

Fast-track Approvals Act 2024 – Treaty settlements and other obligations (Section 18) report

Project Name: FTAA-2504-1042 POTL – Stella Passage Development

To:	Date:
Panel Convener, Jane Borthwick	9 June 2025

Number of attachments: 7	Attachments: <ol style="list-style-type: none"> Provisions of section 18 of the Fast-track Approvals Act 2024 Project location map List of relevant Māori groups Consultation provisions in the Waitaha Conservation Protocol Statutory acknowledgement provisions in the Waitaha Claims Settlement Act 2013 Statutory areas for Waitaha and Ngāi Te Rangi/Ngā Potiki coastal statutory acknowledgements Map of Te Maunga o Mauao Mātaihai Reserve
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Ministry for the Environment contacts:

Position	Name	Cell phone	1 st contact
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General Manager, Delivery & Operations	Ilana Miller	██████████	

Key points

- As required by section 49 of the Fast-track Approvals Act 2024 (the Act), the Ministry for the Environment (on behalf of the Secretary for the Environment) has prepared this report on Treaty settlements and other obligations (section 18 of the Act) in relation to the substantive application FTAA-2504-1042 POTL – Stella Passage Development.
- The applicant, Ports of Tauranga Limited (POTL), is proposing the extension of the Sulphur Point and Mount Maunganui wharves at the Port of Tauranga, dredging the bed of Stella Passage in Tauranga Harbour, and installation and use of four new cranes on the Sulphur Point wharves. The approvals being sought are under the Resource Management Act 1991 (RMA) and the Wildlife Act 1953. The project will primarily be undertaken in the coastal marine area.
- Section 18(2) of the Act requires that the report provide a list of relevant Māori groups, including relevant iwi authorities and Treaty settlement entities. Many of those groups must

be invited by the panel to comment on a substantive application under section 53(2) of the Act. There are a significant number of groups relevant to the project area, including applicant groups under the Marine and Coastal Area (Takutai Moana) Act 2011 (MACA), which we have listed at **Attachment 3**.

4. There are three Treaty settlement Acts (Waitaha Claims Settlement Act 2013, Ngāti Pūkenga Claims Settlement Act 2017, Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025), a signed deed of settlement (Ngāi Te Rangi and Ngā Potiki), and signed collective redress deed (Tauranga Moana Iwi Collective) relevant to the project area. Some of these settlements include Crown acknowledgements that specifically refer to the environmental and cultural impact of the development of the Port of Tauranga.
5. The Waitaha Claims Settlement Act 2013 includes a conservation protocol that provides for general principles to be followed by the Department of Conservation, Te Papa Atawhai (DOC) when consulting Waitaha. Under clause 5 of schedule 3 of the Act, the panel will need to comply with these procedural requirements with regard to its consideration of the Wildlife Act 1953 approval. Conservation relationship agreements with other relevant Treaty settlement entities are less specific or are subject to enactment of the Tauranga Moana Iwi Collective redress legislation.
6. The Tauranga Moana Framework, provided for in the Tauranga Moana Iwi Collective deed, includes several procedural arrangements regarding resource consent applications – such as information sharing, the appointment of hearing commissioners, and having regard to the Ngā Tai ki Mauao framework document – which would be relevant to the panel's consideration of this application if the collective legislation had been enacted. Nevertheless, in accordance with section 7 of the Act, it would be appropriate for the panel to consider how it might act consistently with the intent of the Tauranga Moana Framework redress, acknowledging that the settlement legislation that would bring these arrangements into force is yet to be enacted.
7. The panel may also want to consider whether statutory acknowledgements (for Waitaha and Ngāi Te Rangi/Ngā Potiki) over the nearby coast, and customary fishing rights under the Fisheries Act 1996 within the project area, may be affected by the approvals being sought by the applicant.

Signature

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Ilana Miller
General Manager – Delivery and Operations

Introduction

8. For a substantive application that relates to a listed project, under section 49 of the Act, the Environmental Protection Authority (EPA) must request a report from the responsible agency (Secretary for the Environment) that is prepared in accordance with section 18(2) and (3)(a) of the Act (but does not contain the matters in section 18(2)(l) and (m)).
9. The information which must be provided in this report includes:
 - a. relevant iwi authorities, Treaty settlement entities, applicant groups MACA, and other Māori groups with interests in the project area; and
 - b. relevant principles and provisions in Treaty settlements and other arrangements.
10. This report is structured accordingly. We have provided a list of the relevant provisions of section 18 at **Attachment 1**.

Proposed project

11. The applicant, Ports of Tauranga Limited (POTL), is proposing the extension of the Sulphur Point and Mount Maunganui wharves at the Port of Tauranga, dredging the bed of Stella Passage in Te Awanui/Tauranga Harbour, and installation and use of four new cranes on the Sulphur Point wharves. The approvals being sought are under the RMA (land use consent, coastal permit, reclamation consent) and the Wildlife Act 1953. The project will primarily be undertaken in the coastal marine area (POTL own the land adjacent to the project area).
12. We have provided a location map at **Attachment 2**.

Relevant iwi authorities, Treaty settlement entities, and other Māori groups

13. We note that some entities identified below may be included in more than one category. We have included a composite list of all groups at **Attachment 3**, including contact details.

Iwi authorities

14. We consider the following groups to be the relevant iwi authorities for the project area:
 - a. Ngāti Pūkenga Iwi ki Tauranga Trust, representing Ngāti Pūkenga;
 - b. Te Rūnanga o Ngāi Te Rangī Iwi Trust, representing Ngai Te Rangī;
 - c. Ngāti Ranginui Iwi Society Inc, representing Ngāti Ranginui;
 - d. Ngā Pōtiki a Tamapahore Trust, representing Ngā Pōtiki; and
 - e. Te Kapu o Waitaha Trust, representing Waitaha.

Treaty settlement entities

15. Under section 4(1) of the Act, “Treaty settlement entity” means any of the following:
 - (a) a post-settlement governance entity (PSGE):
 - (b) a board, trust, committee, authority, or other body, incorporated or unincorporated, that is recognised in or established under any Treaty settlement Act:
 - (c) an entity or a person that is authorised by a Treaty settlement Act to act for a natural resource feature with legal personhood:

(d) Te Ohu Kai Moana or a mandated iwi organisation (as those terms are defined in section 5(1) of the Maori Fisheries Act 2004):

(e) an iwi aquaculture organisation (as defined in section 4 of the Maori Commercial Aquaculture Claims Settlement Act 2004).

