

## Application 2020.032 Kōpū Marine Precinct (Thames-Coromandel District Council)

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 Dr Ayesha Verrall, Acting 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	Rebecca Perrett	s9(2)(a)	✓
Director	Sara Clarke	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 you make any decision under section 24 of the FTCA to accept the application to refer the Kōpū Marine Precinct project to an expert consenting panel (a panel).

### Proposed project

3. The applicant proposes to upgrade and develop new facilities at the existing Kōpū boat ramp, to create a commercial and recreational marine precinct.
4. The proposed project site lies on the true right bank of the Waihou River at Kōpū, approximately 5 kilometres south of the Thames CBD. 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	Ngāti Maru Rūnanga Trust Ngāi Tai ki Tāmaki Tribal Trust Ngaati Whanaunga Incorporated Society Ngāti Tamaterā Treaty Settlement Trust Te Kupenga o Ngāti Hako Inc. Hauraki Māori Trust Board  <i>Contact details are in Attachment 2</i>
s17(3)(b)	Relevant Treaty settlements	Ngāi Tai ki Tāmaki Claims Settlement Act 2018 Pare Hauraki Collective Redress Deed – signed 2 Aug 2018
s17(3)(a)	Relevant Treaty settlement entities	Ngāti Maru Rūnanga Trust Ngāi Tai ki Tāmaki Trust Ngaati Whanaunga Ruunanga Trust Ngāti Tamaterā Treaty Settlement Trust Hako Tūpuna Trust Ngāti Tumutumu Settlement Trust Hauraki Māori Trust Board Taonga o Marutūāhu Trustee Limited Marutūāhu Ropū Limited Partnership  <i>Contact details are in Attachment 2</i>
s17(3)(c)	Relevant principles & provisions of the Treaty settlements	<i>See below</i>
s17(3)(d)	Negotiation mandates recognised by the Crown	Hako
s17(3)(d)	Current Treaty settlement negotiations	Ngāti Maru (Hauraki) Ngaati Whanaunga Ngāti Tamaterā Ngāti Rāhiri Tumutumu Marutūāhu Iwi Collective
s17(3)(e)	Court orders recognising customary marine title or protected customary rights under the Marine & Coastal Area (Takutai Moana) Act 2011 or another Act	None relevant

## Supporting material

### Proposed project

6. The proposed project layout is shown in Attachment 3. It involves construction of:
  - a. A fixed-pile wharf and floating pontoon, to provide for in-water servicing and loading and unloading of commercial vessels - see number 1 on Attachment 3. The wharf will be 5 metres wide and 82 metres long, with a 36-metre long T-shaped head. The floating pontoon will be 6 metres wide and 20 metres long, and will be accessed from the wharf head lying to the south by a 15-metre long gantry.
  - b. An upgraded 12-metre wide commercial slipway, to allow access for vessels up to a 150 tonne (see number 2 on Attachment 3).
  - c. A commercial operating area of approximately 7000 square metres (see number 3 on Attachment 3).
  - d. A two-lane boat ramp and parking area for recreational users (see numbers 4 and 5 on Attachment 3).
  - e. King Street as a formed and paved road, to provide public access to the recreational boat ramp and carpark (see number 6 on Attachment 3).
  - f. An additional gravel area at the northern end of the site, that may provide additional parking for recreational users as demand increases (number 7 on Attachment 3).
7. A new rock armoured revetment wall approximately 1 metre high and 2 metres wide will also be constructed along the existing riverbank (and between the proposed wharf and boat ramps) to provide structural stability for the parking areas.

### Project area details

8. As shown in Attachment 4, the proposed development will occur within and on:
  - a. road reserve between Quay Street in the south and the presently unformed King Street to the north
  - b. accretion land between this road reserve and the Waihou River<sup>1</sup>
  - c. freehold land (and the coastal water above it) within the coastal marine area<sup>2</sup>, that is not part of the common marine and coastal area<sup>3</sup>
  - d. parts of the Waihou River and riverbed lying in both the coastal marine area and the common marine and coastal area.

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<sup>1</sup> Formed by natural accretion of sediment on the Waihou riverbed.

<sup>2</sup> As defined in section 2 of the Resource Management Act 1991 (RMA).

<sup>3</sup> As defined in section 9 of the Marine and Coastal Area (Takutai Moana) Act 2011 (MACAA).

