



Ngāti Porou ki Hauraki

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This is the Exhibit marked "D" referred to in the
attached affidavit sworn this day 25th day of
August 2025
2025 before me:

.....
Deputy Registrar/ Solicitor

C/- Judge Jane Borthwick, Panel Convenor for the Fast Track process
Dr. Allan Freeth, CE of the Environmental Protection Authority
James Palmer, CE of Ministry for the Environment

Email: contact@fasttrack.govt.nz; Allan.Freeth@epa.govt.nz; James.Palmer@mfe.govt.nz

Inadequate engagement with Ngāti Porou ki Hauraki and recognition of our Iwi Authority Status by Oceana Gold Waihi North Fast Track application

E ngā Rangatira, tēnā koutou

I am writing to you on behalf of Ngāti Porou ki Hauraki to express our deep concern at the inadequate pre-lodgement engagement with Ngāti Porou ki Hauraki and lack of recognition of our status prior to the lodgement of their Fast-track Approvals Act 2024 application Waihi North project¹.

We were alarmed to discover that this project was lodged, and further that the substantive application was deemed complete and accepted, without the required pre-application steps having been undertaken in relation to Ngāti Porou ki Hauraki. From our brief scan of the documents now publicly available, this issue does not appear to be limited to Ngāti Porou ki Hauraki. However, our letter focuses just on our own situation.

Inadequate engagement

Under section 29 of the Fast-track Approvals Act, before lodging a substantive application for a listed project the authorised person for that project must consult with the persons and groups referred to in section 11, which includes any relevant iwi authorities and Treaty settlement entities – of which Ngāti Porou ki Hauraki may be interpreted as both.

As is set out in the well-known *Wellington Airport* decision², the authority for what determines the standard of 'consultation', consultation must allow sufficient time, it must involve a proposal that is not fully decided upon, a genuine effort must be made to listen, and genuine consideration of feedback must occur. If this hasn't happened, then Oceana Gold hasn't done what it is required to do under section 29 of the Fast-track Approvals Act in relation to consultation with Ngāti Porou ki Hauraki.

¹ [Waihi North | Fast-track website](#)

² *Wellington International Airport Ltd v Air New Zealand Ltd* [1993] 1 NZLR 671 also cited in the Legislation Design and Advisory Committee's guidelines here: https://www.ldac.org.nz/guidelines/legislation-guidelines-2021-edition/new-powers-and-entities-2/chapter-19#_ftn2

We do not consider any previous engagement (under different legislation) and that we have not had the opportunity to consider any scope change or revised proposal, constitutes adequate engagement with Ngāti Porou ki Hauraki, nor meet the *Wellington Airport* standard for consultation³.

As an additional point, if Oceana Gold is relying on ‘consultation’ that took place before the Fast-track Approvals Act was even enacted in December 2024 and even before the Fast-track Approvals Bill was reported back from Select Committee in October 2024. At the time of the so-called consultation there was no way of knowing what the final framework the project would be assessed under and even if proper engagement had taken place (such as a series of face-to-face hui), this would have needed to occur after the Bill was enacted to be able to be genuinely considered in the proper context of the framework of the Fast-track Approvals Act.

We have had no information on the project beyond what we have been able to find online and neither have we been given any genuine opportunity to provide our views and feedback that they may be listened to and considered in the development of the substantive application. What has occurred cannot reasonably be considered to be adequate consultation with Ngāti Porou ki Hauraki.

Lack of recognition of our Treaty Settlement

In regard to recognition of Treaty settlements, the Fast-track Approvals Act requires a number of matters including under section 43 (2) that a substantive application for a listed project must contain the information required by section 13 (4), which includes at 13 (4) (i) “a list of any Treaty settlements that apply to the project area, and a summary of the relevant principles and provisions in those settlements”.

Just because the Crown has not managed to progress our Agreement in Principle does not mean we should not be protected in the context of our Tiriti rights and interests. Additionally the EPA, TPK nor MfE has provided any helpful information or guidance to applicants and iwi what ‘upholding settlements’ actually means.

Conclusion

In our view, this approach to engagement and recognition of Treaty settlements does not meet the requirements in Act. With this being one of the first applications under the new Fast Track process, we are keen to ensure that this application does not set a precedent for the standard of engagement or the recognition of Iwi Authorities and the effects of the proposal, that should be expected as part of substantive applications under the Act.

It is also apparent to us that the application screening process implemented by EPA has failed to pick up these missed steps and has therefore enabled a substantive application to be accepted without meeting the pre-requisite requirements.

In particular we would like to bring this point to the attention of the Environmental Protection Authority (EPA) as the administering agency for the Act, and suggest that the screening processes for applications needs immediate review to ensure that other applications are not deemed complete when they have not met the pre-requisite requirements of the Act.

We also bring this matter to the attention of the Ministry for the Environment and Te Puni Kokiri as the steward of the legislation, and as part of your system monitoring and regulatory stewardship role we hope that you take note of this process failure and take action to help ensure that this doesn't happen again. We also request any advice discussing us and referencing us as to our status - needs to be developed with us.

