

## Application 2020.029 Port of Tauranga Stella Passage Wharves & Dredging Project (Port of Tauranga Ltd)

| To:  | Required action:   |
|--|--|
| Hon David Parker, Minister for the Environment | Consider this report prior to making a decision jointly with the Minister of Conservation under section 24 of the FTCA     |
| Hon Kiri Allan, Minister of Conservation       | Consider this report prior to making a decision jointly with the Minister for the Environment under section 24 of the FTCA |

### Ministry for the Environment contacts

| Position            | Name         | Cell Phone | 1 <sup>st</sup> Contact |
|---------------------|--------------|------------|-------------------------|
| Principal Author    | Pip Lee      |            |                         |
| Responsible Manager | Sara Clarke  | s9(2)(a)   | ū                       |
| 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 FTCA).
2. To satisfy obligations under section 6 of the FTCA, you must both consider this report before making a decision jointly under section 24 of the FTCA on whether to refer the proposed project to an expert consenting panel.

### Proposed project

3. The applicant proposes to extend the existing Sulphur Point and Mount Maunganui wharves and dredge the access channel in the Stella Passage at the Port of Tauranga, to accommodate growth in cargo and vessel sizes.
4. In particular, the applicant advises extending the length of the wharves will allow the existing terminal facilities to handle more containerised cargo and enable the full potential of the land and facilities adjacent to the wharves to be realised. A location map is in Attachment 1.

## Essential information

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

| Section of the FTCA | Information required  | Detail  |
|---------------------|---|---|
| s17(3)(a)           | Relevant iwi authorities  | <p>Te Rūnanga o Ngāi Te Rangi Iwi Trust<br/>           Ngā Hapū o Ngāti Ranginui Settlement Trust<br/>           Ngāti Ranginui Iwi Society Inc<br/>           Ngāti Pūkenga Iwi ki Tauranga Trust<br/>           Te Kapu o Waitaha Trust</p> <p><i>Contact details are in Attachment 2</i></p>   |
| s17(3)(b)           | Relevant Treaty settlements   | <p>Ngāi Te Rangi and Ngā Pōtiki Claims Settlement Bill – introduced 2016<br/>           Tauranga Moana Iwi Collective Redress and Ngā Hapū o Ngāti Ranginui Claims Settlement Bill – introduced 2015<br/>           Ngāti Pūkenga Claims Settlement Act 2017<br/>           Waitaha Claims Settlement Act 2013</p> <p>Māori Commercial Aquaculture Claims Settlement Act 2004</p>   |
| s17(3)(a)           | Relevant Treaty settlement entities   | <p>Ngāi Te Rangi Settlement Trust<br/>           Ngā Pōtiki a Tamapahore Trust<br/>           Ngā Hapū o Ngāti Ranginui Settlement Trust<br/>           Te Tāwharau o Ngāti Pūkenga<br/>           Te Kapu o Waitaha Trust</p> <p>Te Rūnanga o Ngāi Te Rangi Iwi Trust<br/>           Ngāti Ranginui Fisheries Trust<br/>           Ngāti Pūkenga Iwi ki Tauranga<br/>           Te Kohitanga o Te Arawa Waka Fisheries Trust Board</p> <p><i>Contact details are in Attachment 2</i></p> |
| s17(3)(c)           | Relevant principles & provisions of the Treaty settlements                          | <i>See below</i>  |
| s17(3)(d)           | Negotiation mandates recognised by the Crown  | None relevant   |
| s17(3)(d)           | Current Treaty settlement negotiations  | None  |
| s17(3)(e)           | Court orders recognising customary marine title or protected customary rights under | None relevant   |

| Section of the FTCA | Information required  | Detail |
|---------------------|---|--------|
|                     | the Marine & Coastal Area (Takutai Moana) Act 2011 or another Act |        |

## Supporting material

### Proposed project area

6. The project area lies on the south-eastern side of Tauranga Harbour, to the south of Mt Maunganui/Mauao and immediately to the north of the Tauranga CBD.
7. The eastern side of the port lies within the rohe of Ngāi Te Rangi hapū Ngāi Tukairangi and Ngāti Kuku.<sup>1</sup> Whareroa Marae, located between State Highway 2 and Tauranga Airport, sits within this rohe and lies close to the project area as shown on Attachment 1. Whareroa connects ancestrally to the waka Mataatua, the maunga Mauao and the moana Tauranga (Tauranga Harbour).<sup>2</sup>
8. The western side of the port, at Sulphur Point on the northern end of the Te Papa peninsula, lies within the rohe of Ngāti Ranginui hapū Ngāi Tamarāwaho and the rohe of Ngāi Te Rangi hapū Ngāi Tukairangi, Ngāti Kuku and Ngāti Tapu.
9. The proposed project comprises:
  - a. reclamation of 1.8 hectares and a wharf extension of 385 metres at Sulphur Point (on the western side of Stella Passage)
  - b. reclamation of 2.9 hectares and wharf extensions of 530 metres north and 388 metres south of the tanker berth on the Mt Maunganui (eastern) side
  - c. an extension to the dredged shipping channel, covering 14.4 hectares and involving up to 1,800,000 cubic metres of dredged material - of which 5.9 hectare and 800,000 cubic metres is already consented
  - d. disposal of dredged material in the Port's existing consented off-shore deposition site.
10. The applicant advises that the proposed works form part of the comprehensive development plan for the Port of Tauranga and have been signalled for some time in the Bay of Plenty Regional Coastal Environment Plan.
11. Significant parts of the proposed project will occur in the coastal marine area meaning that, as required by section 16(1) of the FTCA, decisions relating to the referral of a project to an expert consenting panel must be made jointly by the Minister for the Environment and the Minister of Conservation. You are therefore both required to consider this report as part of the referral process.

<sup>1</sup> See [A directory of Iwi and Hapū contacts within the Tauranga City area](#) on the Tauranga City Council website.