9. The project site is bounded on the eastern side by stopbanks which form part of the Waihou-Piako flood protection scheme operated by the Waikato Regional Council.<sup>4</sup> A cycleway that forms part of the Hauraki Rail Trail cycleway passes along the top of the stopbank.
10. Matai Whetū Marae, approximately 1 kilometre to the southeast, is the closest marae to the project site (see Attachment 1). This marae connects ancestrally to the Ngāti Maru tribal collective and there are many hapū associated with it, including Ngāti Hape, Ngāti Hauauru, Ngāti Hikairo, Ngāti Whanga, and Te Uringahau.<sup>5</sup>

## **Statutory matters relating to this report**

11. As parts of the proposed project will occur in the coastal marine area (CMA), section 16(1) of the FTCA requires that decisions relating to the referral of the project to a panel must be made jointly by the Minister for the Environment and the Minister of Conservation.
12. Section 17(1) of the FTCA requires you both to consider this report before making a decision under section 24 of the Act to refer the project to a panel, in order to satisfy your joint obligations under section 6 (Treaty of Waitangi) of the FTCA.
13. Section 17(3)(e) of the FTCA requires this report to identify any court orders granted under the Marine and Coastal Area (Takutai Moana) Act 2011 (MACAA) or another Act which recognise, in relation to the project area, customary marine title or protected customary rights. We confirm that currently there are no such court orders relevant to the project area to consider in your referral decision.<sup>6</sup>

## **Iwi and iwi authorities**

### **Information sources**

14. 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.
15. 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.
16. To identify the iwi authorities for RMA purposes which are relevant to the project area, 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

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<sup>4</sup> See <https://www.waikatoregion.govt.nz/assets/WRC/WRC-2019/Waihou-map-2.pdf>

<sup>5</sup> See <https://maorimaps.com/marae/matai-whet%C5%AB>

<sup>6</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. This does not affect the proposed project area.

- d. Thames Coromandel District Council and Environment Waikato, as the relevant local authorities.

### Iwi authorities relevant to project

17. The TKM website identifies six iwi authorities for the area in which the proposed project site lies:
  - a. Ngāti Maru Rūnanga Trust, representing Ngāti Maru (Hauraki)
  - b. Ngāi Tai ki Tāmaki Tribal Trust, representing Ngāi Tai ki Tāmaki
  - c. Ngaati Whanaunga Incorporated Society, representing Ngaati Whanaunga
  - d. Ngāti Tamaterā Treaty Settlement Trust, representing Ngāti Tamaterā
  - e. Te Kupenga o Ngāti Hako Incorporated, representing Hako
  - f. the Hauraki Māori Trust Board, representing the collective iwi of Hauraki.
18. The project site also lies within the area of interest of Ngāti Rāhiri Tumutumu, which is not recorded on the TKM website as having an associated independent iwi authority, but is instead represented by the Hauraki Māori Trust Board for RMA purposes.
19. Information received from the Waikato Regional Council aligns with the above. The Thames-Coromandel District Council advised that relevant iwi and iwi authorities for the project include all those listed in the application. We note that the applicant has consulted widely on the proposed project, including with some iwi whose area of interest does not include the project area (e.g. Ngāti Hei, Ngāti Porou ki Harataunga ki Mataora, Ngāti Pūkenga, Te Patukirikiri, Ngāti Tara-Tokanui).

### Treaty settlements and Treaty settlement entities

20. 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 settlements

21. 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.
22. Treaty settlements with the following iwi/groups are therefore of relevance to the project area:
  - a. Ngāi Tai ki Tāmaki
  - b. The 12 iwi of Hauraki (the Pare Hauraki Collective).
23. The Ngāi Tai ki Tāmaki Claims Settlement Act 2018 gave effect to the deed of settlement signed on 7 November 2015 and subsequent amendment deeds signed in 2017 and 2018. [A settlement summary, the deeds and associated documents](#) are available on the NZ Government Treaty settlements website.
24. The Ngāi Tai ki Tāmaki area of interest, shown in Attachment 5, includes the Coromandel Peninsula, large parts of Tauranga moana and Tāmaki Makaurau/Auckland, and the coastline, harbours and motu/islands of the Waitematā harbour and Tīkapa Moana/Hauraki Gulf.
25. The Crown and the 12 Iwi of Hauraki signed the Pare Hauraki Collective Redress Deed on 2 August 2018. [A settlement summary, the deed and associated documents](#) are available on the NZ

Government Treaty settlements website. The settlement applies to the Redress Area shown in Attachment 6. Legislation to enact the settlement has yet to be introduced to Parliament.