16. We have identified the following relevant Treaty settlement entities for this project area:

- a. Te Kapu o Waitaha Trust, PSGE for Waitaha Claims Settlement Act 2013;
- b. Te Tāwharau o Ngāti Pūkenga, PSGE for Ngāti Pūkenga Claims Settlement Act 2017;
- c. Ngā Hapū o Ngāti Ranginui Settlement Trust, PSGE for Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025;
- d. Ngāti Pūkenga Iwi ki Tauranga Trust, mandated iwi organisation/iwi aquaculture organisation for Ngāti Pūkenga;
- e. Te Rūnanga o Ngāi Te Rangi Iwi Trust, mandated iwi organisation/iwi aquaculture organisation for Ngāi Te Rangi;
- f. Te Kotahitanga o Te Arawa Waka Fisheries Trust Board, mandated iwi organisation/iwi aquaculture organisation for Waitaha;
- g. Ngāti Ranginui Fisheries Trust, mandated iwi organisation/iwi aquaculture organisation for Ngāti Ranginui; and
- h. Te Ohu Kaimoana.

17. A PSGE may be established ahead of finalising a deed of settlement and/or enactment of Treaty settlement legislation. The following PSGEs in this category are also relevant:

- a. Ngāi Te Rangi Settlement Trust, PSGE for Ngāi Te Rangi;
- b. Ngā Pōtiki a Tamapahore Trust, PSGE for Ngā Pōtiki; and
- c. Tauranga Moana Iwi Collective Limited Partnership, PSGE for Tauranga Moana Iwi Collective Redress (Ngāti Pūkenga, Ngū Hapū o Ngāti Ranginui, Ngāi Te Rangi).

Groups mandated to negotiate Treaty settlements

18. The following groups have recognised mandates to negotiate a Treaty settlement over an area which may include the project area:

- a. Ngāi Te Rangi Settlement Trust; and
- b. Ngā Pōtiki a Tamapahore Trust.

19. Both groups signed a joint deed of settlement in December 2013 (Ngā Pōtiki is a hapū of Ngāi Te Rangi), and their settlement Bill was introduced to the House in May 2016. However, negotiations with the Crown are currently paused.

Takutai Moana groups and ngā hapū o Ngāti Porou

20. At the time of writing, there are no groups with court orders or agreements that recognise protected customary rights or customary marine title within the project area under MACA. In October 2021, the High Court granted five applicant groups a joint customary marine

title (CMT) over nearby Te Tāhuna o Rangataua, an estuary in the eastern-most part of Tauranga Harbour.¹

21. However, the following applicant groups are seeking recognition of CMT or protected customary rights (PCR) within the project area under MACA:

- a. MAC-01-05-024/CIV-2017-485-355 – Te Whānau a Mekomoko;
- b. MAC-01-05-005 – Ngā Hapū o Matakana;
- c. MAC-01-05-006/CIV-2017-485-244 – Ngā Hapū o Ngāi Te Rangi;
- d. MAC-01-05-009 – CMT/PCR – Ngāi Tamarawaho;
- e. MAC-01-05-013/CIV-2017-485-219 – Ngāti He;
- f. MAC-01-05-015/CIV-2017-485-250 – PCR – Ngāti Pukenga;
- g. MAC-01-05-016/CIV-2017-485-294 – Ngā Hapū o Ngāti Ranginui Settlement Trust; and
- h. MAC-01-05-025 – Waaka and Holloway Whānau.

22. The project area is not within ngā rohe moana o ngā hapū o Ngāti Porou (as set out in the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019).

Iwi or hapū whose practices are recognised under the Fisheries Act 1996 through customary management areas

23. The project area overlaps with Te Maunga o Mauao Mātaitai Reserve. Pursuant to Part 9 of the Fisheries Act 1996 and Regulation 22 of the Fisheries (Kaimoana Customary Fishing) Regulations 1998, the Fisheries (Declaration of Mātaitai Reserve at Mt Maunganui and Part of Tauranga Harbour and Appointments of Tangata Kaitiaki/Tiaki) Notice 2008 established the mātaitai reserve and appointed tangata kaitiaki/tiaki.

24. The project area is also within an area subject to regulations for customary food-gathering made under Part 9 of the Fisheries Act 1996. Pursuant to Regulation 9 of the Fisheries (Kaimoana Customary Fishing) Regulations 1998, the Fisheries (Kaimoana Customary Fishing) Notice (No. 14) 2011 provides for management of customary food-gathering within an area/rohe moana by the appointed tangata kaitiaki/tiaki. The following are the tangata whenua of the rohe moana who nominate the tangata kaitiaki/tiaki, represented by Tauranga Moana Iwi Customary Fisheries Trust:

- a. Ngāi Te Rangi;
- b. Ngāti Ranginui; and
- c. Ngāti Pukenga.

Owners of identified Māori land where electricity infrastructure or land transport infrastructure is proposed

25. Section 23 of the Act provides that, in making a decision on a referral application under section 21, the Minister may determine that, for the purposes of the project, an activity described in section 5(1)(a) is not an ineligible activity if it:

¹ Four of these applicant groups (Ngāti Hē, Ngāti Pūkenga, Ngāi Te Rangi, and Ngāti Ranginui) are also seeking CMT/PCR over an area encompassing the project area, as set out in paragraph 21. The remaining Ngā Pōtiki application area is outside Tauranga Harbour.

- a. is the construction of electricity lines or land transport infrastructure by (or to be operated by) a network utility operator that is a requiring authority; and
 - b. would occur on identified Māori land that is Māori freehold land or General land owned by Māori that was previously Māori freehold land.
26. This project does not involve an activity described in section 23(1) (i.e. including both (a) and (b)) of the Act.

Iwi authorities and groups representing hapū who are party to relevant Mana Whakahono ā Rohe or joint management agreements

27. If the project area is within the boundaries of either a Mana Whakahono ā Rohe or joint management agreement, and the application includes a proposed RMA approval described in section 42(4)(a) to (d) (resource consent, certificate of compliance, or designation), we are required to identify the relevant iwi authority/group that represent hapū that are parties to these arrangements.
28. We have not identified any Mana Whakahono ā Rohe or joint management agreements that are relevant to the project area, and accordingly there no parties to these arrangements to identify.

