aware that any kaitiaki plan has yet been lodged with either the relevant local authorities or any government department.

Other settlement redress

45. The settlement did not create any new co-governance or co-management processes which would affect decision-making under the RMA for this application.
46. Commercial redress under the settlement included opportunities to purchase certain Crown properties under a deferred selection process for a period of up to two years from the settlement date. Additionally, Ngāruahine was granted a right of first refusal over specified Crown land within a defined Ngāruahine exclusive area of interest for a period of 172 years, and a shared area right of first refusal with Taranaki iwi within a shared area of interest.³
47. Although the Ngāruahine exclusive area of interest includes the proposed project area, no land within or adjacent to the area is affected by these provisions.

Current negotiation mandates and settlement negotiations

48. 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 area.
49. However, the Crown is currently in collective negotiations with Ngā Iwi o Taranaki (comprising Ngāruahine along with Ngāa Rauru Kītahi, Ngāti Ruanui, Taranaki Iwi, Te Atiawa, Ngāti Mutunga, Ngāti Tama and Ngāti Maru) to provide an apology and cultural redress in relation to Mt Taranaki, the Pouākai and Kaitake ranges (collectively referred to as Ngā Maunga). This redress forms part of the settlements of historical Treaty claims with each of the iwi.
50. The proposed redress, outlined in [Te Anga Putakerongo - Record of Understanding](#) signed by the Crown and Ngā Iwi o Taranaki on 20 Dec 2017, is confined to the parts of Ngā Maunga lying within the Egmont National Park, however it should be noted that this does not represent the limits of Ngā Iwi interest in the maunga.
51. In particular, Ngā Iwi o Taranaki view of Ngā Maunga as a living being, which encompasses all of their physical and metaphysical elements from the peaks through to all of the surrounding environs. This is explained further in Part 1 of the document.

Details in this report affect certain provisions of the Act

Notices of referral decision

52. Under section 25 of the Act, you must give notice of your decisions on an application for referral, and the reasons for them, to the applicant and anyone invited to comment under section 21 of the Act.
53. You invited the iwi authority, Te Korowai o Ngāruahine Trust and two local Ngāruahine hapū: Ngāti Manuhiakai and Ngāti Tū to comment on this application. Contact details are in Attachment 2.

³ These areas are shown in Pts 3 and 4 of the [Attachments to Ngāruahine deed of settlement 1 Aug 2014](#) respectively.

54. Additionally, if your decision is to refer this project to an expert consenting panel, the notices of decision and reasons must also be given to:
- a. the relevant 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.
55. Te Korowai o Ngāruahine Trust is the relevant Treaty settlement entity for this application.
56. On account of the potential significance of the project's effects on Mt Taranaki, and in addition to the groups named above, the Minister for Māori Crown Relations has also requested notices of your decision be given to Ngāti Ruanui, the iwi whose rohe adjoins that of Ngāruahine. The Minister of Treaty of Waitangi Negotiations has requested that the notice of decision also be given to the Taranaki Māori Trust Board, as the representative body for Taranaki iwi collectively.
57. There are no relevant joint management agreements or Mana Whakahono ā Rohe to consider.