26. 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>7</sup> for commercial aquacultural use. The proposed project site does not include any space that might be used for such purposes. This settlement Act is therefore unlikely to be of any direct relevance to the project, although IAOs under this legislation may have an interest in the facilities that are proposed.

### Relevant Treaty settlement entities

#### Post-settlement governance entities

27. 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.
28. The post-settlement governance entity for the Ngāi Tai ki Tāmaki Treaty settlement is the Ngāi Tai ki Tāmaki Trust.
29. The Pare Hauraki Collective Redress Deed provides for three post-settlement governance entities: the Pare Hauraki collective cultural entity, the Pare Hauraki collective commercial entity and the Pare Hauraki collective Crown Forestry Land entity. These entities must be established prior to the introduction of the collective redress legislation, however they have not been established at the time of preparing this report.

#### Bodies established to receive redress

30. The following bodies have been established by claimants for the purposes of receiving redress, and are therefore also regarded as post-settlement governance entities under the FTCA:
- a. the Ngāti Maru Rūnanga Trust, representing Ngāti Maru (Hauraki) which initialled a deed of settlement with the Crown on 8 September 2017
  - b. the Ngaati Whanaunga Ruunanga Trust, which initialled a deed of settlement with the Crown on 25 August 2017
  - c. the Ngāti Tamaterā Treaty Settlement Trust, which has been established following the initialling of a deed of settlement between Ngāti Tamaterā and the Crown on 20 September 2017
  - d. the Ngāti Tumutumu Settlement Trust, which was established following the initialling of a deed of settlement between Ngāti Rāhiri Tumutumu and the Crown on 13 July 2017
  - e. the Hako Tūpuna Trust. Hako and the Crown signed an Agreement in Principle in July 2011. In October 2014 the Crown provided the trustees of the Hako Tūpuna Trust with a payment on account of the financial redress to be provided in settlement of the Hako historical claims.

#### Other bodies recognised or established under a Treaty settlement Act

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.

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<sup>7</sup> As recognised under section 33 of the Māori Commercial Aquaculture Claims Settlement Act 2004.

32. The Pare Hauraki Collective Redress Deed provides for the establishment of the Moehau Tūpuna Maunga Board, the Upper Mangatangi and Mangatawhiri Catchment Authority and the Waihou, Piako and Coromandel Catchment Authority, however these entities will not become operational until legislation to enact the settlement is passed.
33. Under the FTCA, IAOs and mandated iwi organisations (MIOs)<sup>8</sup> are identified as Treaty settlement entities. The Hauraki Māori Trust Board is the IAO and MIO for the iwi of Hauraki.

## **Relevant principles and provisions of the Treaty settlements**

### **Ngāi Tai ki Tāmaki Treaty settlement**

#### **Crown acknowledgements and apologies**

34. Acknowledgments and an apology from the Crown form part of the Treaty settlement redress provided to Ngāi Tai ki Tāmaki under their Treaty settlement. In particular, the Crown unreservedly apologises for its breaches of te Tiriti o Waitangi/the Treaty of Waitangi and its principles, and for the prejudice its acts and omissions have caused.
35. The Crown expresses the hope that the settlement will lead to a new relationship that fulfils the expectations of the tūpuna and moKōpūna of Ngāi Tai ki Tāmaki, marked by cooperation, partnership, and respect for te Tiriti o Waitangi/the Treaty of Waitangi and its principles.
36. Respect for the views of Ngāi Tai ki Tāmaki iwi on resource management matters and enabling their meaningful participation as Treaty partners in decision-making relating to the management and use of natural and physical resources are important ways in which the Crown can give effect to these acknowledgements.

#### **Other redress**

37. The settlement does not create any new co-governance or co-management processes which would affect decision-making under the RMA for this project.
38. No areas covered by a statement of association, statutory acknowledgement or any other form of cultural or commercial redress provided in the settlement would be directly affected by the proposed project.

