30 Maehe 2025

Fast Track Panel, for the Taranaki VTM Project
Once Established

Environmental Protection Authority
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NOTIFICATION OF THE TARANAKI VTM PROJECT UNDER SECTION 53 AND CLAUSE 5 OF SCHEDULE 10 OF THE FAST TRACK APPROVAL ACT 2024

1. Ko te Tarati o Te Korowai o Ngāruahine, (arā, ko Te Korowai) te Rōpū Mana Whakahaere mō Ngāruahine iwi nō muri Whakataunga Take Tiriti. Kei a Te Korowai te haepapa mō te whakahaere me te whakatipu i ngā rawa whakataunga take Tiriti a Ngāruahine – hei painga mō ngā uri o Ngāruahine. Kei a Te Korowai te haepapa ki te whakapātari i nga kuapapa here ka tukituki pea ki ngā hiahia o Ngāruahine.

2. Mō ngā Whakataunga Take Tiriti, ka hora te rohe o Ngāruahine, mai i Manga Taungatara kei te pito whakateraki rawa, ki Manga Waihi kei te pito whakatetonga rawa. Tae ana te rohe hoki ki Te Papa-Kura-o-Taranaki otirā ko te tupuna, Koro Taranaki (Taranaki Maunga)

3. Kāore a Te Korowai i te honohono ki ngā kaupapa tōrangapū, ā, ka mahi ngātahi me te kāwanatanga ahakoa ko wai ki te whakaahu whakamua i ngā whāinga me ngā hiahia o Ngāruahine. Waihoki, kei a Te Korowai te haepapa ki te whakapātari i nga kuapapa here ka tukituki pea ki ngā hiahia o Ngāruahine.

Entities to be notified

4. I am writing to you on behalf of Te Korowai o Ngāruahine Trust (**Te Korowai**) which is the post-settlement governance entity (**PSGE**) created under the Treaty settlement process with the Crown, formalised in the Ngāruahine Deed of Settlement and subsequent legislation.

5. We wish to be notified of the Taranaki VTM Project under s53 and clause 5 of Schedule 10 of the Fast Track Approval Act 2024 (**FTAA**).

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6. The Taranaki VTM Project and its negative impacts fall within the rohe of Ngā Hapū o Ngāruahine.

7. Te Korowai has previously submitted against the 2016 application directly to the Environmental Protection Authority[1], and again against the Fast Track Approvals Bill in 2024.[2]

8. We therefore consider that we are one of the affected parties in terms of s53(2) of the FTAA as a relevant settlement entity.

9. Te Korowai is committed to the protection of the taiao and supporting our hapū who are the kaitiaki across the Ngāruahine takiwā. Te Korowai has the responsibility of ensuring an enduring settlement and that Te Tiriti rights, as well as iwi and hapū interests of Ngāruahine, are upheld.

10. However, the Ngāruahine settlement negotiations were hapū-led and we remain a hapū-led iwi, and therefore the PSGE is not the sole "relevant entity" under section 53(2) of the Act within Ngāruahine.

11. Therefore, this letter does not relieve the applicant and the Crown of the obligation to conduct meaningful and appropriate transparent engagement across all hapū and iwi authorities within Ngāruahine who may wish to participate in this process.

12. It is essential that this engagement is done collaboratively and equitably across all hapū and iwi authorities and does not implement any attempts at "divide and conquer" tactics. Our tikanga must be respected, including our commitments to mana motuhake and kotahitanga.

13. In effect, Te Korowai can serve in an administrative capacity to facilitate representation of hapū positions where mandated to do so. The hapū mandate also applies within the context of uri, and we also caution the applicant and the Crown against seeking feedback from individuals acting without hapū mandate under our tikanga.

14. In other words, the existence of Te Korowai as a PSGE does not relieve the applicant and the Crown of the responsibility to learn our tikanga and engage appropriately with hapū representatives and iwi authorities as entities to be notified under FTAA s53 and clause 5 of Schedule 10.