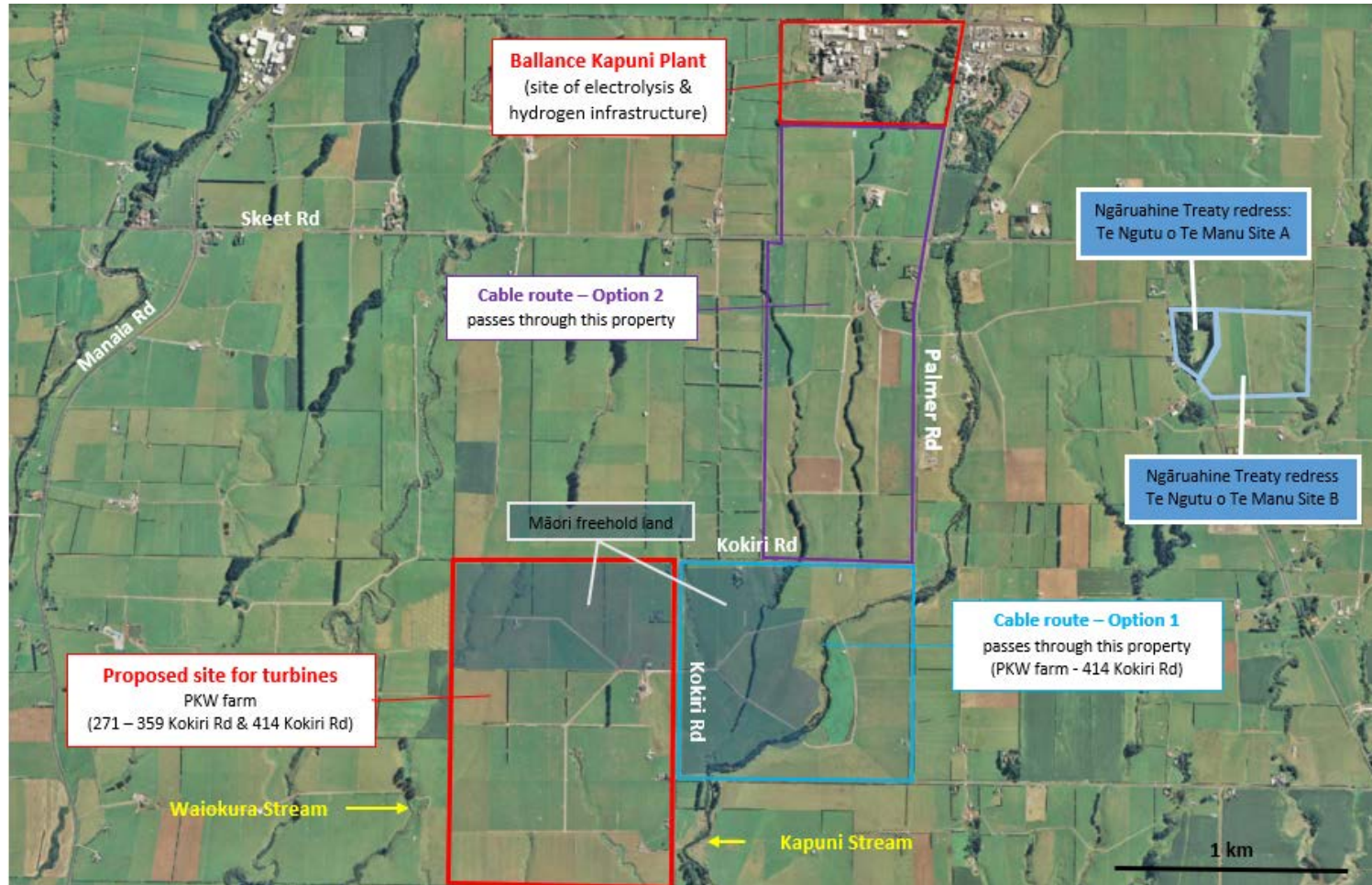
Expert consenting panel membership

58. If a project is referred to an expert consenting panel, the appointed panel must include one person nominated by the relevant iwi authorities under clause 3(2)(b) of Schedule 5 of the Act.
59. 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 clause 3(6)(a) – 3(6)(e), which include matters unique to any relevant Treaty settlement Act.
60. Te Korowai o Ngāruahine Trust is the relevant iwi authority. Contact details are in Attachment 2.

Panel invitations to comment

61. An expert consenting panel must invite comments on a consent application or notice of requirement for a referred project from the parties listed in clause 17(6) of Schedule 6 of the Act. 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.
62. Te Korowai o Ngāruahine Trust is the relevant iwi authority and Treaty settlement entity.
63. A panel may also invite comments from any other person it considers appropriate.
64. Te Korowai o Ngāruahine Trust advised, in comments provided under section 21 (3), that all hapū of Ngāruahine should be considered potentially affected by the proposal. We consider it would be appropriate for a panel to seek comments from all Ngāruahine hapū.
65. The Minister for Māori Crown Relations requested that a panel be required to invite comments from hapū and also Ngāti Ruanui, the iwi whose rohe adjoins that of Ngāruahine, and which may also be affected by the proposed project. The Minister of Treaty of Waitangi Negotiations requested that a panel be required to invite comments from the Taranaki Māori Trust Board, as the representative body for Taranaki iwi collectively.