### **Pare Hauraki Collective Redress Deed**

39. The Pare Hauraki Collective Redress Deed specifies the collective Treaty settlement redress in respect of the shared interests of the iwi of Hauraki associated with their historical Treaty claims, although the deed does not settle any of those claims. The full settlement of the historical Treaty claims of the Iwi of Hauraki will be made through the individual settlements with each iwi.
40. The deed provides both cultural and commercial redress. Of most relevance to the proposed project is the provision for establishment of the Waihou, Piako and Coromandel Catchment Authority to provide co-governance, oversight and direction for the management of the Coromandel, Waihou and Piako waterways. The authority and associated co-governance arrangements will not become operational until legislation enacting the Treaty settlement is passed.
41. Importantly however, 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

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<sup>8</sup> As defined in section 5 of the Māori Fisheries Act 2004.

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**

42. In addition to the groups in paragraph 30 who have yet to complete their settlements, the Crown is currently negotiating a Treaty settlement with Hako, whose area of interest includes the proposed project area.

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

### **Notices of referral decision**

43. 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.
44. You did not invite any iwi authorities or Treaty settlement entities to comment on the referral application for the Kōpū Marine Precinct project.
45. 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.
46. Relevant iwi authorities and Treaty settlement entities for receipt of the notice are identified in paragraph 6 and Attachment 2.
47. We have not identified any other relevant iwi authorities or Treaty settlement entities who may have an interest in the project, and there are no relevant joint management agreements or Mana Whakahono ā Rohe to consider.

### **Expert consenting panel membership**

48. 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.
49. 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.
50. Relevant iwi authorities for the project are identified in paragraph 6 and Attachment 2.