<sup>2</sup> As noted on Māori Maps, an online resource administered by Te Potiki National Trust:  
<https://maorimaps.com/marae/whareroa>

12. There are currently no relevant court orders granted under the Marine and Coastal Area (Takutai Moana) Act 2011 (MACAA) or another Act recognising customary marine title or protected customary rights in relation to the project area to consider.<sup>3</sup>

## Iwi and iwi authorities

### Information sources

13. 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.
14. The FTCA does not define iwi authority, so under section 7(2) of the FTCA, 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.
15. To identify the relevant iwi authorities for RMA purposes, information was sourced from:
- The Iwi Areas of Interest viewer, an online application managed by the Ministry of Māori Development - Te Puni Kōkiri
  - Te Kāhui Māngai (TKM), an online directory of iwi and Māori organisations maintained by the Ministry of Māori Development - Te Puni Kōkiri
  - Ministry for the Environment
  - Tauranga City Council and Bay of Plenty Regional Council, as the relevant local authorities.

### Iwi authorities relevant to project

16. The Bay of Plenty Regional Council identified Ngāi Te Rangī, Ngāti Ranginui and Ngāti Pūkenga as relevant iwi for the proposed project area. The Te Puni Kōkiri websites also show Waitaha as an iwi relevant to parts of the project area.
17. The iwi authorities which represent the respective RMA interests of these iwi are:
- Te Rūnanga o Ngāi Te Rangī Iwi Trust
  - Ngā Hapū o Ngāti Ranginui Settlement Trust and Ngāti Ranginui Iwi Society Inc.
  - Ngāti Pūkenga Iwi ki Tauranga Trust
  - Te Kapu o Waitaha Trust.
18. The Ngā Pōtiki a Tamapahore Trust is also identified on the TKM website as an iwi authority. The Trust is an organisation which serves the interests of the Ngāi Te Rangī hapū Ngā Pōtiki. The project area does not lie within the Ngā Pōtiki rohe according to information on the Tauranga City Council website.<sup>4</sup>

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<sup>3</sup> The Ngā Rohe Moana o Ngā Hapū o Ngāti Porou (Recognition of Customary Marine Title) Order 2020 came into force 1 February 2021. It establishes customary marine title areas for a specific part of ngā rohe moana o ngā hapū o Ngāti Porou (on the east coast of the North Island) aligning with those in schedule 2 to the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

<sup>4</sup> See [A directory of Iwi and Hapū contacts within the Tauranga City area](#) on the Tauranga City Council website.

## Treaty settlements and Treaty settlement entities

19. Information from the first two sources listed in paragraph 15, the [NZ Government Treaty settlements website](#), and the Office for Māori Crown Relations – Te Arawhiti was used to identify relevant Treaty settlements and associated Treaty settlement entities of relevance to the proposed project.

### Relevant Treaty settlements

20. 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. This includes signed agreements – such as collective redress deeds - which do not in themselves settle Treaty claims but which provide redress on account of such settlements.

21. Treaty settlements with the following iwi/groups are therefore of relevance to the project area:

- a. Ngāi Te Rangi and Ngā Pōtiki
- b. Ngāti Ranginui
- c. Ngāti Pūkenga
- d. the Tauranga Moana Iwi Collective (TMIC)
- e. Waitaha.

22. Ngāi Te Rangi and Ngā Pōtiki, together with the Ngāi Te Rangi Settlement Trust and Ngā Potiki a Tamapahore Trust, signed a deed of settlement with the Crown at Whareroa Marae on 14 December 2013. Subsequent amendment deeds were signed in 2014 and 2016. A [settlement summary, the deeds and accompanying documents](#) are on the NZ Government Treaty Settlement website. The Ngāi Te Rangi and Ngā Pōtiki Claims Settlement Bill was introduced to Parliament on 2 May 2016. It is awaiting its second reading, and until this and other legislation is enacted the settlement remains incomplete.

23. Ngā Hapū o Ngāti Ranginui and the Trustees of the Ngā Hapū o Ngāti Ranginui Settlement Trust signed a deed of settlement with the Crown on 21 June 2012, and deeds to amend on 26 September 2014 and 18 October 2015. A [settlement summary, the deeds and accompanying documents](#) are on the NZ Government Treaty settlement website.

24. The Ngāti Pūkenga Claims Settlement Act 2017 gave effect to the deed of settlement between Ngāti Pūkenga, the Trustees of Te Tāwharu o Ngāti Pūkenga Trust and the Crown signed on 7 April 2013. Five subsequent amendment deeds were signed in 2013, 2014 (two), 2016 and 2017. A [settlement summary, the deeds and accompanying documents](#) are on the NZ Government Treaty settlement website.

25. The Tauranga Moana Iwi Collective (TMIC, comprising Ngā Hapū o Ngāti Ranginui, Ngāi Te Rangi and Ngāti Pūkenga), the Tauranga Moana Iwi Collective Partnership and the Crown signed a collective deed on 21 January 2015, and an amendment deed in November 2015. Although it does not settle any historical claims, the deed provides collective Treaty redress for historical claims in respect of the shared interests of the three Tauranga Moana iwi. This redress forms part of the individual Treaty settlements with each of the three iwi.

26. Legislation to enact both the Ngāti Ranginui settlement and parts of the Tauranga Moana collective redress deed was introduced to Parliament as the Tauranga Moana Iwi Collective Redress and Ngā Hapū o Ngāti Ranginui Claims Settlement Bill in November 2015. It is also awaiting its second reading and until this and other legislation is enacted the settlement remains incomplete.