Attachment 1 – Project location

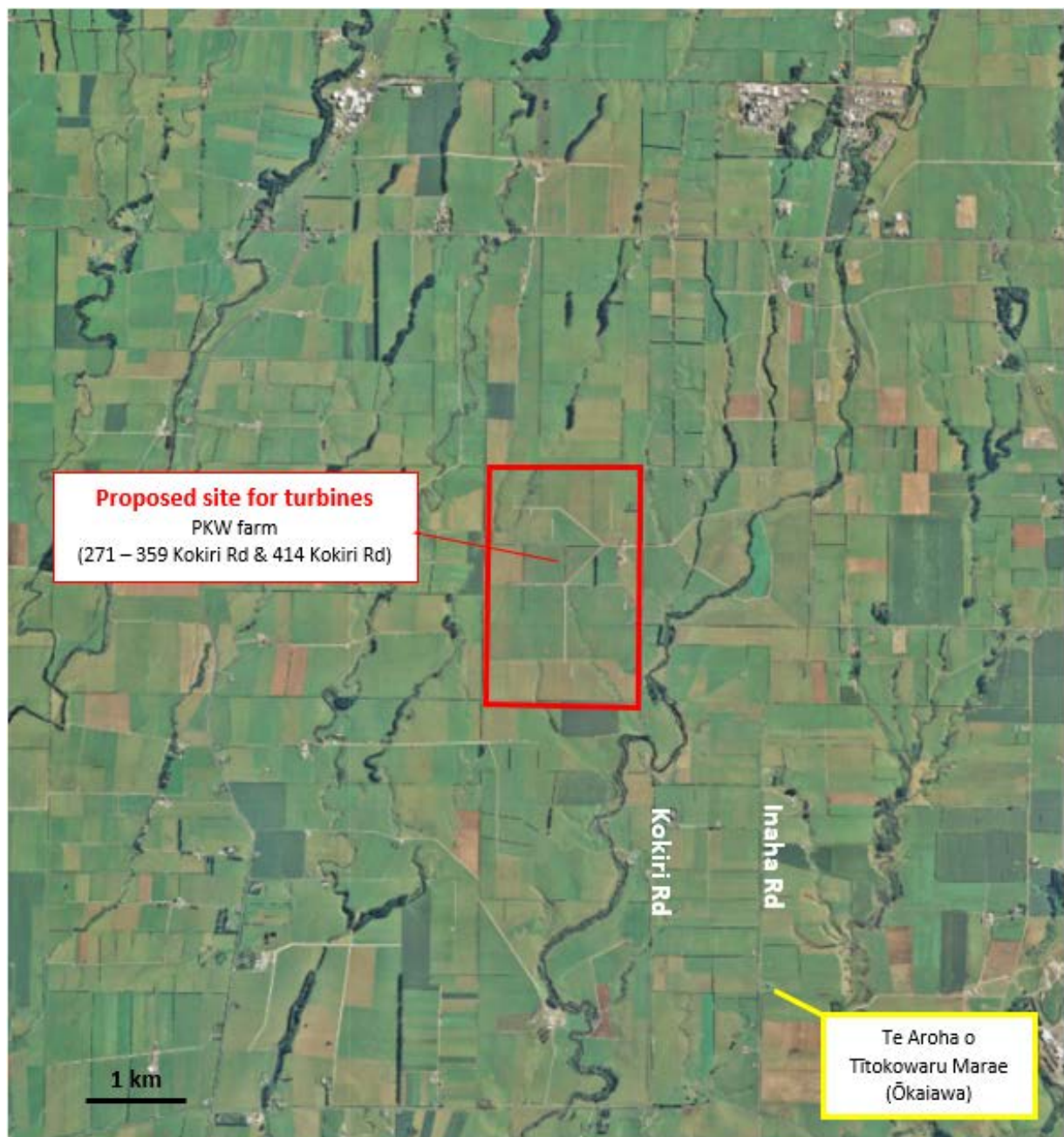


Attachment 2 - Contact information

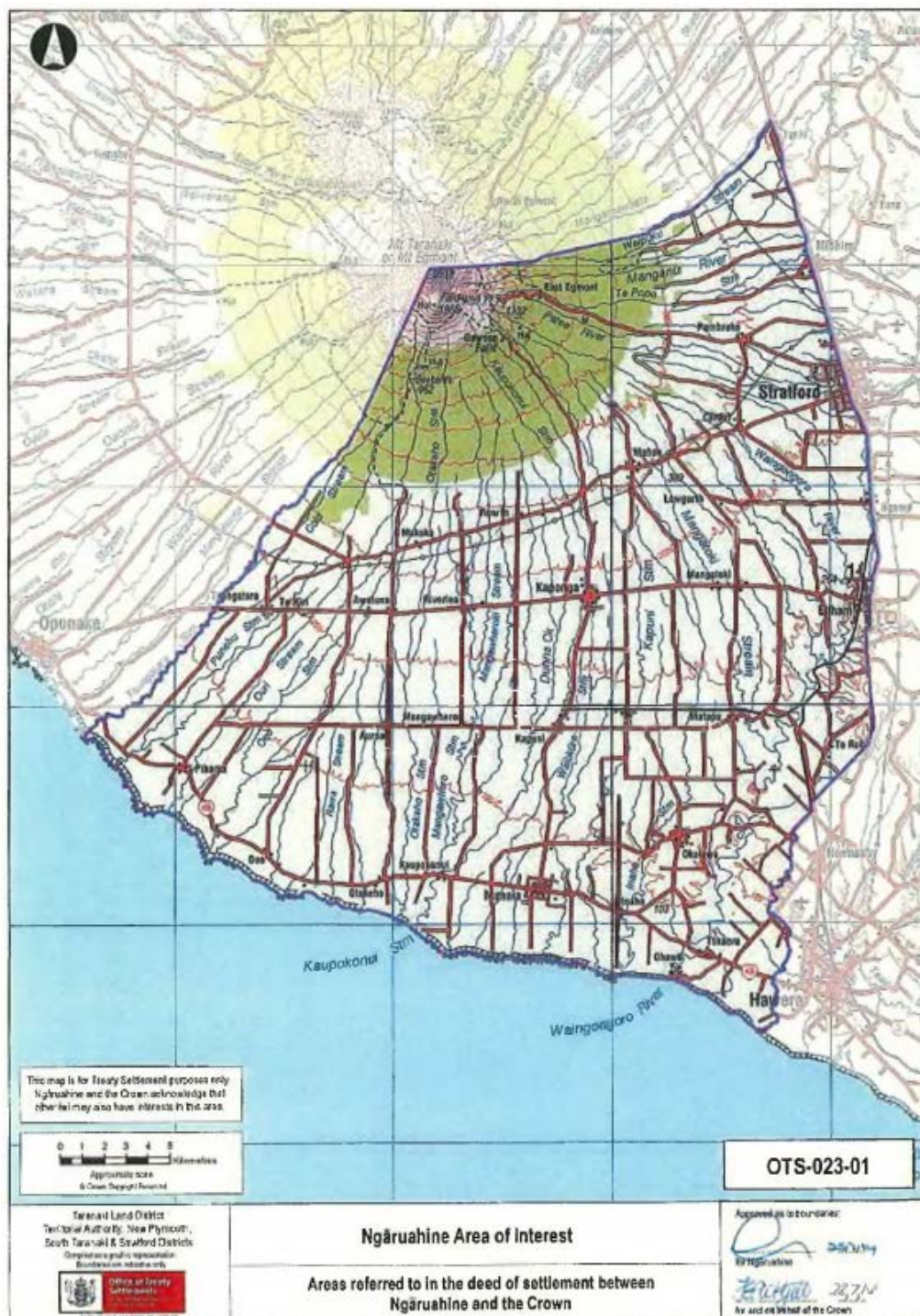
Iwi/hapū	Representative body	Contact details	Treaty settlement entity	RMA Iwi authority	Other	Contact person	Copies to
Ngāruahine	Te Korowai o Ngāruahine Trust	P O Box 474 Hāwera 4640	Post-settlement governance entity under the Ngāruahine Claims Settlement Act 2016	Represents Ngāruahine as an iwi authority for RMA purposes		General Manager: Allie Hemara-Wahanui office@ngaruahine.iwi.nz	Poutātari Kaupapa Taiao: Bart Jansma policy@ngaruahine.iwi.nz
	Ngāti Tū	Waiokura Marae 27 Winks Road Manaia 4678			hapū	Chair: Hori Manuirangi s9(2)(a)	
	Ngāti Manuhiakai	Te Aroha o Titokowaru Marae 404 Upper Inaha Road, Ōkaiawa			hapū	Chair: Ferinica Foreman s9(2)(a)	
	Kanihi Umutahi	Kānihi-Mātawhitiwhiti Pā 7 Omahuru Road, Ōkaiawa			hapū	Hapū Secretary: Allen Webb kanihisecretary@kanihiumutahi.co.nz Pātaka Kaitiaki: Ivy Kearney s9(2)(a)	
	Ngāti Haua	Tāwhitinui Pā 2453 South Road, Ōtakeho			hapū	Pātaka Kaitiaki: Cilla Rei s9(2)(a)	
	Ngāti Tamaahuroa-Titahi	Oeo Pā 2862 South Road, Ōtakeho			hapū	Hapū Secretary: Caroline Scott s9(2)(a)	
	Ōkahu-Inuawai	Aotearoa Pā 63 Hastings Road. Ōkaiawa, 4671			hapū	Hapū Secretary: Renee Wright s9(2)(a)	
Ngā Iwi o Taranaki	Taranaki Māori Trust Board	PO Box 8136 New Plymouth, New Zealand				Chair: Wharehoka Wano s9(2)(a)	

