

Section 4: Iwi authorities and Treaty settlements

What treaty settlements apply to the geographical location of the project?

Relevant Deeds of Settlement and principles are:

Port Nicholson Block (Taranaki Whānui ki te Upoko o te Ika) Claims Settlement Act 2009.

This settled historical claims by Taranaki Whānui ki te Upoko o te Ika against the Crown. This is for statutory acknowledgement between the Crown and Taranaki Whānui ki Te Upoko o Te Ika in relation to historical claims, the Deed provides full and final settlement of historic claims, an apology by the Crown, and cultural redress including:

- protocols to be issued to the trustees by the Minister of Conservation, the Minister of Fisheries, and the Minister for Arts, Culture and Heritage;
- an acknowledgement by the Crown of the statements made by Taranaki Whānui ki Te Upoko o Te Ika of their cultural, spiritual, historical, and traditional association with 13 statutory areas, and the effect of that acknowledgement;
- a deed of recognition between the Crown and the trustees;
- the vesting in the trustees of the fee simple estate in 18 cultural redress properties and subsequent management arrangements in relation to the 2 sites that are lakebed and esplanade land and the 7 reserve sites (including the 4 Harbour Islands reserves);
- the alteration of place names.

Part 3 provides for commercial redress, including the transfer of deferred selection properties to the trustees to give effect to the deed of settlement; and a right of first refusal in relation to RFR land that may be exercised by the trustees. There are 4 schedules that—

- describe the 13 statutory areas to which the statutory acknowledgement relates. *The Hutt River is listed as a relevant statutory acknowledgement area for the proposal.*
- Schedule 2 describes the 18 cultural redress properties *(none are relevant to the project site).*
- set out provisions relating to the Harbour Islands Kaitiaki Board *(not relevant to the project site).*
- set out provisions that apply to notices given in relation to RFR land. *(not applicable to any of the project land).*

The following are relevant to the current proposal:

The cultural redress provided in the Deed of settlement, at Part 2 of the documents scheduled to the Deed of Settlement includes an acknowledgement of the statement of association of the historic and cultural importance of the Hutt River. That acknowledgement says:

Hutt River

Te Awakairangi is the oldest name for the Hutt River attributed to the Polynesian explorer Kupe. It was also known as Heretaunga in a later period. The origins of the streams flowing to Awakairangi are high in the Tararua Range. The stream and rivers lead down through Pakuratahi at the head of the Hutt Valley. Taranaki Whānui ki Te Upoko o Te Ika had interests at Pakuratahi. The trail linking Te Whanganui a Tara and the Wairarapa came through Pakuratahi and over the Rimutaka Range. Prior to the 1855 uplift Te Awakairangi was navigable by waka up to Pakuratahi and the river was navigable by European ships almost to Whirinaki (Silverstream).

Taranaki Whānui ki Te Upoko o Te Ika travelled in the Hutt Valley largely by waka. There were few trails through the heavy forest of the valley. Many Taranaki Whānui ki Te Upoko o Te Ika Kainga and Pā were close to the river including at Haukaretu (Maoribank), Whakataka Pā (which was across the bank from what is now Te Marua), Mawaihakona (Wallaceville), Whirinaki, Motutawa Pā (Avalon), Maraenuku Pā (Boulcott), Paetutu Pā and at the mouth of the river, Hikoikoi Pā to the west and Waiwhetu Pā (Owhiti) to the east.

Te Awakairangi linked the settlements as well as being a food supply for the pā and kainga along the river. Mahinga kai were found along the river such as Te Momi (Petone) which was a wetland that held abundant resources of birds, tuna and other food sources. The river ranged across the valley floor and changed course several times leaving rich garden sites. Waka were carved from forest trees felled for that purpose close to the river.

Section 31 of the corresponding statute, defines what is meant by river or stream broadly, including continuous or intermittently flowing water courses – but does not include tributaries. *The proposal is in the catchment of the Hutt River.*

Relevant Consent authorities, the Environment Court, Heritage New Zealand Pouhere Taonga and Ministers must have regard to this statutory acknowledgement. (section 24,25,26,27) and are required to forward summaries of resource consent applications to the Trustees for activities within, adjacent to or directly affecting a statutory area (section 29) for consideration and comment.