Any other Māori groups with relevant interests

29. The applicant has also identified the following groups with interests in the project area:
- a. Ngāi Tukairangi (hapū of Ngāi Te Rangi)
 - b. Ngāti Kuku (hapū of Ngāi Te Rangi)
 - c. Ngāti Hē Hapū Trust (hapū of Ngāi Te Rangi)
 - d. Ngāti Kaahu a Tamapahore;
 - e. Ngāti Kahu (hapū of Ngāti Ranginui)
 - f. Ngāti Tapu (hapū of Ngāi Te Rangi)
 - g. Ngāi Tamarawaho (hapū of Ngāti Ranginui)
 - h. Whareroa Marae (Ngāti Kuku, Ngāi Tukairangi);
 - i. Ngā Hapu o Ngā Moutere Trust (collective of Matakana Island hapū: Ngāi Tuwhiwhia, Ngāi Tamawhariua, Ngāti Tauaiti, Te Ngare, Whānau a Tauwhao); and
 - j. Ngā Tai ki Mauao hapū collective (comprising Ngāi Tuwhiwhia, Ngāi Tamawhariua, Te Ngare, Whānau a Tauwhao (ki Rangiwaea), Ngāti Tauaiti, Ngāti Kuku, Whareroa Marae Trust, Ngāti Tapu; Ngāti Kaahu a Tamapahore; Ngā Kaitiaki o Rangataua; Ngāti Hē; Ngāti Kahu (ki Tauranga)).

Relevant principles and provisions in Treaty settlements and other arrangements

Treaty settlements

30. Under section 4(1) of the Act, a Treaty settlement includes both a Treaty settlement Act and a Treaty settlement deed which is signed by both the Crown and representatives of a group of Māori.

31. The following Treaty settlements relate to land, species of plants or animals, or other resources within the project area:
- a. Waitaha Claims Settlement Act 2013;
 - b. Ngāti Pūkenga Claims Settlement Act 2017;
 - c. Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025;
 - d. Ngāi Te Rangi and Ngā Potiki deed of settlement, signed December 2013; and
 - e. Tauranga Moana Iwi Collective Deed (Ngāi Te Rangi, Ngāti Pūkenga, Ngāti Ranginui), signed January 2015.

Relevant principles and provisions

32. Section 7 of the Act requires all persons exercising powers and functions under the Act to act in a manner consistent with Treaty settlements. The relevant principles and provisions for each of these settlements are set out below.

Crown acknowledgements and apologies

33. The Crown offers acknowledgements and an apology to relevant groups as part of Treaty settlement redress to atone for historical wrongs that breached te Tiriti o Waitangi/the Treaty of Waitangi, to restore honour, and begin the process of healing.
34. As part of its apologies to Waitaha, Ngāti Pūkenga, the hapū of Ngāti Ranginui, Ngāi Te Rangi and Ngā Potiki, the Crown stated it looked forward to building a new relationship with these groups based on co-operation, mutual trust, and respect for te Tiriti o Waitangi/the Treaty of Waitangi and its principles. The redress mechanisms provided for in Treaty settlements should be viewed in the context of these intentions.
35. With specific reference to Tauranga Moana, the Crown has also acknowledged:
- a. that Ngāti Pūkenga describe Tauranga Moana as a significant taonga, and that environmental degradation of the harbour and species within has been a source of distress for Ngāti Pūkenga;
 - b. the significance of the land, forests, harbours and waterways of Tauranga Moana as a physical and spiritual resource for Ngāi Te Rangi and Ngā Potiki;
 - c. the loss of most of their coastal lands has reduced Ngāi Te Rangi and Ngā Potiki's access to coastal urupā, kainga, food-gathering areas, and associated resources;
 - d. the development of the Port of Tauranga, the disposing of sewerage and wastewater into the harbours and waterways of Tauranga Moana, and the construction of effluent ponds on Te Tahuna o Rangataua, 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 Rangi and Ngā Potiki;
 - e. 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; and
 - f. that the development of the Port of Tauranga, and the disposing of sewerage and wastewater into the harbours and waterways of Tauranga Moana have resulted in environmental degradation of Tauranga Moana which remains a source of great distress to the hapū of Ngāti Ranginui.

Conservation relationship redress

36. Relationship agreements and protocols between the Minister of Conservation/Director-General of Conservation and iwi, as provided for in Treaty settlements, may be relevant to this application where they include consultation requirements relating to conservation approvals, such as those under the Wildlife Act 1953.
37. The Waitaha Claims Settlement Act 2013 provides for a conservation protocol. The protocol, as set out in the deed of settlement, provides for general principles to be followed by DOC when consulting Waitaha, including:
 - a. ensuring consultation takes place as soon as reasonably practicable;
 - b. providing Waitaha with sufficient information to make informed submissions;
 - c. ensuring that sufficient time is given for the effective participation of Waitaha; and
 - d. requiring the Department to report back to Waitaha on decision made.
38. We have included the relevant excerpt from the protocol at **Attachment 4**. Under clause 5 of schedule 3 to the Act, if a Treaty settlement Act includes procedural arrangements, the panel convener or panel must comply with those arrangements or obtain the agreement of the relevant party to adopt a modified arrangement. With regard to the Wildlife Act 1953 approval sought by the applicant, we consider the procedural requirements of the Waitaha conservation protocol are able to be complied with under the substantive process set out in the Act, if the panel invites Waitaha to comment on the application under section 53 of the Act.
39. The Ngāti Pūkenga deed of settlement includes provisions to agree on a conservation relationship agreement but the contents are not specified.² DOC advise that the relationship agreement has yet to be finalised, and discussions are currently focused on the Maunga Kāinga area of interest (an area surrounding Coromandel Harbour). The Ngāti Ranginui deed of settlement states that a relationship agreement with the Tauranga Moana Iwi Collective will be provided for through the collective deed, including how Ngā Hapū o Ngāti Ranginui and the Director-General of Conservation will engage on conservation matters. There will be no separate conservation relationship agreement directly with Ngāti Ranginui.
40. The Tauranga Moana Iwi Collective Deed includes a conservation relationship agreement, under the broader Te Kūpenga Framework with the Department of Conservation. The agreement refers to engagement to be undertaken with Tauranga Moana Iwi by the Department when exercising its powers and functions, including under the Wildlife Act 1953. Apart from commitments to open communication and information sharing, there are no specific requirements regarding consultation on statutory authorisations. The relationship agreement itself has yet to be developed as the collective redress legislation has not been enacted.