27. The Waitaha Claims Settlement Act 2013 gave effect to the deed of settlement signed by Waitaha, the Trustees of Te Kapu o Waitaha and the Crown on 20 September 2011. A [summary of the settlement, the deed and accompanying documents](#) can be accessed on the NZ Government Treaty settlement website.
28. For the purposes of the FTCA, Treaty settlements also include the Māori Commercial Aquaculture Claims Settlement Act 2004. This Act is primarily concerned with the allocation of space in the coastal marine area to Te Ohu Kaimoana Trustee Limited for distribution to iwi aquaculture organisations (IAOs)<sup>5</sup> for commercial aquacultural use. The proposed project site lies within an operational port area.<sup>6</sup> As such it does not include any space that might be used for such purposes, and development of new commercial aquaculture in this area is a prohibited activity under the operative regional coastal plan. This settlement Act is therefore unlikely to be of any direct relevance to the project although some IAOs under this legislation may have an interest in facilities and operational matters at the Port of Tauranga.

### Relevant Treaty settlement entities

29. Under the FTCA, 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.
30. The respective post-settlement governance entities for the Treaty settlements in paragraph 21 are:
- a. Ngāi Te Rangi Settlement Trust
  - b. Ngā Pōtiki a Tamapahore Trust
  - c. Ngā Hapū o Ngāti Ranginui Settlement Trust
  - d. Te Tāwharau o Ngāti Pūkenga
  - e. the redress entities associated with the TMIC deed: the TMIC entity, the TMIC General Partnership Ltd and the TMIC Limited Partnership
  - f. Te Kapu o Waitaha Trust.
31. 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.
32. Joint management bodies for Ōtanewainuku and Pūwhenua Scenic Reserves (Waitaha, Ngāti Pūkenga, Ngāi Te Rangi and Ngāti Ranginui settlements), for Kauri Point (Ngāi Te Rangi settlement) and for Mauao Historic Reserve (Tauranga Moana Iwi Collective Redress) are only concerned with the management of their respective areas and so are not relevant to the proposed project.
33. The TMIC deed provides for a new statutory committee – the Tauranga Moana Governance Group – to participate in co-governance arrangements over Tauranga Moana. This committee will be established by the Tauranga Moana Iwi Framework Collective Redress legislation yet to be introduced to Parliament, and thus has yet to become officially operational.

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<sup>5</sup> As recognised under section 33 of the Māori Commercial Aquaculture Claims Settlement Act 2004.

<sup>6</sup> The Tauranga Harbour Port Zone in the Operative Bay of Plenty Regional Coastal Environment Plan (2019).

34. Under the FTCA, IAOs and mandated iwi organisations (MIOs)<sup>7</sup> are identified as Treaty settlement entities. The IAOs and MIOs for Ngāi Te Rangi, Ngāti Ranginui, Ngāti Pūkenga and Waitaha are listed in Attachment 2.

## Relevant principles and provisions of the Treaty settlements

### Ngāi Te Rangi and Ngā Pōtiki Settlement

35. The area of interest for this settlement includes all of Tauranga harbour, as shown in Attachment 3.

36. In relation to the harbour, the historical account of the Crown's relationship with Ngāi Te Rangi in the Ngāi Te Rangi and Ngā Pōtiki deed of settlement records that:

“over the nineteenth century and most of the twentieth century the Crown made no provision for the recognition of Ngāi Te Rangi mana, rangatiratanga, kaitiakitanga and interests in the management of Tauranga Moana and its fisheries. The Crown assumed that it owned the harbour and later delegated authority for harbour development to local authorities. During the twentieth century many major projects were undertaken to develop Tauranga Harbour as a deep-water international port. Some of these, such as the construction of the Mount Maunganui deep-water wharf, channel deepening, and the reclamation of Sulphur Point, altered both the moana and the landscape. The Crown did not recognise the customary importance of the resources Ngāi Te Rangi lost in and around the harbour or provide any compensation for the loss of access to those resources.”<sup>8</sup>

37. The settlement also includes numerous Crown acknowledgements, including that:

- a. the confiscation at Tauranga and the subsequent Tauranga District Lands Acts 1867 and 1868 were indiscriminate, unjust and a breach of the Treaty of Waitangi and its principles
- b. land on the Te Papa Peninsula which today constitutes the Tauranga central business district was included within the confiscation district and was conveyed to the Crown by a private institution despite this institution previously insisting that it would always hold land for the benefit of Māori
- c. The Crown further acknowledges that the confiscation and the subsequent Tauranga District Lands Acts 1867 and 1868:
  - i. had a devastating effect on the welfare and economy of Ngāi Te Rangi and Ngā Pōtiki
  - ii. deprived Ngāi Te Rangi and Ngā Pōtiki of wāhi tapu, access to significant parts of the cultural landscapes and seascapes, and opportunities for development at Tauranga
  - iii. restricted Ngāi Te Rangi and Ngā Pōtiki in the exercise of mana and rangatiratanga over their lands and resources within Tauranga Moana.

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<sup>7</sup> under the Māori Fisheries Act 2004.

<sup>8</sup> Clause 2.58 Ngāi Te Rangi and Ngā Pōtiki deed of settlement

- d. it breached the Treaty of Waitangi and its principles by failing to protect the interests of the owners in relation to the Whareroa lands taken for ‘better utilisation’<sup>9</sup>
  - e. public works have had enduring negative effects on the lands, resources, and cultural identity of Ngāi Te Rangī and Ngā Pōtiki, including .... the development of the port and airport<sup>10</sup>
  - f. that the development of the Port of Tauranga [and other activities] have resulted in the environmental degradation of Tauranga Moana and reduction of biodiversity and food resources which remain a source of great distress to Ngāi Te Rangī and Ngā Pōtiki.<sup>11</sup>
38. In the Crown apology offered as part of settlement redress to Ngāi Te Rangī and Ngā Pōtiki, their tūpuna and descendants, the Crown says it unreservedly apologises for not having fulfilled its obligations to Ngāi Te Rangī and Ngā Pōtiki under te Tiriti o Waitangi/the Treaty of Waitangi and for having shown disrespect for the mana and rangatiratanga of Ngāi Te Rangī and Ngā Pōtiki.
39. It also says it is deeply sorry for the marginalisation Ngāi Te Rangī and Ngā Pōtiki have endured while the city of Tauranga expanded on their customary lands. The Crown apologises for the lost opportunities for development, and for the significant harm its actions have caused to the social and economic wellbeing of Ngāi Te Rangī and Ngā Pōtiki.
40. Through its apology and the settlement the Crown seeks to address the wrongs of the past and to create a new platform from which to establish a relationship with Ngāi Te Rangī and Ngā Pōtiki, based on mutual respect and cooperation as was originally envisaged by the Treaty of Waitangi.
41. Redress in relation to Tauranga Moana is yet to be provided through the Tauranga Moana Iwi Collective Redress and Tauranga Moana Iwi Framework Collective Redress legislation as discussed in paragraphs 53 to 58.