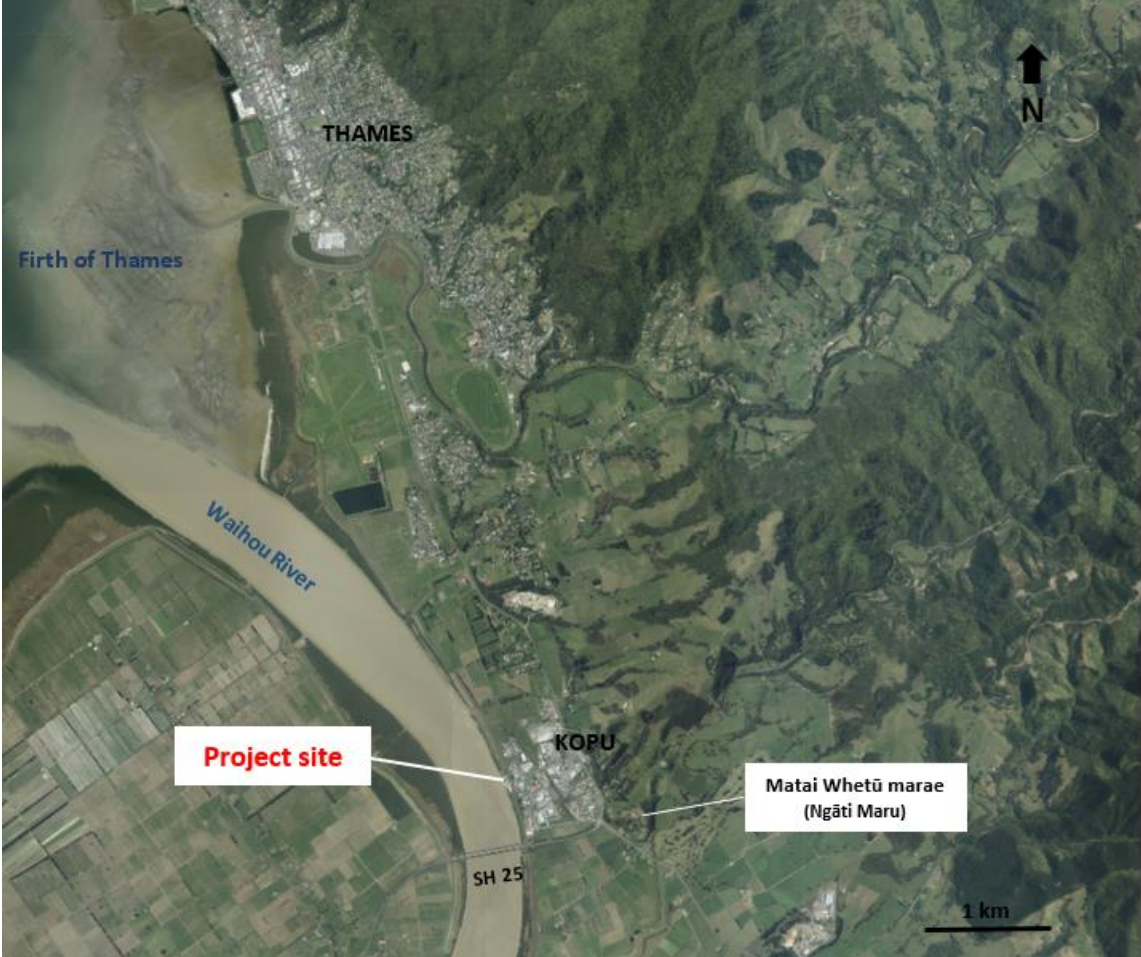
### **Panel invitations to comment**

51. 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 this report.
- 52. The relevant iwi authorities and Treaty settlement entities for the proposed project are listed in paragraph 6 and Attachment 2.
- 53. An MACAA 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). Current applicant groups of relevance to the project area are listed in Attachment 7.
- 54. A panel may also invite comments from any other person it considers appropriate. The Minister for Minister for Māori Crown Relations has requested that you require a panel to seek comment from representatives of Matai Whetū Marae.