Tauranga Moana Framework

41. The Tauranga Moana Iwi Collective deed provides for the Tauranga Moana Framework, which includes:
 - a. the establishment of a statutory committee called the Tauranga Moana Governance Group; and

² The deed of settlement signed in April 2013 initially stated that a conservation relationship agreement with the Tauranga Moana Iwi Collective would be provided for through the collective deed, but the fifth deed to amend (signed in August 2017) included a commitment to a relationship agreement directly with Ngāti Pūkenga.

- b. the preparation, review, amendment and adoption of a Tauranga Moana framework document – Ngā Tai ki Mauao – which will identify the vision, objectives and desired outcomes for Tauranga Moana.
42. The purpose of the Tauranga Moana Governance Group is to provide leadership and strategic direction to restore, enhance and protect the health and wellbeing of Tauranga Moana (which includes the project area). The Group will achieve sustainable management of Tauranga Moana through the implementation of Ngā Tai ki Mauao and by providing for participation by Tauranga Moana iwi and hapū in the management of Tauranga Moana. The Group will comprise equal numbers appointed by iwi and by local authorities/Minister for the Environment.
43. The Framework includes several procedural provisions of relevance to the application:
- a. copies of applications for resource consent for any activities referred to in sections 12, 13, 14, 15(1)(a) and (b), 15A and 15B of the RMA, in relation to waters within Tauranga Moana, must be provided to Tauranga Moana iwi and hapū within five working days of receipt by Bay of Plenty Regional Council;
 - b. at least once every two years the Bay of Plenty Regional Council and the Tauranga Moana Governance Group must jointly establish a working party to develop/review criteria and policies for procedural matters related to resource consent applications;
 - c. if a hearing is to be held under the RMA in relation to an application for a resource consent referred to in paragraph 43(a), the Bay of Plenty Regional Council must appoint at least one person from the register of hearing commissioners maintained by the Tauranga Moana Governance Group; and
 - d. until such time as Ngā Tai ki Mauao has been recognised and provided for in the preparation, review, variation or change of the Bay of Plenty regional policy statement, a consent authority must have regard to the contents of Ngā Tai ki Mauao when making a decision on a resource consent which applies to Tauranga Moana.
44. While these provisions are contained in a signed deed of settlement, they are to be provided for through collective legislation, as this has yet to be enacted.³ Accordingly, the Tauranga Moana Governance Group has not been established and, as far as we are aware, Ngā Tai ki Mauao has not been developed.
45. Accordingly, the panel's obligations under clause 5 schedule 3 of the Act to comply with any relevant procedural requirements set out in a Treaty settlement Act do not apply in this instance, because the Tauranga Moana Framework provisions have yet to be enacted.
46. Section 82 of the Act requires that, if a Treaty settlement provides for the consideration of any document, then the panel must give the same or equivalent effect to that document in their decision-making. This would mean having regard to Ngā Tai ki Mauao in considering this application, as set out in paragraph 43(d).⁴ Again, this is not possible if Ngā Tai ki Mauao has yet to be developed.
47. Notwithstanding this, the overarching provision at section 7 of the Act requires all persons performing and exercising functions, powers, and duties to act in a manner that is

³ The Tauranga Moana Framework provisions are included in the legislative matters schedule to the collective deed. The Tauranga Moana Iwi Collective Redress Bill currently before the House (awaiting second reading) does not include these provisions.

⁴ This includes any statutory planning document amended as a consequence, which in this instance would mean the Bay of Plenty regional policy statement.

consistent with the obligations arising under existing Treaty settlements (where 'Treaty settlements' includes a signed Treaty settlement deed). Accordingly, it would be appropriate for the panel to consider how it might act consistently with the intent of the Tauranga Moana Framework redress, acknowledging that the settlement legislation which would bring these arrangements into force has yet to be enacted.

Statutory acknowledgements

48. The Waitaha Claims Settlement Act 2013 and the Ngāi Te Rangi and Ngā Potiki deed of settlement both provide for statutory acknowledgements along the nearby coast, but not within Tauranga Harbour. Strictly speaking, the statutory areas subject to the statutory acknowledgements do not include the project area.
49. We do not have the technical expertise to say whether the approvals being sought by the applicant would affect the statutory areas, but this may be something for the panel to consider. If so, there are two features of a statutory acknowledgement which are most relevant for consent authorities when considering a resource consent for an activity within, adjacent to, or directly affecting a statutory area:
 - a. a consent authority must have regard to the statutory acknowledgement when deciding whether the holder (generally a PSGE) is an 'affected person' for the purposes of notification decisions in relation to the activity under the RMA.
 - b. a consent authority must provide a summary of the application to the holder of the statutory acknowledgement. The summary of the application must be the same as would be given to an affected person by limited notification under the RMA. The summary must be provided as soon as is reasonably practicable after the relevant consent authority receives the application, but before they decide whether to notify the application.
50. The holder of a statutory acknowledgment may also cite this as evidence of their association with a statutory area in any submission before a relevant consent authority, which may, in turn, take that statutory acknowledgement into account.
51. Under section 53(2)(c) of the Act, the panel must direct the EPA to invite written comments on a substantive application from any relevant Treaty settlement entities including, to avoid doubt, an entity that has an interest under a Treaty settlement (or an entity operating in a collective arrangement provided for under a Treaty settlement) within the area to which the application relates. Those invited to comment, including relevant Treaty settlement entities, will be provided access to the application information.
52. Waitaha, Ngāi Te Rangi, and Ngā Potiki have been identified earlier in this report as relevant Treaty settlement entities to be invited for comment by the panel under section 53(2)(c) of the Act. We consider the process of inviting comment (including providing information about the application) is comparable to the process under Treaty settlements and the RMA of providing those who hold statutory acknowledgements with a summary of the application. This does not prevent the panel from inviting other relevant Māori groups, such as the others identified in this report, to comment on the application.
53. For your reference, we have included the relevant statutory acknowledgement provisions from the Waitaha Claims Settlement Act 2013 at **Attachment 5**. The Ngāi Te Rangi and Ngā Potiki statutory acknowledgement is subject to the enactment of the settlement legislation, but will include similar provisions as this is standardised drafting. We have included the deed plans for both the Waitaha and Ngāi Te Rangi/Ngā Potiki statutory areas at **Attachment 6**.
54. Finally, we also note that iwi and hapū are likely to have cultural associations with ancestral lands, water, sites, wāhi tapu, and other taonga beyond what is specifically identified in a

Treaty settlement or other arrangements. Local tangata whenua and their representatives would be best placed to advise on such matters in the first instance.