### Ngāti Ranginui settlement

42. The Ngāti Ranginui area of interest also includes all of Tauranga harbour, as shown in Attachment 3.
43. In the Tauranga Moana Iwi Collective Redress and Ngā Hāpu o Ngāti Ranginui Claims Settlement Bill the Crown acknowledges, among other things:
- a. the significance of the land, forests, harbours, and waterways of Tauranga Moana to the hapū of Ngāti Ranginui as a physical and spiritual resource over which Ngāti Ranginui hapū acted as kaitiaki
  - b. that development of the Port of Tauranga ... [and other activities] have resulted in environmental degradation of Tauranga Moana which remains a source of great distress to the hapū of Ngāti Ranginui.
44. The Bill records the Crown’s apology to Ngāti Te Wai, Pirirakau, Ngāti Taka, the Wairoa hapū of Ngāti Rangī, Ngāti Pango, and Ngāti Kahu, Ngāti Hangarau, Ngāi Tamarāwaho, Ngāi Te Ahi and Ngāti Ruahine, the hapū of Ngāti Ranginui, their tūpuna and descendants. It unreservedly apologises for not having honoured its obligations to the hapū of Ngāti Ranginui under te Tiriti o

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<sup>9</sup> Clause 3.14 Ngāi Te Rangī and Ngā Pōtiki deed of settlement; the Whareroa land takings in the Port of Tauranga area which relate to Crown apology and acknowledgement redress are shown in the map on page 22; Waitangi Tribunal Tauranga Moana 1886-2006 Report on the post Raupatu Claims, Vol. 1.

<sup>10</sup> Clause 3.15 Ngāi Te Rangī and Ngā Pōtiki deed of settlement

<sup>11</sup> Clause 3.18.2 Ngāi Te Rangī and Ngā Pōtiki deed of settlement

Waitangi/the Treaty of Waitangi and says it profoundly regrets its failure to appropriately acknowledge the mana and rangatiratanga of Ngāti Ranginui for many generations.

45. The Crown deeply regrets that over time its actions severed Ngāti Ranginui hapū from their traditional lands, deprived them of opportunities for development, caused significant harm to the social and economic wellbeing of the iwi and its hapū, damaged their autonomy and ability to exercise customary rights and responsibilities, and marginalised them within their own rohe.
46. Through the apology the Crown seeks atonement for the wrongs of the past and to establish a new relationship with the hapū of Ngāti Ranginui based upon mutual trust, co-operation, and respect for te Tiriti o Waitangi/the Treaty of Waitangi and its principles.
47. Redress in relation to Tauranga Moana yet to be provided through the Tauranga Moana Iwi Collective Redress and Tauranga Moana Iwi Framework Collective Redress legislation is discussed in paragraphs 53 to 58.

### **Ngāti Pūkenga Treaty Settlement**

48. The settlement with Ngāti Pūkenga applies to three separate areas of interest on the east coast of the North Island. The Tauranga and Maketu area of interest, in which the proposed project site lies, is shown in Attachment 3.
49. The settlement includes 19 Crown acknowledgements.<sup>12</sup> Of particular relevance to the Crown's decision-making in relation to the proposed project is its acknowledgement that Ngāti Pūkenga describe Tauranga Moana as a significant taonga and source of spiritual and material well-being, and that environmental degradation has been a source of distress to Ngāti Pūkenga because of adverse impacts on the moana, especially the Waitao awa and Rangataua arm of the harbour. We note that the Rangataua arm (Te Tāhuna o Rangataua) connects to the remaining part of Tauranga harbour through the Stella Passage.
50. In the apology offered to Ngāti Pūkenga as part of the settlement redress, the Crown says the historical marginalisation of Ngāti Pūkenga in Tauranga Moana and the harm this caused are sources of profound Crown regret, and it apologises for exacerbating this harm by consistently failing to respect the rangatiratanga of Ngāti Pūkenga in their remaining lands.
51. The Crown also acknowledges the suffering it caused Ngāti Pūkenga through its breaches of the Treaty of Waitangi and says it sincerely hopes that the settlement will mark the beginning of a new relationship between the Crown and Ngāti Pūkenga, founded on respect for the Treaty of Waitangi and its principles.
52. Redress in relation to Tauranga Moana has yet to be provided through the Tauranga Moana Iwi Collective Redress and Tauranga Moana Iwi Framework Collective Redress legislation as discussed in paragraphs 53 to 58.

### **Tauranga Moana Collective Redress**

53. The Tauranga Moana Iwi collective deed provides a range of cultural and commercial redress that will be shared among the three Tauranga Moana iwi. This includes recognition of the significance of Tauranga Moana<sup>13</sup> to Tauranga Moana iwi and provision for establishment of natural resources

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<sup>12</sup> Section 8 Ngāti Pūkenga Claims Settlement Act 2013.

<sup>13</sup> Tauranga Moana includes Tauranga harbour, other parts of the coastal marine area and waterways of the Tauranga harbour catchment, as more fully defined in section 10 Tauranga Moana Iwi Collective Redress and Ngā Hapū o Ngāti Ranginui Claims Settlement Bill.

co-governance and co-management arrangements with local government over Tauranga Moana (referred to as the Tauranga Moana Framework).