Interests impacted

15. This proposal will adversely impact our rohe and our ability to exercise kaitiakitanga. Our rohe moana extends from the Waihi Stream in the South to the Taungatara in the North which captures the area impacted by the sediment plume and the entirety of the effects from the proposed operations, including all aspects of te taiao where operations will be conducted – on

[1] Te-Korowai-O-Ngaruahine-Trust-150068.pdf
[2] Fast Track Approvals Bill Submission – Te Korowai o Ngāruahine Trust: 701757e9209b2e7276fdd8b5eb1117d38223dbb8

the whenua, our awa, and all our taonga species protected under tikanga as reinforced under the provisions of Te Tiriti o Watianga/Treaty of Waitangi guaranteeing sovereignty with respect to "taonga katoa."

16. Among the negative impacts include changes in the abundance and diversity of macro benthic communities and fish species. Of most concern are the cumulative effects of long-term seabed mining on the marine habitats and associated aquatic species, and our tikanga practices such as mahinga kai along the coast of the takutai moana as well as our customary and commercial fishing rights.

17. Our takutai moana is already suffering degradation, and hapū representatives have recently held public hui to discuss their kaitiakitanga efforts regarding reef and fisheries protections.[3] Active protection is being sought by ngā hapū o Ngāruahine, and the proposed activities of Taranaki VTM will undermine our long-standing efforts over hundreds of years as mana moana and mana whenua engaged in safeguarding and preserving the moana and takutai for future generations.

18. We note that the Crown cannot determine our rohe moana and the extent of our interests as kaitiaki. This is rightly the exclusive domain of tikanga and is protected under Te Tiriti o Waitangai/Treaty of Waitangi. We therefore wholeheartedly reject the FTAA and our engagement in this FTAA process by objecting to the Taranaki VTM proposal is not to be interpreted as any change in our position opposing all manner of so-called "fast-track."

19. Similarly, we also note that hapū are currently pursuing their interests under the Marine and Coastal Area Act (**MACA**). The MACA process is not a tikanga process, and as such, cannot determine the mana motuhake of ngā hapū as mana moana. Indeed, the scope of so-called "marine title" under MACA is much narrower in scope that what applies under tikanga. As tangata whenua, we are being squeezed between oppositional legislation, wherein the Crown dictates that our takutai moana rights are determined by the Crown under MACA, whilst the FTAA is threatening to negatively impact these rights before they have been determined under the Crown process. This is completely illegitimate, unreasonable, irrational, and an abuse of power.

20. We hereby assert that nothing under this FTAA process can be understood as undermining hapū-led processes under MACA or any other legal proceeding or engagement with the Crown or other entities.

[3] Hapū knowledge could upend kaimoana rules - NZ Herald

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Lack of pre-lodgement consultation

21. Under FTAA section 11 and 29 the applicants are required to engage in pre-lodgement consultation with iwi and, as explained above, with hapū.

22. Taranaki VTM have not conducted pre-lodgement consultation with us. We therefore assert that the application cannot proceed and at a minimum must be deemed incomplete. At a minimum, this necessitates a pause in pre-application proceedings to ensure adequate time and resources are committed by Taranaki VTN towards conducting the legislative requirements for pre-lodgement consultation, in accordance with our tikanga.

23. At a minimum, the applicants must therefore ensure sufficient time and information to enable this consultation. Without adequate information and time for uri participation, Te Korowai is unable to finalise a fully-informed position on the proposal.

24. As an indication, several hapū engage in a three-monthly hui cycle. Issues raised within pan-hapū monthly hui with taiao representatives are subsequently raised within monthly hui with hapū committee members and trustees. Some hapū alternate between monthly hui with committee members only, then the following month with hui for all uri. Complex matters may necessitate additional wānanga with pūkenga and tikanga experts. Once the issues are canvassed at a committee-level, then the matter may be taken to the hui with all uri. Then the decision can be reported back at the next pan-hapū hui with taiao representatives to ensure transparency and collaboration under kotahitanga. As this example illustrates, sufficient time and information is absolutely necessary in order to ensure pre-lodgement consultation.

11. To date, the only pre-lodgement consultation with Ngārauhine has been through a letter Te Korowai received on 29 January 2025 (**attached**) which effectively sought to reverse the burden of consultation over to iwi. The letter was less than one page and simply noted previous opposition of "tangata whenua of Taranaki" and did not reflect anything specific related to Ngāruahine.

12. Instead of sharing any updated information, the letter asserted that they were utilising the same information from the 2016 application, but did not refer to the Supreme Court decision which had already determined that this information is inadequate. Instead of sharing information or seeking engagement, the letter merely stated "if there is anything further that you wish to add, or if your position is different from that which has been previously articulated we would welcome hearing from you."