Maori Fisheries Act 2004

55. The Maori Fisheries Act 2004 provides a framework for the allocation and transfer of specified settlement assets to iwi, in the form of fisheries quota, and management of the remainder of those settlement assets. While Ngāti Pūkenga Iwi ki Tauranga Trust, Te Rūnanga o Ngāi Te Rangi Iwi Trust, Te Kotahitanga o Te Arawa Waka Fisheries Trust Board, and Ngāti Ranginui Fisheries Trust hold fishing quota in the wider Quota Management Area, it is not clear whether the application will affect these interests.

Maori Commercial Aquaculture Claims Settlement Act 2004

56. The Maori Commercial Aquaculture Claims Settlement Act 2004 provides for the settlement of Māori claims to commercial aquaculture through the allocation and management of aquaculture settlement assets. While Ngāti Pūkenga Iwi ki Tauranga Trust, Te Rūnanga o Ngāi Te Rangi Iwi Trust, Te Kotahitanga o Te Arawa Waka Fisheries Trust Board, and Ngāti Ranginui Fisheries Trust are iwi aquaculture organisations for the purposes of the Maori Commercial Aquaculture Claims Settlement Act 2004, the project area is not located within an aquaculture settlement area established under section 12 of that legislation (or within an area reserved for aquaculture through an individual iwi settlement).

Customary Marine Title/Protected Customary Rights

57. As noted above, the project area is not within a customary marine title area, protected customary rights area, or within or adjacent to ngā rohe moana o ngā hapū o Ngāti Porou.
58. However, as noted at paragraph 21, there are currently eight applicant groups seeking recognition of PCR or CMT over areas which include the project area. Under section 53(2)(e) of the Act, the panel must invite comments from MACA applicants identified in this report. This will provide groups an opportunity to comment on the application and have their views taken into consideration by the panel.⁵
59. We note that if any of the CMT/PCR applications are ultimately successful, a number of rights would be conferred on the relevant applicants under MACA, including in relation to permission for certain resource consents.

Taiāpure-local fisheries/mātaitai reserves/areas subject to bylaws or regulations made under Part 9 of the Fisheries Act 1996

60. As noted at paragraph 23, the project area overlaps with Te Maunga o Mauao Mātaitai Reserve. The purpose of the Mātaitai Reserve is to sustainably manage kai moana health and population within the specified area, depicted at **Attachment 7**. The Fisheries (Declaration of Mātaitai Reserve at Mt Maunganui and Part of Tauranga Harbour and Appointments of Tangata Kaitiaki/Tiaki) Notice 2008 prohibits commercial fishing within the reserve, and provides that the tangata kaitaki/tiaki appointed for the reserve may authorise any individual to take fisheries resources, managed under the Fisheries Act 1996, for customary food-gathering purposes from within the reserve.
61. The project area is also within an area/rohe moana subject to regulations under Part 9 of the Fisheries Act 1996 for the management of customary food-gathering. The Fisheries

⁵ We note sections 62(2) and 62A MACA provide for CMT applicants to be notified of, and consulted on, applications for resource consents in that part of the common marine and coastal area where CMT is being sought.

(Kaimoana Customary Fishing) Notice (No.14) 2011 provides that the tangata kaitiaki/tiaki appointed for the area may authorise any individual to take fisheries resources, managed under the Fisheries Act 1996, for customary food-gathering purposes from within the whole or any part of the area/rohe moana.

62. While the application itself does not include the proposed taking of fisheries resources, it is possible that the project may affect the ability of the tangata whenua to exercise customary food-gathering practices under the authority of the kaitiaki/tiaki. For example, sediment disturbance from dredging may have a negative effect on fisheries in the harbour at Te Paritaha sand bank and near the harbour entrance, and customary fishing may be excluded from a larger area than the current port. Tangata whenua are best suited to inform the panel of these effects.

Mana Whakahono ā Rohe/Joint management agreement

63. As noted above, we have not identified any Mana Whakahono ā Rohe or joint management agreements that are relevant to the project area.

Consultation with departments

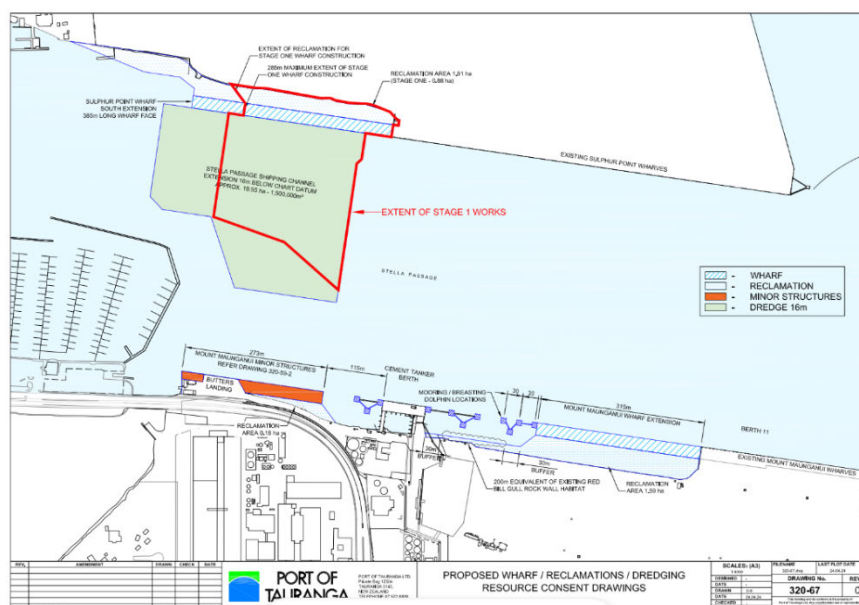
64. In preparing this report, we are required to consult relevant departments. We sought advice from Te Puni Kōkiri – the Ministry for Māori Development and The Office of Treaty Settlements and Takutai Moana – Te Tari Whakatau regarding the relevant Māori groups, the DOC regarding the current status of relationship agreements, and from the Ministry for Primary Industries – Manatū Ahu Matua in relation to fisheries and aquaculture settlements, and have incorporated their views into this report.