Next steps

Given that this application has already been accepted then returned to the applicant to reapply, if accepted by EPA again the options for next steps are limited as there is no recourse under the Act for us to request a suspension of the processing of the substantive application. However, the applicant, Oceana Gold, can request a suspension under section 64 of the Act. We will bring this matter to their attention in the hope that they will acknowledge their mistakes and do the right thing to pause until the necessary consultation and consideration of our status as an Iwi Authority has been undertaken.

We understand that the next step in the process that should involve us is an invitation to provide comments on the substantive application as a relevant iwi authority under section 53 of the Act. We look forward to being able to provide comments to the panel under this part of the process, though we reiterate that ideally our views and feedback would have been sought and given before the application had been lodged.

Lastly, under section 67 of the Act, the panel can request further information from a group who has been invited to provide comments and can direct the EPA to commission a report on an issue relevant to the application. We request that Ngāti Porou ki Hauraki be afforded the opportunity to provide a Cultural Values Report that would include important information on our values, the potential impacts of project on Ngāti Porou ki Hauraki and what mitigations could be put in place to help address those impacts. We think that this would be of value to the panel in helping to inform its considerations, and we ask Judge Borthwick that as the panel convenor you please pass along our request to the panel once it is established.



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We hope that our concerns will be listened to and acted upon. We would also be happy to discuss our concerns further or to provide more information should that be of assistance.

Nāku noa, nā

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, likely representing the name of the Chairperson.

Chairperson

Te Runanga O Ngati Porou Ki Hauraki

20 May 2025

John Tamahere
Chairperson Ngati Porou ki Hauraki
By email [REDACTED]

Tēnā koe,

Re: Waihi North Fast-track application

Thank you for your letter dated 9 April 2025.

Please accept my apologies for the delay in replying. Yesterday I was provided a copy of the Waihi North application lodged by Oceana Gold (New Zealand) Ltd with the EPA. The application was provided to me pursuant to s 47 (7) of the Fast-track Approvals Act 2024.

I am now waiting for the Ministry for the Environment's report on 'Treaty settlements and other obligations' (ss 18 and 49). The report identifies relevant iwi authorities and relevant Treaty settlement entities. The report is important as it informs the steps the panel convener may take, prior to a panel being set up. Secondly, it informs the panel on persons that they must invite to comment on the application (s 53 (2)). The panel, in its discretion, may invite comment from other persons that the panel considers appropriate (s 53 (3)).

A panel has not yet been set up. Once it is, the EPA will provide a copy of your letter to the panel Chairperson.

Finally, Associate Convener Jennifer Caldwell is assigned to this application. However, as she is on leave, I will be managing the project until her return in June.

Nāku noa, nā

A handwritten signature in black ink, appearing to read "Jane". The signature is written in a cursive style with a large, sweeping initial "J" followed by the name "ane".

Jane Borthwick

Panel convener for the purpose of the Fast-track Approvals Act 2024

Copy to

Stephen Christensen, Project Barrister



NGĀTI POROU KI HAURAKI

18 July 2025

Ngāti Porou ki Hauraki

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To: Stephanie Frame, Delivery Manager (Section 18 Report - first contact) Ministry for the Environment

Jennifer Caldwell, Panel Convener Fast-track Approvals Act

Richard Preece, Operational Delivery Fast-track Approvals Act Programme

Email: [REDACTED]; contact@fasttrack.govt.nz ;
[REDACTED]

Omission of Ngāti Porou ki Hauraki from Section 18 Report as a recognised iwi authority and the recent iwi Convener Conference

Tēnā koutou,

This letter relates to the Fast-track Approval Application Waihi North (FTAA-2504-1046), and requests that you update your records so that Ngāti Porou ki Hauraki is correctly recognised as an iwi, with its own iwi authority, a Treaty negotiation mandate, and existing and future land interests within Waihi as well as the balance of our rohe.

Reason for letter

I am writing to you on behalf of Ngāti Porou ki Hauraki (also called Ngāti Porou ki Harataunga ki Mataora) to express our concern at the incorrect assessment of our iwi authority status in the section 18 report which was provided to the Panel Convener Jennifer Caldwell on 4 June 2025 by the Ministry for the Environment. Further to this, we are alarmed that we were not invited to the Convener Conference held with “relevant iwi” that took place on 18 June 2025.

Ngāti Porou ki Hauraki are recognised as one of the 12 Iwi of the Hauraki and are a member of the Hauraki Collective which have a signed collective Agreement in Principle.

Ngāti Porou ki Hauraki also have our own Agreement in Principle with the Crown.¹ While we have not yet concluded the settlement of our Treaty claim, we have letters of offer from the Crown for properties within Waihi. Therefore, the section 18 report issued by the Ministry of the Environment is incorrect as it omits mention of Ngāti Porou ki

¹ https://www.whakatau.govt.nz/assets/Treaty-Settlements/FIND_Treaty_Settlements/Ngati-Porou-ki-Harataunga-/Ngati-Porou-ki-Harataunga-ki-Mataora-Agreement-in-Principle-Equivalent-Hauraki-22-Jul-2.pdf



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Appendix 1:

Ngāti Porou ki Hauraki rohe map