# Attachment 1 – Location

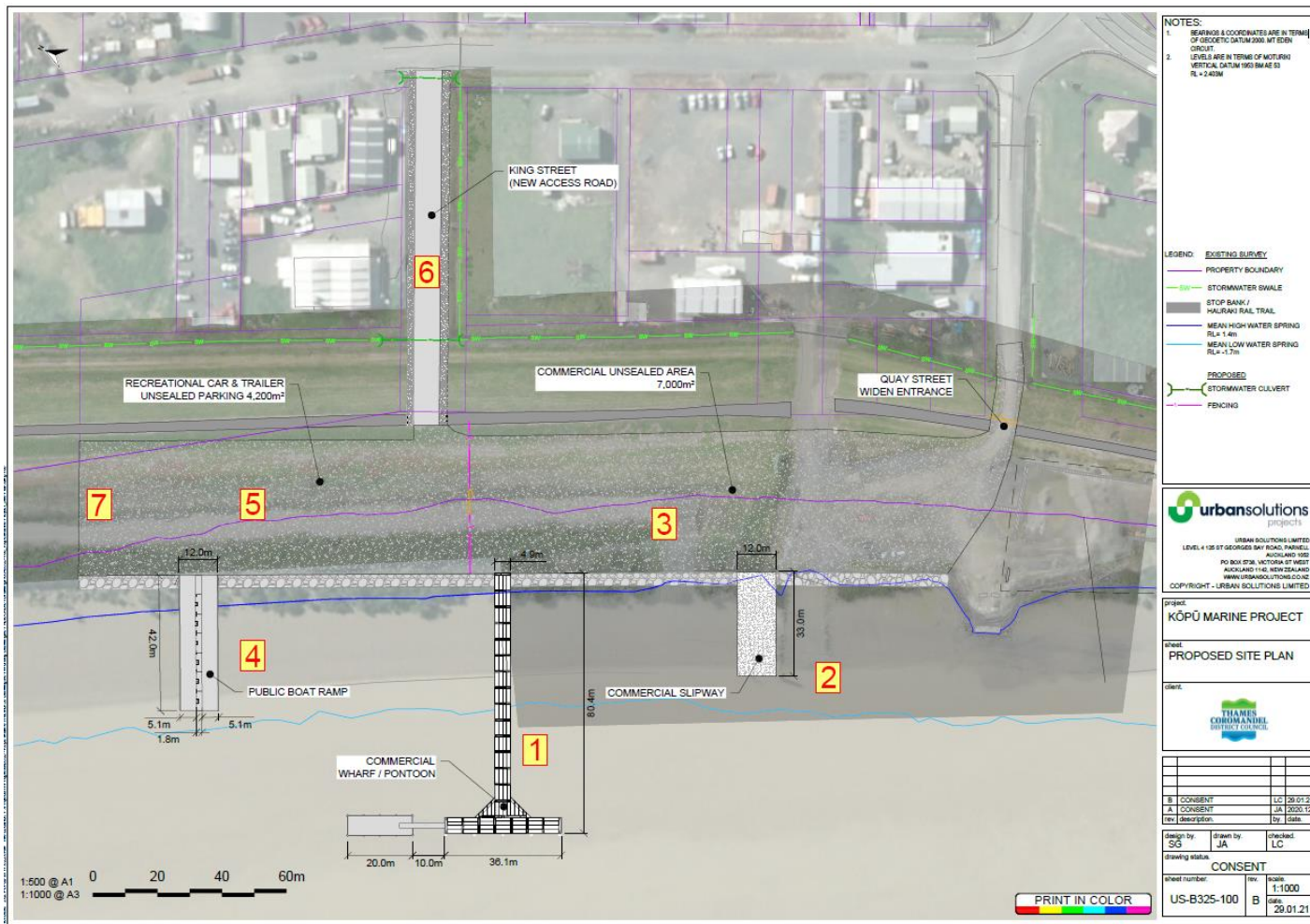


## Attachment 2 - Contact information

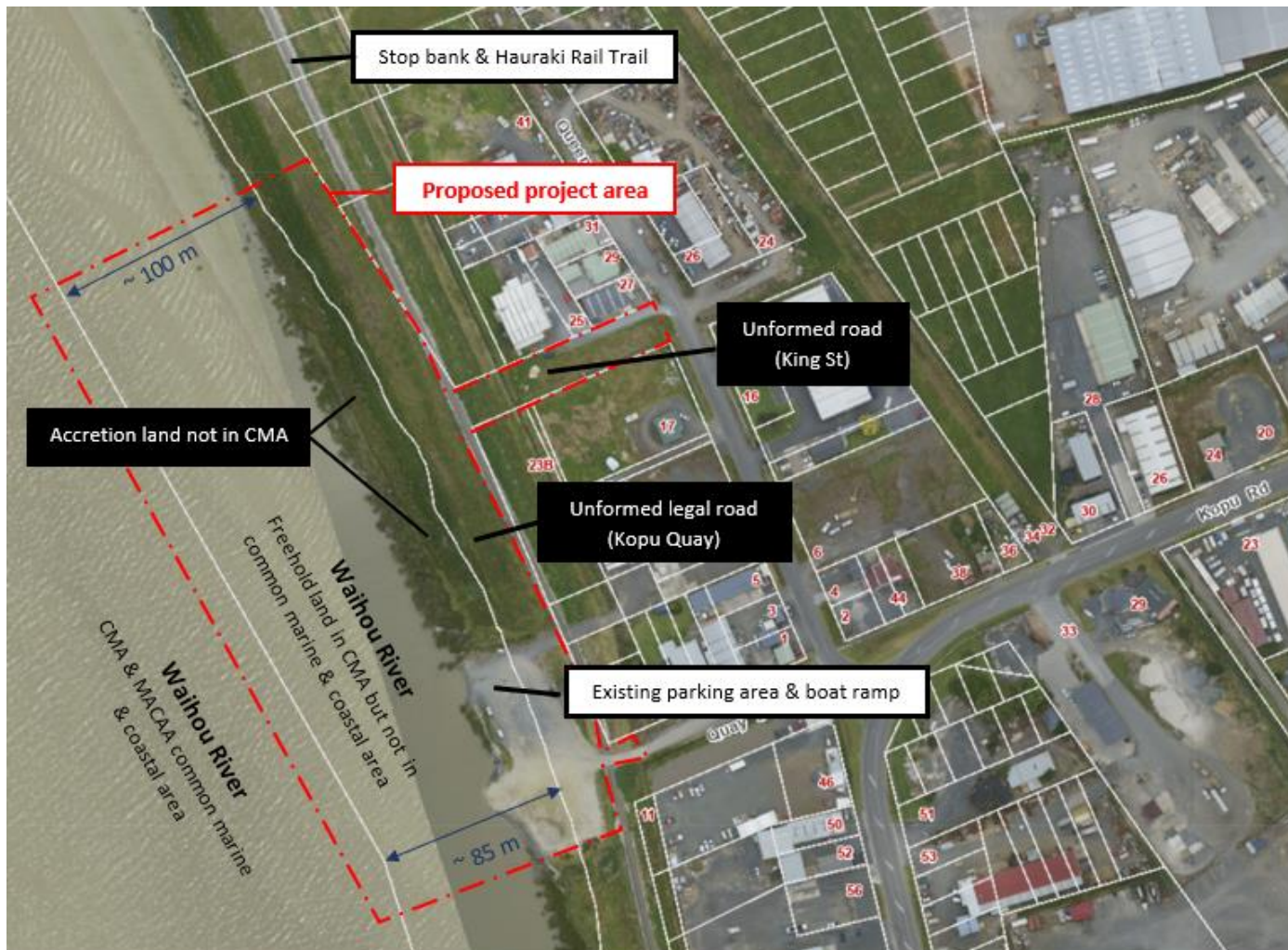
Iwi/hapū	Representative body	Contact details	RMA Iwi authority	Treaty settlement entity	Other	Contact person	Copies to
Ngāti Maru (Hauraki)	Ngāti Maru Runanga Trust	PO Box 37 Thames 3540  office@ngatimaru.iwi.nz	Represents Ngāti Maru as an iwi authority for RMA purposes	Post-settlement governance entity [DOS initialled 8 Sep 2017]	In Treaty settlement negotiations	Manager: David Taipari  office@ngatimaru.iwi.nz	RMA Contact: William Peters  office@ngatimaru.iwi.nz
Ngāi Tai ki Tāmaki	Ngāi Tai ki Tāmaki Tribal Trust	PO Box 141 Clevedon Auckland 2248	Represents Ngāi Tai ki Tāmaki as an iwi authority for RMA purposes			Chairperson: James Brown s9(2)(a) (office manager contact)	Kaitiaki Unit  kaitiaki@ngaitaitamaki.iwi.nz
	Ngāi Tai ki Tāmaki Trust			Post-settlement governance entity under the Ngāi Tai ki Tāmaki Claims Settlement Act 2018			
Ngaati Whanaunga	Ngaati Whanaunga Incorporated Society		Represents Ngāti Whanaunga as an iwi authority for RMA purposes			Boni Renata General Manager  s9(2)(a)	
	Ngaati Whanaunga Ruunanga Trust			Post-settlement governance entity [DOS initialled 25 August 2017]	In Treaty settlement negotiations		
Ngāti Tamaterā	Ngāti Tamaterā Treaty Settlement Trust	PO Box 28 Thames 3540	Represents Ngāti Tamaterā as an iwi authority for RMA purposes	Post-settlement governance entity [DOS initialled 20 Sep 2017]	In Treaty settlement negotiations	Antony Royal Chair Ph: s9(2)(a)  chair@tamatera.iwi.nz	RMA Kaitiaki  rma@tamatera.iwi.nz