Attachment 1: Provisions of section 18 of the Fast-track Approvals Act 2024

Section	Information required	Paragraph reference in this report
18(1)	The Minister must, for a referral application, obtain and consider a report that is prepared by the responsible agency in accordance with this section.	Not applicable to substantive applications – s 18 report is required by s 49.
18(2)(a)	Any relevant iwi authorities and relevant Treaty settlement entities	14-17
18(2)(b)	Any Treaty settlements that relate to land, species of plants or animals, or other resources within the project area	30-31
18(2)(c)	The relevant principles and provisions in those Treaty settlements, including those that relate to the composition of a decision-making body for the purposes of the Resource Management Act 1991	32-56
18(2)(d)	Any recognised negotiation mandates for, or current negotiations for, Treaty settlements that relate to the project area.	18-19
18(2)(e)	Any court orders or agreements that recognise protected customary rights or customary marine title within the project area.	20, 57-59
18(2)(f)	Any applicant groups under the Marine and Coastal Area (Takutai Moana) Act 2011 that seek recognition of customary marine title or protected customary rights within the project area.	21, 57-59
18(2)(g)	Whether the project area would be within or adjacent to, or the project would directly affect, ngā rohe moana o ngā hapū o Ngāti Porou (and, if so, the relevant provisions of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019).	22, 57-59
18(2)(h)	Whether the project area includes any taiāpure-local fisheries, mātaihai reserves, or areas that are subject to bylaws or regulations made under Part 9 of the Fisheries Act 1996 (and, if so, who the tangata whenua are).	23-24, 60-62
18(2)(i)	Whether the project involves an activity that could be the subject of a determination under 23 (and, if so, who the owners of the land are).	25-26
18(2)(j)	If the proposed approvals include an approval described in any of section 42C(4)(a) to (d) (resource consent, certificate of compliance, or designation),	27-28, 63

	<ul style="list-style-type: none"> (i) iwi authorities and groups that represent hapū that are parties to any relevant Mana Whakahono ā Rohe or joint management agreements. (ii) The relevant principles and provisions in those Mana Whakahono ā Rohe and joint management agreements. 	
18(2)(k)	Any other Māori groups with relevant interests.	29
18(2)(l)	<p>A summary of—</p> <ul style="list-style-type: none"> (i) comments received by the Minister after inviting comments from Māori groups under section 17(1)(d) and (e); (ii) any further information received by the Minister from those groups 	Not applicable to substantive applications
18(2)(m)	The responsible agency's advice on whether, due to any of the matters identified in this section, it may be more appropriate to deal with the matters that would be authorised by the proposed approvals under another Act or Acts.	Not applicable to substantive applications
18(3)	<p>In preparing the report required by this section, the responsible agency must—</p> <ul style="list-style-type: none"> (a) consult relevant departments; and (b) provide a draft of the report to the Minister for Māori Development and the Minister for Māori Crown Relations: Te Arawhiti. 	<p>64 (in relation to section 18(3)(a))</p> <p>Section 18(3)(b) not applicable to substantive applications]</p>
18(4)	Those Ministers must respond to the responsible agency within 10 working days after receiving the draft report	Not applicable to substantive applications

Attachment 2: Project location map



Attachment 3: List of relevant Māori groups

Name of group	Type of group (section of Act)	Contact person	Contact email
Ngāti Pūkenga Iwi ki Tauranga Trust	Iwi authority (s18(2)(a)); Treaty settlement entity – MIO/IAO (s18(2)(a))	Kylie Smallman, chair	[REDACTED] [REDACTED]
Te Rūnanga o Ngāi Te Rangi Iwi Trust	Iwi authority (s18(2)(a)); Treaty settlement entity – MIO/IAO (s18(2)(a))	Charlie Tahwiao, chair	[REDACTED] [REDACTED] [REDACTED]
Ngāti Ranginui Iwi Society Inc	Iwi authority (s18(2)(a))	Charlie Rahiri, chair	[REDACTED] [REDACTED] [REDACTED]
Te Kapu o Waitaha Trust	Iwi authority (s18(2)(a)), Treaty settlement entity (s18(2)(a))	Areta Gray, chair	[REDACTED] [REDACTED] [REDACTED]
Te Tāwharau o Ngāti Pūkenga	Treaty settlement entity (s18(2)(a))	Mark Scott, chair	[REDACTED] [REDACTED]
Ngāi Te Rangi Settlement Trust	Treaty settlement entity (s18(2)(a)), negotiation mandate (s18(2)(d))	Charlie Tahwiao, chair	[REDACTED]
Ngā Pōtiki a Tamapahore Trust,	Treaty settlement entity (s18(2)(a)), negotiation mandate (s18(2)(d))	Pita Stokes, trustee	[REDACTED] [REDACTED] [REDACTED]
Ngā Hapū o Ngāti Ranginui Settlement Trust	Treaty settlement entity (s18(2)(a))	Te Pio Kawe, chair	[REDACTED]
Tauranga Moana Iwi Collective Limited Partnership	Treaty settlement entity (s18(2)(a))		
Te Kotahitanga o Te Arawa Waka Fisheries Trust	Treaty settlement entity – MIO/IAO (s18(2)(a))	Carliza Patuawa, Waitaha trustee	[REDACTED]