Ngāti Ruanui	Te Runanga o Ngāti Ruanui Trust	PO Box 594, Hāwera 4640		Represents Ngāruahine as an iwi authority for RMA purposes		Tumu Whakaae: Haimona Maruera Jnr office@ruanui.co.nz	RMA Contact: Graham Young s9(2)(a)
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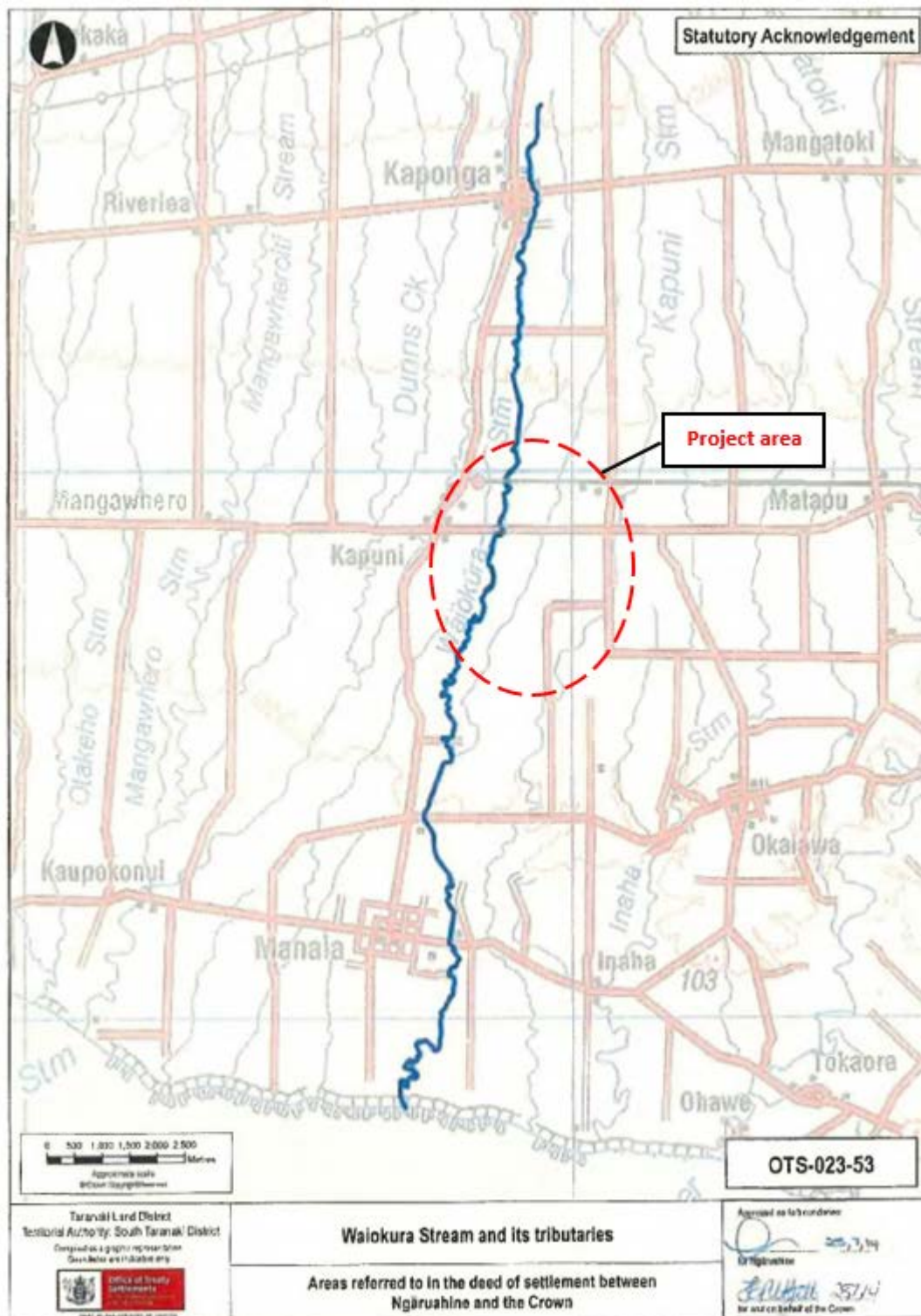
Attachment 3 – Location of Te Aroha o Tītokowaru Marae