54. Parts of the deed will be given effect by enactment of the Tauranga Moana Iwi Collective Redress and Ngā Hapū o Ngāti Ranginui Claims Settlement Bill which was introduced to Parliament in 2015. The Bill is awaiting its second reading but is currently on hold.
55. No specific shared commercial redress to be provided under the deed and Bill before Parliament would be affected by the proposed project.
56. The remaining parts of the deed, relating to the Tauranga Moana Framework, are to be given effect by enactment of further legislation which is yet to be introduced to Parliament.<sup>14</sup> The Framework provides for:
  - a. establishment of a statutory committee called the Tauranga Moana Governance Group
  - b. preparation, review, amendment and adoption of a Tauranga Moana framework document - Nga Tai ki Mauao.
57. Although these provisions are relevant to the area including the proposed project site, they will not affect decision-making concerning the proposed project as they are not yet operational.
58. Additionally, the deeds of settlement for Ngāti Pūkenga, Ngāi Te Rangi and Ngāti Ranginui record that those iwi, their respective governance entities and the Crown do not consider that those settlements will be complete until the separate legislation providing for the Tauranga Moana Framework comes into force.<sup>15 16 17</sup>

### Waitaha Treaty Settlement

59. The proposed project site lies in the north-western corner of the Waitaha area of interest - see Attachment 3.
60. As part of the settlement with Waitaha the Crown acknowledges that the cumulative effect of its breaches of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles undermined the physical, cultural, social, economic and spiritual well-being of Waitaha to the point where the iwi itself nearly vanished. Also that the suffering and marginalisation caused to Waitaha over the generations has continued to the present day.
61. The apology in the settlement Act records that the Crown is deeply sorry that it has failed to fulfil its obligations to Waitaha under Te Tiriti o Waitangi/the Treaty of Waitangi. It also records that the Crown wishes to restore its own tarnished honour and hopes its apology will mark the beginning of a stronger relationship with Waitaha based on trust, co-operation and respect for Te Tiriti o Waitangi/the Treaty of Waitangi.

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<sup>14</sup> The Deed to Amend the Tauranga Moana Iwi Collective Deed (Nov 2015) refers to this as the 'Tauranga Moana Iwi Framework Collective Redress Act'.

<sup>15</sup> Clause 8.9 as inserted by the 5<sup>th</sup> (consolidated) deed to amend Ngāti Pūkenga deed of settlement 2017

<sup>16</sup> Clause 4.15 as inserted by the 2<sup>nd</sup> deed to amend the Ngāi Te Rangi and Ngā Pōtiki deed of settlement

<sup>17</sup> Clause 8.6 as inserted by the 2<sup>nd</sup> deed to amend Ngā Hapū o Ngāti Ranginui deed of settlement

## **Current negotiation mandates and settlement negotiations**

62. 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.

## **Current MACAA applicant groups**

63. Section 17 of the FTCA does not require MACAA applicant groups to be identified. For referred projects however, clause 17(6)(f) of Schedule 6 of the FTCA requires a panel to invite comments on a consent application or notice of requirement before it from any applicant group under the MACAA identified in this report.

64. An applicant group means one or more iwi, hapū, or whānau groups that seek recognition under Part 4 of the MACAA of their protected customary rights or customary marine title by either a recognition order granted by the High Court; or an agreement negotiated with the Crown (through The Office of Māori Crown Relations – Te Arawhiti).

65. There are 13 such applicant groups relevant to the project area; these are listed in Attachment 4.

## **Details in this report affect certain provisions of the FTCA**

### **Notices of referral decision**

66. Under section 25 of the FTCA, you must give notice of the decisions made on an application for referral to an expert consenting panel, and the reasons for your decisions, to the applicant and anyone invited to comment under section 21 of the FTCA.

67. You invited the five iwi authorities and four MIOs/IAOs listed in Attachment 2 to comment on this application.

68. Additionally, if you decide to refer this project, the notice of decisions and associated reasons must be given to:

- a. the remaining 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.

69. All relevant iwi authorities and Treaty settlement entities for this application are identified in paragraph 5 and Attachment 2.

70. There are no relevant joint management agreements or Mana Whakahono ā Rohe to consider.

71. The Minister for Treaty of Waitangi Negotiations and the Minister for Māori Crown Relations have requested that Whareroa Marae receives the notice of decisions if you decide to refer the project.

### **Expert consenting panel membership**

72. 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 FTCA.

73. 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.

74. Relevant iwi authorities for the project are identified in paragraph 5 and Attachment 2.

#### **Panel invitations to comment**

75. 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 FTCA. This includes:

- a. the relevant iwi authorities, including those identified in this report, and
- 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.

76. The relevant iwi authorities and Treaty settlement entities for the project are listed in paragraph 5 and Attachment 2.

77. The panel may also invite comments from any other person it considers appropriate.

78. The Minister for Treaty of Waitangi Negotiations and the Minister for Māori Crown Relations have requested that you require a panel to seek comment from representatives of Whareroa Marae.