13. In other words, this letter does not include basic information such as an updated Assessment of Environmental Effects (**AEE**), updated the economic information, updated plume modelling, updated information related to impacts on marine mammals, seabirds, and other taonga species. This letter did not address any of the matters which the Supreme Court directed the applicant to address.

14. Under our understanding of the Crown's law in Aotearoa, basic consultation must include the provision of the relevant information in order that for us to make an informed decision on the application and provide our position through our tikanga processes led by hapū. Under case law, *Wellington International Airport Ltd v Air NZ* [1993] 1 NZLR 67 mandates that consultation must involve a genuine exchange of views and an opportunity for those consulted to influence the decision-making process.

15. These consultation methods are also mandated under international law, such as the UN Declaration of the Rights of Indigenous Peoples which requires that engagement must involve "free, prior and informed consent". Clearly, we can only come to an informed position if adequate information has been provided and sufficient time allocated for consultation which complies with tikanga and the law. This has not occurred through the pre-lodgement process, thereby constituting violations of section 11 and 29 of the FTAA.

12. Without adequate information from Taranaki VTN and wānanga with hapū, the application is incomplete and we are unable to determine a fully informed position on the proposal at this stage.

Request for information

13. The consistent issue through the three previous EPA processes regarding this project and the decision of the Supreme Court related to the lack of information from the applicant which meant that it was not possible to determine that the project would not involve any material harm. In the absence of this information, both the Crown's law in Aotearoa and international law relating to the EEZ necessitates the declining of the consent application.

14. For the avoidance of doubt, we therefore will itemise specific requests for information as per these prior procedures, which we assert are necessary information as part of the pre-lodgement process in consulting with us and ngā hapū:

    (a) Updated plume modelling, notably in regard to the worst-case modelling and wave periods (an issue which arose in the reconsideration hearing). It is notable that the previous Decision Making Committee (**DMC**) already requested this modelling back in 2023.

    (b) Updated marine mammal evidence, including undertaking a survey. Relevant marine mammal observations are set out in the evidence of Dr Leigh Torres 2023 and Dr Slooten in 2023.

    (c) Updated seabird evidence including undertaking a survey, taking into consideration John Cockrem's previous evidence.

    (d) Updated economic evidence, undertaking a cost and benefit analysis including effects to other industries in the area, including ones excluded by the project, and including damage to the environment.

15. We consider these four categories to be the bare minimum of information that must be provided to us prior to pre-lodgement consultation in compliance with previous legal findings.

Necessity for hearing

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16. We consider a hearing on this application is absolutely vital, particularly given serious matters such as the magnitude of the risks at stake, the lack of information at this late stage in the process, the lack of implementation of Supreme Court rulings and previous DMC decisions, not to mention the lack of appropriate consultation and respect of our tikanga.

17. There would also be great value in conducting a hearing whereby evidence could be heard from our uri who hold expertise of relevance and importance to this kaupapa, particularly our kaumatua and kaitiaki. We are also involved in research projects and documentary efforts which we wish to speak to alongside our submissions. As an oral culture, oral testimony and kōrero kanohi-kitea is foundational to our tikanga.

Hei whakakapi

14. For these reasons, we consider we are affected parties with existing interests that will be impacted by this proposed project and it is appropriate under s53(3) that we have a chance to appear and present before the Fast Track Panel on this application.

15. The proposed project poses irreversible risks to te taiao,; our cultural practices such as mahinga kai; and our fishing interests, both customary and commercial, among other risks.

16. We also request a pause in proceedings to enable the pre-lodgement consultation which is necessary under FTAA section 11 and 29. It is essential that this consultation complies with legal requirements and our tikanga by allocating sufficient time and resources to connect across ngā hapū with full transparency and accessibility of information.

17. To ensure this consultation is based on the appropriate information, we also request prompt sharing of information which at a minimum addresses the four categories of information which the Supreme Court and previous DMCs have mandated, namely, updated plume modelling; updated marine mammal evidence; updated seabird evidence; and updated economic evidence.

18. In the interests of procedural integrity, we also request that a hearing is held on this application, with the opportunity for us to present kōrero alongside our uri representatives.

15. We look forward to hearing from you

Pai Mārire,

Te Aorangi Dillon

Tumu Whakarae

Te Korowai o Ngāruahine Trust

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