Board, representing Waitaha			
Ngāti Ranginui Fisheries Trust	Treaty settlement entity – MIO/IAO (s18(2)(a))	Charlie Rahiri, chair	██████████
Te Ohu Kaimoana	Treaty settlement entity – MIO (s18(2)(a))	Kylie Grigg (Oceans Manager)	████████████████████
MAC-01-05- 024/CIV-2017- 485-355 – Te Whānau a Mokomoko	MACA applicant group (s18(2)(f))	McCaw Lewis, counsel	████████████████████
MAC-01-05-005 – Ngā Hapū o Matakana	MACA applicant group (s18(2)(f))	Nessie Kuka	████████████████████
MAC-01-05- 006/CIV-2017- 485-244 – Ngā Hapū o Ngāi Te Rangi	MACA applicant group (s18(2)(f))	Charlie Tahwiao, chair	████████████████████
MAC-01-05-009 – CMT/PCR – Ngāi Tamarawaho	MACA applicant group (s18(2)(f))	Ngai Tamarawaho Tribal Authority Trust	████████████████████
MAC-01-05- 013/CIV-2017- 485-219 – Ngāti He	MACA applicant group (s18(2)(f))	Mita Ririnui	████████████████ ████████████████
MAC-01-05- 015/CIV-2017- 485-250 – PCR – Ngāti Pukenga	MACA applicant group (s18(2)(f))	Kylie Smallman	████████████████████
MAC-01-05- 016/CIV-2017- 485-294 – Ngā Hapū o Ngāti Ranginui Settlement Trust	MACA applicant group (s18(2)(f))	Te Pio Kawe, chair	██████████████████ ██████████████████ ██████████████████ ██████████████████

MAC-01-05-025 – Waaka and Holloway Whānau	MACA applicant group (s18(2)(f))	Lance Waaka	████████████████████
Kia Māia Ellis – tangata kaitiaki/tiaki for Te Maunga o Mauao Mātaitai Reserve	Customary fisheries (s18(2)(h))	Kia Māia Ellis	████████████████████
Tauranga Moana Iwi Customary Fisheries Trust	Customary fisheries (s18(2)(h))		
Ngāi Tukairangi (hapū of Ngāi Te Rangi)	other Māori groups with relevant interests (s18(2)(k))	Ngawiki Dickson, administrator	████████████████████
Ngāti Kuku (hapū of Ngāi Te Rangi)	other Māori groups with relevant interests (s18(2)(k))	Nathan James	████████████████████
Ngāti Hē (hapū of Ngāi Te Rangi)	other Māori groups with relevant interests (s18(2)(k))	Anthony Ririnui	████████████████████
Ngāti Kaahu a Tamapahore	other Māori groups with relevant interests (s18(2)(k))		
Ngāti Kahu (hapū of Ngāti Ranginui)	other Māori groups with relevant interests (s18(2)(k))	Charlie Rahiri, chair	████████████████████ ████████████████████
Ngāti Tapu (hapū of Ngāi Te Rangi)	other Māori groups with relevant interests (s18(2)(k))	Puhirake Ihaka	████████████████████
Ngāi Tamarawaho (hapū of Ngāti Ranginui)	other Māori groups with relevant interests (s18(2)(k))		████████████████████
Whareroa Marae (Ngāti Kuku, Ngāti Tukairangi)	other Māori groups with relevant interests (s18(2)(k))		

Ngā Hapu o Ngā Moutere Trust (collective of Matakana Island hapū: Ngāi Tuwhiwhia, Ngāi Tamawhariua, Ngāti Tauaiti, Te Ngare, Whānau a Tauwhao)	other Māori groups with relevant interests (s18(2)(k))
Ngā Tai ki Mauao hapū collective (comprising Ngāi Tuwhiwhia, Ngāi Tamawhariua, Te Ngare, Whānau a Tauwhao (ki Rangiwahea), Ngāti Tauaiti, Ngāti Kuku, Whareroa Marae Trust, Ngāti Tapu; Ngāti Kaahu a Tamapahore; Ngā Kaitiaki o Rangataua; Ngāti Hē; Ngāti Kahu (ki Tauranga)).	other Māori groups with relevant interests (s18(2)(k))

Attachment 4: Consultation provisions in the Waitaha Conservation Protocol

16. CONSULTATION

16.1 Where the Department is required to consult under this Protocol, the basic principles that will be followed by the Department in consulting with the Governance Entity in each case are:

16.1.1 Ensuring that the Governance Entity is consulted as soon as reasonably practicable following the identification and determination by the Department of the proposal or issues to be the subject of the consultation;

16.1.2 Providing the Governance Entity with sufficient information to make informed discussions and submissions in relation to any of the matters that are subject of the consultation;

16.1.3 Ensuring that sufficient time is given for the effective participation of the Governance Entity, including the preparation of submissions by the Governance Entity, in relation to any of the matters that are the subject of the consultation;

16.1.4 Ensuring that the Department will approach the consultation with an open mind and genuinely consider any views and/or concerns that the Governance Entity may have in relation to any of the matters that are subject to the consultation. Where the Department has consulted with the Governance Entity as specified in clause 16.1, the Department will report back to the Governance Entity on the decision made as a result of any such consultation.

Attachment 5: Statutory acknowledgement provisions in the Waitaha Claims Settlement Act 2013

Statutory acknowledgement

25 Interpretation

In this subpart,—

specified freehold land has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

statements of association means the statements—

- (a) made by Waitaha of their particular cultural, spiritual, historical, and traditional association with each statutory area; and
- (b) that are in the form set out in part 2 of the documents schedule at the settlement date.

26 Statutory acknowledgement by the Crown

The Crown acknowledges the statements of association.

27 Purposes of statutory acknowledgement

The only purposes of the statutory acknowledgement are to—

- (a) require relevant consent authorities, the Environment Court, and Heritage New Zealand Pouhere Taonga to have regard to the statutory acknowledgement, in accordance with sections 28 to 30; and

- (b) require relevant consent authorities to give summaries and notices of resource consent applications to the trustees, in accordance with section 32; and
- (c) enable the trustees and any member of Waitaha to cite the statutory acknowledgement as evidence of the association of Waitaha with the relevant statutory areas, in accordance with section 33.

Section 27(a): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

28 Relevant consent authorities to have regard to statutory acknowledgement

- (1) This section applies in relation to an application for a resource consent for an activity within, adjacent to, or directly affecting a statutory area.
- (2) On and from the effective date, a relevant consent authority must have regard to the statutory acknowledgement relating to the statutory area in deciding, under section 95E of the Resource Management Act 1991, whether the trustees are affected persons in relation to the activity.
- (3) Subsection (2) does not limit the obligations of a relevant consent authority under the Resource Management Act 1991.