## Attachment 1 - Location



## Attachment 2 - Contact information

| Iwi            | Representative body                        | Contact details  | RMA Iwi authority  | Treaty settlement entity under FTCA   | Other   | Contact person   | Copies to  |
|----------------|--|--|--|---|---|--|--|
| Ngāi Te Rangi  | Te Rūnanga o Ngāi Te Rangi Iwi Trust       | PO Box 4369,<br>Mt Maunganui South,<br>Mt Maunganui 3149                             | Represents the interests of Ngāi Te Rangi as an iwi authority for RMA purposes | MIO (Māori Fisheries Act 2004), IAO (Māori Commercial Aquaculture Claims Settlement Act 2004)           |   | CEO: Paora Stanley<br><a href="mailto:reception@ngaiterangi.org.nz">reception@ngaiterangi.org.nz</a> | RMA Contact: Pia Bennett<br>s9(2)(a)   |
|                | Ngāi Te Rangi Settlement Trust             |  |  | Post-settlement governance entity – deed of settlement signed 14 December 2013                          |   |  |  |
|                | Ngā Pōtiki a Tamapahore Trust              | PO Box 11491,<br>Papamoa 3151.   |  | Represents Ngā Pōtiki as post-settlement governance entity - deed of settlement signed 14 December 2013 |   | Chairperson: Colin Reeder<br>s9(2)(a)  | RMA Contact:<br>Matire Duncan<br>s9(2)(a)  |
|                | Whareroa Marae                             | 25 Taiaho Place<br>Mt Maunganui<br>Tauranga<br>Bay of Plenty 3116<br>Phone: s9(2)(a) |  |   | Ngāi Te Rangi hapū - Ngāi Tukairangi and Ngāti Kuku |  | Environmental Manager:<br>Joel Ngātuere  |
| Ngāti Ranginui | Ngā Hapū o Ngāti Ranginui Settlement Trust | PO Box 2230, Tauranga 3140   | Represents Ngāti Ranginui as an iwi authority for RMA purposes                 | Post-settlement governance entity – deed of settlement signed 21 June 2012                              |   | Chairperson/RMA contact:<br>Te Pio Kawe<br>s9(2)(a)  |  |
|                | Ngāti Ranginui Iwi Society Inc             | PO Box 2526, Seventh Avenue, Tauranga 3140   | Represents Ngāti Ranginui as an iwi authority for RMA purposes                 |   |   | CEO: Melanie Tata<br><a href="mailto:info@ranginui.co.nz">info@ranginui.co.nz</a>                    | RMA Contact:<br>Carlton Bidois<br><a href="mailto:info@ranginui.co.nz">info@ranginui.co.nz</a> |

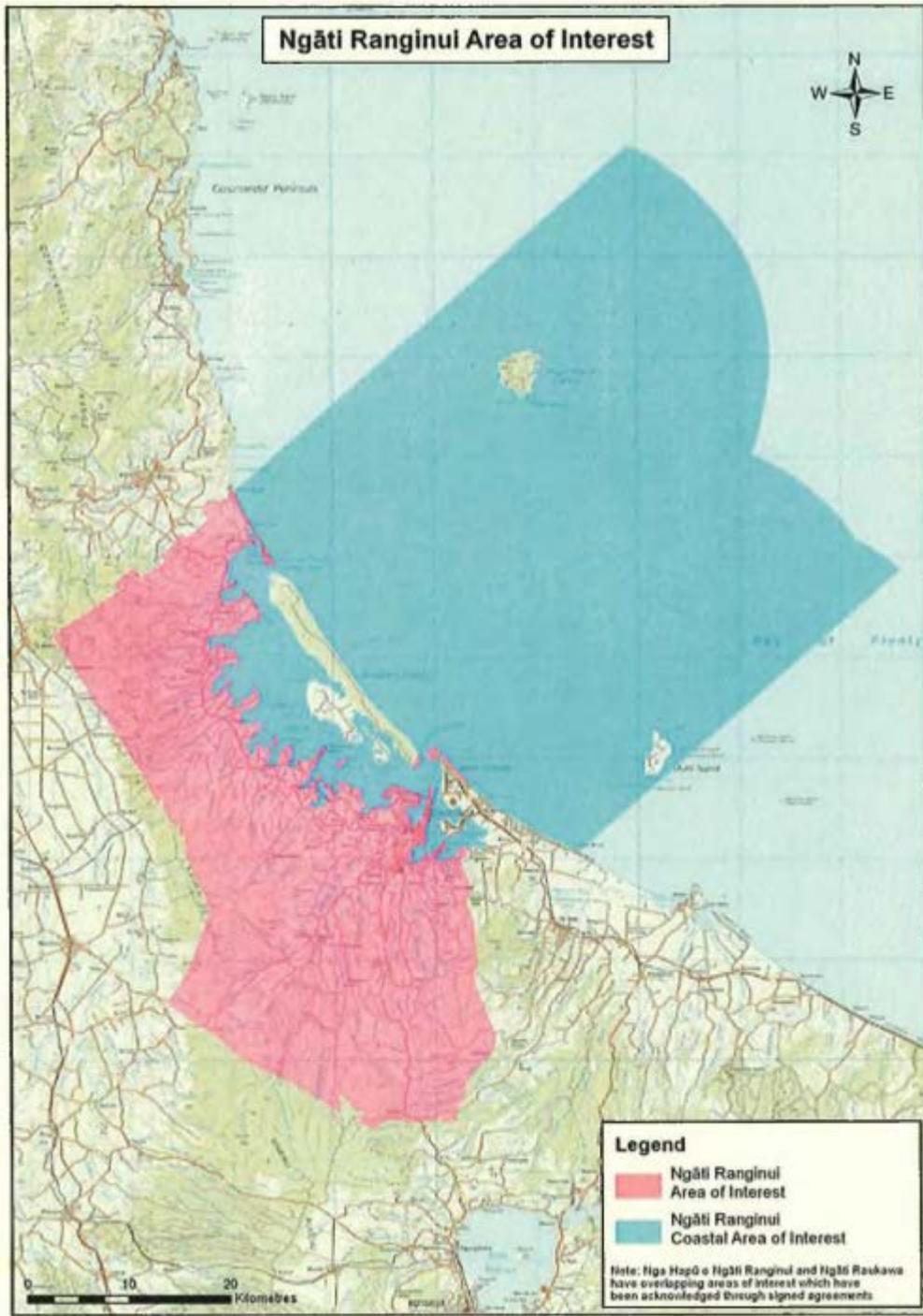
|               |  |  |  |   |  |   |   |
|---------------|--|--|--|---|--|---|---|
|               | Ngāti Ranginui Fisheries Trust                     | PO Box 2526, Seventh Avenue, Tauranga 3140 |  | MIO (Māori Fisheries Act 2004), IAO (Māori Commercial Aquaculture Claims Settlement Act 2004) |  | Chairperson:<br>Christopher Stokes<br><a href="mailto:info@ranginui.co.nz">info@ranginui.co.nz</a>              |   |
| Ngāti Pūkenga | Ngāti Pūkenga Iwi ki Tauranga Trust                | 612 Welcome Bay Road, RD 5, Tauranga 3175  | Represents Ngāti Pūkenga as an iwi authority for RMA purposes            | MIO (Māori Fisheries Act 2004), IAO (Māori Commercial Aquaculture Claims Settlement Act 2004) |  | Chairperson:<br>Rehua Smallman<br>s9(2)(a)  | RMA Contact:<br>Buddy Mikaere<br>s9(2)(a) |
|               | Te Tāwharau o Ngāti Pūkenga                        | PO Box 13610, Tauranga 3141                |  | Post-settlement governance entity under Ngāti Pūkenga Claims Settlement Act 2017              |  | GM: Kylie Smallman<br><a href="mailto:tetawharau@ngatipukenga.com">tetawharau@ngatipukenga.com</a>              |   |
| Waitaha       | Te Kapu o Waitaha Trust                            | PO Box 220, Te Puke 3153                   | Represents the interests of Waitaha as an iwi authority for RMA purposes | Post-settlement governance entity under Waitaha Claims Settlement Act 2013                    |  | CEO: Vivienne Robinson<br><a href="mailto:info@waitaha-iwi.org.nz">info@waitaha-iwi.org.nz</a>                  |   |
|               | Te Kohitanga o Te Arawa Waka Fisheries Trust Board | PO Box 1896, Rotorua 3040                  |  | MIO (Māori Fisheries Act 2004), IAO (Māori Commercial Aquaculture Claims Settlement Act 2004) |  | CEO: Chris Karamea Insley<br><a href="mailto:info@tearawafisheries.maori.nz">info@tearawafisheries.maori.nz</a> |   |