The Department of Conservation has a Protocol (*Protocol Issued by the Crown through the Minister of Conservation regarding Department of Conservation / Taranaki / Whanui ki te Ika Interaction in specified issues* (31 August 2009) in place under this Act, which governs its interaction with Taranaki Whānui, which acknowledges their kaitiakitanga in the Wellington Area, confirms the principles of the Treaty provide the basis for an ongoing relationship between the parties.

Ngati Toa Rangitira Claims Settlement Act 2014.

The Act (reflects the Deed of settlement)

- summarises the historical account from the deed of settlement and records the acknowledgements and the apology given by the Crown in the deed;
- provides that the settlement of the historical claims is final.

Part 2 provides for cultural redress, including—

- (a) a statutory acknowledgement by the Crown of the statements made by Ngati Toa Rangatira of their cultural, spiritual, historical, and traditional associations with certain statutory areas; and
- (b) provision for deeds of recognition issued by the Crown to the trustee of the Toa Rangatira Trust; and
- (c) the application of a nga paihau to certain nga paihau sites by the Crown's acknowledgement of the values of Ngati Toa Rangatira in relation to the relevant sites; and
- (d) the vesting of cultural redress properties in the trustee of the Toa Rangatira Trust, in some cases jointly with the trustees of trusts for iwi under related settlements; and
- (e) the alteration and assignment of names for certain geographic features; and
- (f) the delayed vesting of the balance of Mana Island in the trustee of the Toa Rangatira Trust, and the vesting of the site back to the Crown as a gift from the trustee; and
- (g) the vesting of 3 sites on Kapiti Island in the trustee of the Toa Rangatira Trust on various terms (one of which involves a vesting back to the Crown), and the establishment of a strategic advisory committee to perform functions in relation to parts of Kapiti Island; and
- (h) provision for the trustee of the Toa Rangatira Trust to prepare and lodge a poutiaki plan with certain councils; and
- (i) the establishment of a joint board to administer Whitireia Recreation Reserve and 2 additional reserves; and
- (j) the appointment of the trustee of the Toa Rangatira Trust as the administering body of a Queen Elizabeth Park campground site; and
- (k) the establishment of an iwi advisory committee to provide advice on the management of rivers and fresh water within the regions of certain councils, with members appointed by the trustees of the Toa Rangatira Trust and the related settlement trusts.

Part 3 provides for commercial redress, including—

- (a) authorisation for the transfer of commercial redress properties (including the licensed properties), commercial properties, and deferred selection properties to the trustee of the Toa Rangatira Trust to give effect to the deed of settlement; and
- (b) provision for a right of access to certain protected sites on the licensed properties; and
- (c) a right of first refusal in relation to RFR land that may be exercised by the trustee of the Toa Rangatira Trust (and, in some cases, the trustees of the related settlement trusts).

There are 5 schedules, as follows:

- Schedule 1 describes the statutory areas to which the statutory acknowledgement relates and, in some cases, for which deeds of recognition are issued:
- Schedule 2 describes the nga paihau sites to which the nga paihau applies:
- Schedule 3 describes the cultural redress properties:
- Schedule 4 describes the properties to which the Kapiti Island redress relates:
- Schedule 5 sets out provisions that apply to notices given in relation to RFR land.

Cultural redress is provided in the Deed and corresponding statute, by including statutory acknowledgement of statement of association by Ngati Toa Rangatira, including a Ngati Toa Rangatira as to the cultural and historic importance of the of Hutt River and its tributaries as a statutory area. This is set out below:

Hutt River and its tributaries (as shown on deed plan OTS-068-45);

The Hutt River (Te Awa Kairangi) is of historical and cultural importance to Ngati Toa Rangatira. The iwi claim an association with the Hutt River from the time of their participation in the invasion of the Hutt Valley during 1819 and 1820.