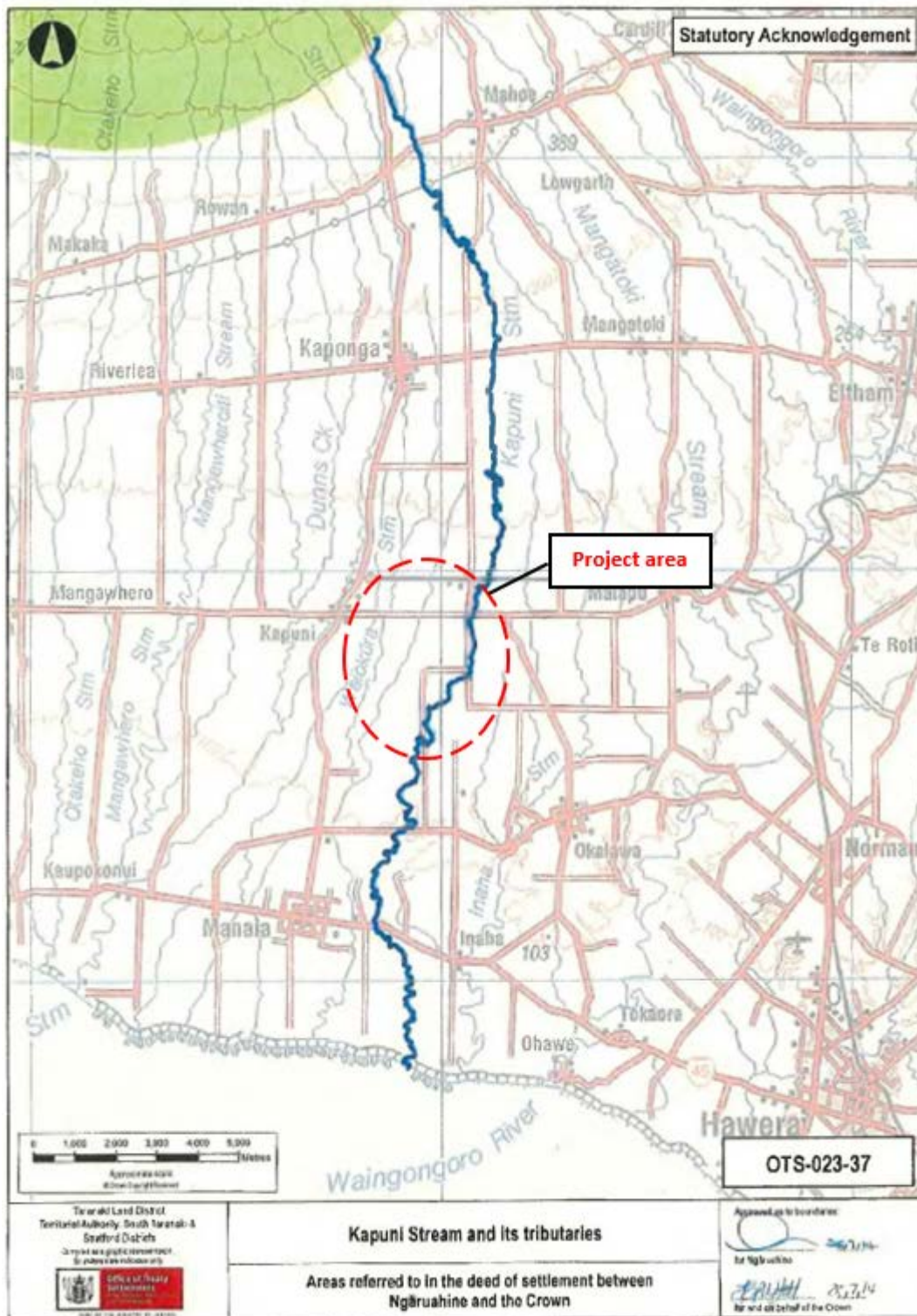


Attachment 4 – Ngāruahine Area of Interest & Kaitiaki Area



Attachment 5 – Statutory Acknowledgement areas





Source: Pt 2.3 of Attachments to Ngāruahine deed of settlement 1 Aug 2014