# Attachment 3 – Treaty settlement areas of interest

## Ngāi Te Rangī and Ngā Pōtiki

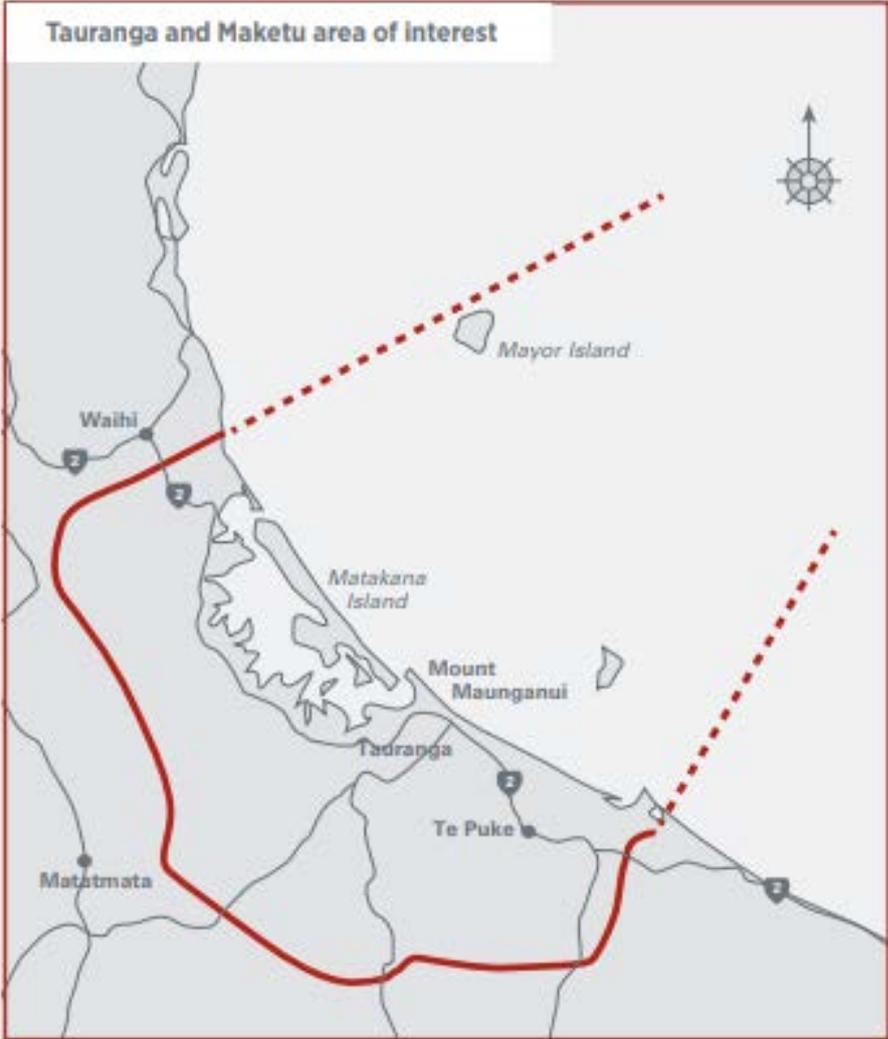


Source: Pt 1 of Attachments to Ngāi Te Rangī and Ngā Pōtiki deed of settlement

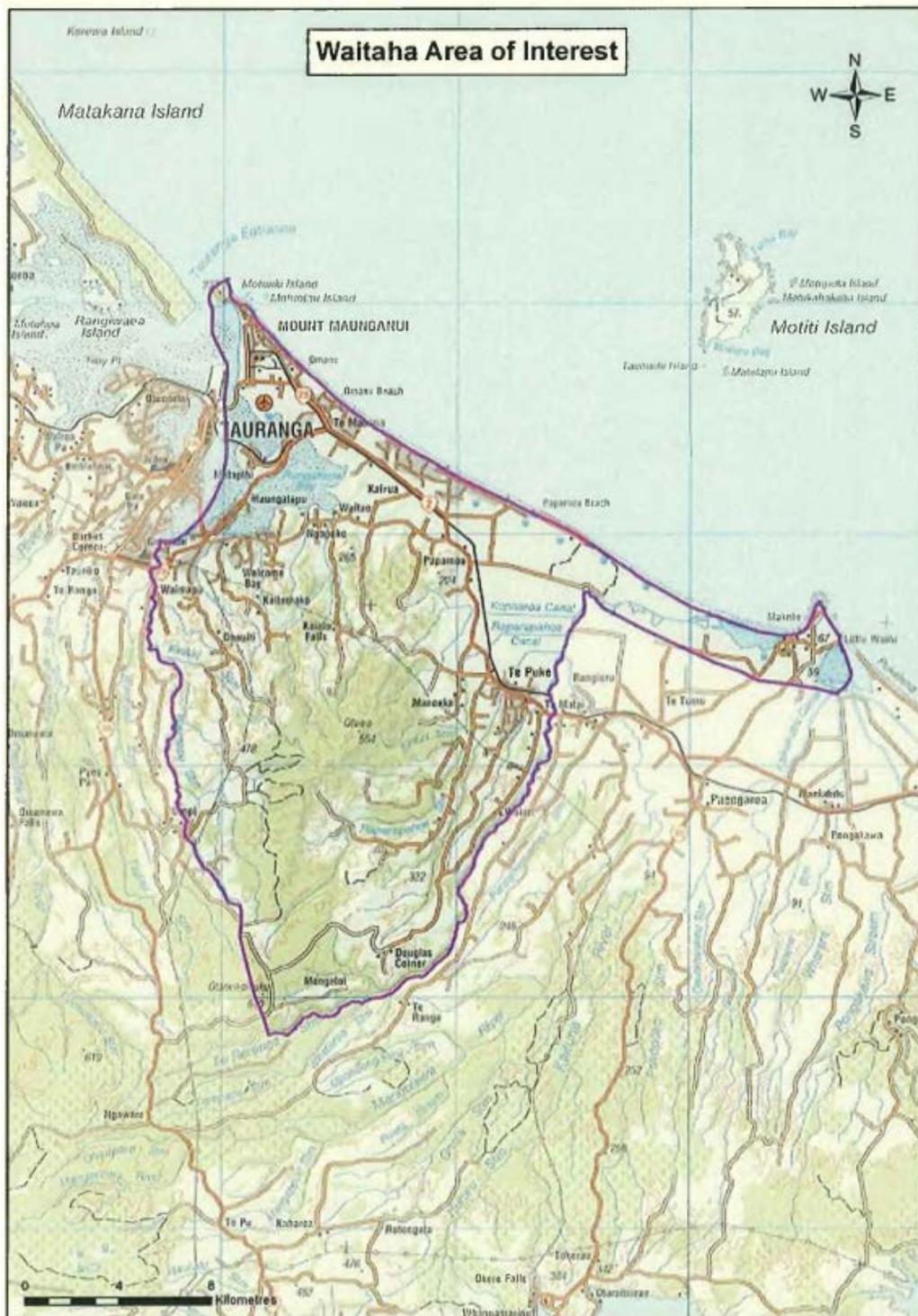


Source: Pt 1 of Attachments to Ngāti Ranginui deed of settlement

**Ngāti Pūkenga Area of Interest**



Source: Ngāti Pūkenga deed of settlement summary 7 Apr 2013



Source: Pt 1 of Attachments to the Waitaha deed of settlement

## Attachment 4 - Applications for a customary marine title area or protected customary rights area

| MAC No           | Applicant  | Track            | Contact details   |
|------------------|--|------------------|---|
| MAC-01-03-001    | Hauraki Māori Trust Board                              | Crown engagement | Paul Majurey<br>s9(2)(a)                                |
| MAC-01-03-006    | Ngāti Maru   | Crown engagement | Paul Majurey<br>s9(2)(a)                                |
| MAC-01-03-011    | Ngāti Tamaterā   | Crown engagement | Debra Liane Ngamane<br>s9(2)(a)                         |
| MAC-01-05-006    | Ngā hapū o Ngāi Te Rangī                               | Crown engagement | Joshua Gear<br>s9(2)(a)                                 |