29 Environment Court to have regard to statutory acknowledgement

- (1) This section applies to proceedings before the Environment Court in relation to an application for a resource consent for an activity within, adjacent to, or directly affecting the statutory area.
- (2) On and from the effective date, the Environment Court must have regard to the statutory acknowledgement relating to the statutory area in deciding, under section 274 of the Resource Management Act 1991, whether the trustees are persons with an interest in proceedings greater than that of the general public.
- (3) Subsection (2) does not limit the obligations of the Environment Court under the Resource Management Act 1991.

30 Heritage New Zealand Pouhere Taonga and Environment Court to have regard to statutory acknowledgement

- (1) If, on or after the effective date, an application is made under section 44, 56, or 61 of the Heritage New Zealand Pouhere Taonga Act 2014 for an authority to undertake an activity that will or may modify or destroy an archaeological site within a statutory area,—
 - (a) Heritage New Zealand Pouhere Taonga, in exercising its powers under section 48, 56, or 62 of that Act in relation to the application, must have regard to the statutory acknowledgement relating to the statutory area; and
 - (b) the Environment Court, in determining under section 59(1) or 64(1) of that Act any appeal against a decision of Heritage New Zealand Pouhere Taonga in relation to the application, must have regard to the statutory

acknowledgement relating to the statutory area, including in making a determination as to whether the trustees are persons directly affected by the decision.

- (2) In this section, **archaeological site** has the meaning given in section 6 of the Heritage New Zealand Pouhere Taonga Act 2014.

Section 30: replaced, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

31 Recording statutory acknowledgement on statutory plans

- (1) On and from the effective date, each relevant consent authority must attach information recording the statutory acknowledgement to all statutory plans that wholly or partly cover a statutory area.
- (2) The information attached to a statutory plan must include—
- (a) the relevant provisions of sections 26 to 30 in full; and
 - (b) the description of the statutory area wholly or partly covered by the plan; and
 - (c) the statement of association for the statutory area.
- (3) The attachment of information to a statutory plan under this section is for the purpose of public information only, and the information is not, unless adopted by the relevant consent authority,—
- (a) part of the statutory plan; or
 - (b) subject to the provisions of Schedule 1 of the Resource Management Act 1991.

32 Provision of summaries or notices of resource consent applications to trustees

- (1) Each relevant consent authority must, for a period of 20 years starting on the effective date, give the following to the trustees for each resource consent application for an activity within, adjacent to, or directly affecting a statutory area:
- (a) if the application is received by the consent authority, a summary of the application; and
 - (b) if notice of an application for resource consent is served on the consent authority under section 145(10) of the Resource Management Act 1991, a copy of the notice.
- (2) The information provided in a summary of an application must be the same as would be given to an affected person by limited notification under section 95B of the Resource Management Act 1991, or as may be agreed between the trustees and the relevant consent authority.
- (3) A summary of an application must be given under subsection (1)(a)—

- (a) as soon as is reasonably practicable after the relevant consent authority receives the application; and
 - (b) before the consent authority decides under section 95(a) of the Resource Management Act 1991 whether to notify the application.
- (4) A copy of the notice under subsection (1)(b) must be given no later than 10 business days after the day on which the relevant consent authority receives the notice.
- (5) This section does not affect a relevant consent authority's obligation—
 - (a) under section 95(a) of the Resource Management Act 1991, to decide whether to notify an application;
 - (b) under section 95E of that Act, to decide whether the trustees are affected persons in relation to an application.

33 Use of statutory acknowledgement

- (1) The trustees and any member of Waitaha may, as evidence of the association of Waitaha with a statutory area, cite the statutory acknowledgement that relates to that area in submissions to, and in proceedings before, a relevant consent authority, the Environmental Protection Authority or a board of inquiry under Part 6AA of the Resource Management Act 1991, the Environment Court, or Heritage New Zealand Pouhere Taonga concerning activities within, adjacent to, or directly affecting the statutory area.
- (2) The content of a statement of association is not, by virtue of the statutory acknowledgement, binding as fact on—
 - (a) relevant consent authorities;
 - (b) the Environmental Protection Authority or a board of inquiry under Part 6AA of the Resource Management Act 1991;
 - (c) the Environment Court;
 - (d) Heritage New Zealand Pouhere Taonga;
 - (e) parties to proceedings before the bodies specified in paragraphs (a) to (d);
 - (f) any other person who is entitled to participate in the proceedings.
- (3) Despite subsection (2), the statutory acknowledgement may be taken into account by the bodies and persons specified in that subsection.
- (4) To avoid doubt,—
 - (a) neither the trustees nor members of Waitaha are precluded from stating that Waitaha have an association with a statutory area that is not described in the statutory acknowledgement; and
 - (b) the content and existence of the statutory acknowledgement do not limit any statement made.

Section 33(1): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Section 33(2)(d): replaced, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

34 Trustees may waive rights

- (1) The trustees may waive the right to be given summaries, and copies of notices, of resource consent applications under section 32 in relation to a statutory area.
- (2) The trustees may waive the right to have a relevant consent authority, the Environment Court, or Heritage New Zealand Pouhere Taonga have regard to the statutory acknowledgement under sections 28 to 30 in relation to a statutory area.
- (3) Rights must be waived by written notice to the relevant consent authority, the Environment Court, or Heritage New Zealand Pouhere Taonga, stating—
 - (a) the scope of the waiver; and
 - (b) the period for which it applies.
- (4) An obligation under this subpart does not apply to the extent that the corresponding right has been waived under this section.

Section 34(2): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Section 34(3): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

35 Application of statutory acknowledgement to river, stream, or coastal marine area

- (1) If a statutory acknowledgement applies to a river or stream, that part of the acknowledgement—
 - (a) applies only to—
 - (i) the continuously or intermittently flowing body of fresh water, including a modified watercourse, that comprises the river or stream; and
 - (ii) the bed of the river or stream; but
 - (b) does not apply to—
 - (i) a part of the bed of the river or stream that is not owned by the Crown; or
 - (ii) land that the waters of the river or stream do not cover at their fullest flow without flowing over its banks; or
 - (iii) an artificial watercourse.
- (2) If a statutory acknowledgement applies to the coastal marine area, the acknowledgement does not apply to any specified freehold land in the area.

Attachment 6: Statutory areas for Waitaha and Ngāi Te Rangi/Ngā Potiki coastal statutory acknowledgements





Attachment 7: Map of Te Maunga o Mauao Mātaitai Reserve