Hako	Te Kupenga o Ngāti Hako Inc.	PO Box 33 Paeroa 3640	Represents Ngāti Hako as an iwi authority for RMA purposes		In Treaty settlement negotiations	Pauline Clarkin CEO s9(2)(a)	
Ngāti Rāhiri Tumutumu	Ngāti Tumutumu Settlement Trust			Post-settlement governance entity [DOS initialled 13 July 2017]	In Treaty settlement negotiations	Daniel Braid Chair s9(2)(a)	Nicola Scott s9(2)(a) s9(2)(a)
Iwi of Hauraki	Hauraki Māori Trust Board		Represents the individual iwi of Hauraki as an iwi authority for RMA purposes		Mandated Iwi Organisation under the Māori Fisheries Act 2004 Iwi Aquaculture Organisation under the Māori Commercial Aquaculture Claims Settlement Act 2004.	John McEnteer CEO general@hauraki.iwi.nz	

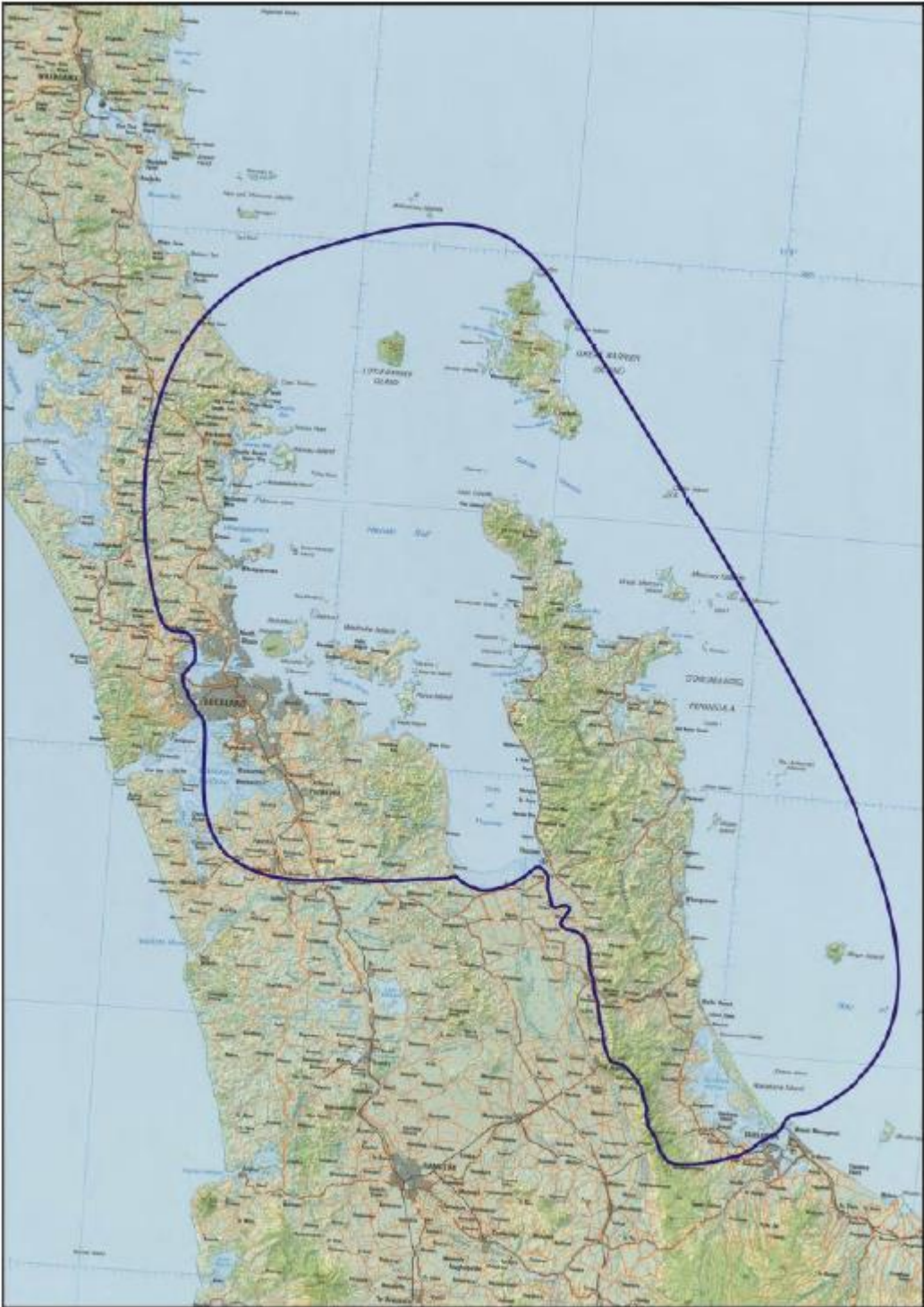
# Attachment 3 – Project site layout



## Attachment 4 – Project site land status



# Attachment 5 – Ngāi Tai ki Tāmaki Area of Interest



Source: Pt 1 of Attachments to Ngāi Tai ki Tāmaki Deed of Settlement November 2015

## Attachment 6 – Pare Hauraki Redress Area



Source: Pt 1 of Attachments to the Pare Hauraki Collective Redress Deed



## Attachment 7 - Applications for a customary marine title area or protected customary rights area

MAC No	Applicant	For	Track	Contact details	Status
CIV-2017-404-528	Kenneth John Linstead	Te Kupenga o Ngāti Hako	High Court	10 Kaihu Street Northcote	No decision has been made
MAC-01-01-135	Kenneth John Linstead	Te Kupenga o Ngāti Hako	Crown engagement	Auckland 0627 s9(2)(a) s9(2)(a)	No decision has been made
MAC-01-03-001	Terrence John McEnteer	Hauraki Māori Trust Board	Crown engagement	PO Box 1585 Shortland Street Auckland 1140	No decision has been made
MAC-01-03-006	Walter (Waati) Ngakoma Ngamane	Ngāti Maru	Crown engagement	s9(2)(a) s9(2)(a)	No decision has been made
MAC-01-03-010	Dennis Raniera Kirkwood	Ngāti Tamaoho	Crown engagement	s9(2)(a) info@tamaoho.maori.nz	No decision has been made
MAC-01-03-011	Debra Liane Ngamane	Ngāti Tamaterā	Crown engagement	PO Box 28 Thames s9(2)(a) s9(2)(a)	No decision has been made
MAC-01-01-091	Mike Baker	Ngaati Whanunga	Crown engagement	PO Box 160 Coromandel 3581 s9(2)(a) s9(2)(a)	No decision has been made

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