| MAC-01-05-013    | Ngāti He   | Crown engagement | Mita Ririnui<br>s9(2)(a)                                |
| MAC-01-05-015    | Ngāti Pūkenga  | Crown engagement | Kylie Smallman<br>s9(2)(a)                              |
| MAC-01-05-016    | Ngā hapū o Ngāti Ranginui                              | Crown engagement | Kimiora Rawiri<br>s9(2)(a)                              |
| MAC-01-05-024    | Te Whānau a Mokokoko                                   | Crown engagement | Karen Mokokoko<br>s9(2)(a)                              |
| MAC-01-05-025    | Waaka & Holloway Whānau                                | Crown engagement | Lance Waaka<br>PO Box 3193<br>Greerton<br>TAURANGA 3142 |
| CIV-2017-485-219 | Ngāti He   | High Court       | Mita Michael Ririnui<br>s9(2)(a)                        |
| CIV-2017-485-244 | Ngā hapū o Ngāi Te Rangī                               | High Court       | Ngāi Te Rangī Settlement Trust                          |
| CIV-2017-485-250 | Ngāti Pūkenga  | High Court       | Te Tāwharau o Ngāti Pūkenga                             |
| CIV-2017-485-294 | Trustees of Ngā Hapū o Ngāti Ranginui Settlement Trust | High Court       | Ngā Hapū o Ngāti Ranginui Settlement Trust              |

**Source:** Kōrero Takutai (Te Kete Kōrero a Te Takutai Moana Information Hub – Te Arawhiti)