During that campaign, the taua marched around the western side of Te Whanganui a Tara, defeating the local iwi as they went. When the war party reached the Hutt River, they constructed rafts which they used to aid them in their invasion of the Hutt Valley.

Although Ngati Toa Rangatira did not remain in the area after this invasion, the Hutt River continued to be important to the iwi following their permanent migration and settlement in the lower North Island in the late 1820s and early 1830s. The relationship of Ngati Toa Rangatira to the Hutt Valley and River was not one defined by concentrated settlement and physical presence. Rather, the iwi felt their claim to the land was strong based on the powerful

leadership of Te Rauparaha and Te Rangihaeata and the relationship they had with iwi residing in the Hutt Valley who had been placed there by Ngati Toa in the 1830s. For some years these iwi in the Hutt Valley paid tribute of goods such as canoes, eels and birds to Te Rauparaha and Te Rangihaeata.

Ngati Toa Rangatira have a strong historical connection with the Hutt River and its tributaries, and the iwi consider that the river is included within their extended rohe and it is an important symbol of their interests in the Harataunga area.

Te Awa Kairangi was traditionally an area for gathering piharau, or the freshwater blind eel, as well as tuna (eel) from its tributaries. Harataunga also supported flax plantations, which were used by early Maori for trading with settlers. The River was also of great importance as it was the largest source of freshwater in the area.

The river was also an important transport route, and small waka were used along the length of Te Awa Kairangi.

Under s25 of the Statute the Crown acknowledges Ngati Toa Rangatira's statement of association with the Hutt River and its Tributaries.

Relevant consent authorities, the Environment Court and Heritage New Zealand Pouhere Tonga are to have regard to the statutory acknowledgement (section 26, 28 and 29). Consent authorities must also do so when deciding whether the trustee of Ngati Toa Rangatira is an affected person in relation to resource consent applications under the RMA (Section 27).

UHCC and GWRC must, under s20 of the Act, provide Ngati Toa Rangatira's Trustee with resource consent applications for activities within their statutory area, prior to the consent authority making a notification decision.

Section 35 confirms that the statutory acknowledgement to the Hutt River and its Tributaries applies both to a river or stream, including continuous or intermittently flowing body of water that comprises of the river or stream.

Greater Wellington Regional Council has a Memorandum of Partnership in place with the region's iwi. The key terms are:

- The relationship between Council and Tangata Whenua will be based on good faith, cooperation and understanding;
- There is a commitment to work towards solutions with honesty of purpose and reasonableness.
- Ara Tahi is a collective forum of iwi and Council representatives which provides both a forum and opportunity for collective discussion and action on matters of strategic significance to the region with oversight of matters pertaining to partnership between tangata whenua and the Council.

Upper Hutt City Council has a Memorandum of Partnership with Wellington's Tenth Trust and Palmerston North Māori Reserve Trust which refers to the Port Nicholson Block (Taranaki Whanui ki te Upoko Te Ika) Claims Settlement Act 2009 sets out the basis of a partnership and acknowledges the special association mana whenua has to the Hutt River.

Impact on the proposal

The GTC project site is within the catchment of the Hutt River and contains intermittent and continuous streams that are tributaries to the Hutt River, which are subject to the statutory acknowledgements in both Settlement Acts and Deeds set out above. The site is also in the Statutory Area of Ngati Toa Rangatira and Taranaki Whanūi ki te Upoko o te Ika.

Both the Deed and Act acknowledge the role of the Trustees in terms of consultation and decision making under the RMA. The Policy framework under the RMA, FTA Bill, Reserves Act 1977, Local Government Act 2002 and both the relevant Upper Hutt City Council district and Greater Wellington RPS, NPS and Regional Plans all anticipate consultation with and consideration of the views of mana whenua as an important part of the decision-making framework. GTC is committed to undertaking that process with mana whenua.

In terms of any obligation to offer the land back, Kiln Street and the Southern Growth Area are privately held in freehold title by GTC (as such, no offer back obligations arise).

The Spur land in freehold title owned by UHCC, is not Crown land. It is not listed as a redress site in the schedule to either Deed, and does not appear to come within the definition of Right of First Refusal land under either Settlement.