Ministry for the Environment
Manatū Mō Te Taiao

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

Project Name: FTAA-2504-1046 Waihi North

To:	Date:
Panel Convener, Jane Borthwick	4 June 205

Number of attachments: 6	Attachments: 1. Provisions of section 18 of the Fast-track Approvals Act 2024 2. Project location map 3. List of relevant Māori groups 4. Relevant Treaty settlement provisions: a. Ngā Mana Whenua o Tāmaki Makaurau Conservation Relationship Agreement b. Pare Hauraki Conservation Decision-making Framework c. Statutory Acknowledgement provisions from Ngāti Tara Tokanui Claims Settlement Bill

Ministry for the Environment contacts:

Position	Name	Cell phone	1st contact
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General Manager, Delivery & Operations	Ilana Miller	[redacted]	

Key points

1. 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-2504-1046 Waihi North.
2. The applicant, OceanaGold, proposes to expand their existing gold and silver mining operations in Waihi, including establishing new open pit and underground mines. Approvals are sought under the Resource Management Act 1991(RMA); Heritage New Zealand Pouhere Taonga Act 2014; Wildlife Act 1953; Conservation Act 1987; and Crown Minerals Act 1991.

3. 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. We have provided a summary of the relevant Māori groups identified under section 18(2) at **Attachment 3.**
4. Treaty settlements that are relevant to the project area include settlement Acts and signed Deeds of Settlement (where settlement legislation has yet to be passed). We have identified Ngāi Tai ki Tāmaki Claims Settlement Act 2018 as relevant settlement legislation. Deeds of Settlement have been signed by the Crown and the Pare Hauraki Collective in 2018 and Ngāti Tara Tokanui in 2022.
5. There are no court orders or agreements recognising Customary Marine Title (CMT) or Protected Customary Rights (PCR) under the Marine and Coastal Act (MACA), Mana Whakahono ā Rohe (MWaR), or Joint Management Agreements (JMA) relevant to the project area.
6. Under clause 5 of schedule 3 to the Act, the panel will need to consider how it will meet the procedural requirements of the conservation relationship agreement with Ngāi Tai ki Tāmaki, in relation to the consultation process for the statutory authorisations sought by the applicant. There are relevant provisions in the Pare Hauraki and Ngāti Tara Tokanui deeds of settlement and settlement bills (including a conservation decision-making framework, catchment redress, and a statutory acknowledgement) that are outside the scope of clause 5 schedule 3, because settlement legislation is yet to be enacted. However, under section 7 of the Act it would be appropriate for the panel to consider how it can act consistently with the redress provided for in these signed deeds of settlement.

Signature

Ilana Miller
General Manager – Delivery and Operations

Introduction

7. 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)).
8. The information which must be provided in this report includes:
    a. relevant iwi authorities, Treaty settlement entities, applicant groups under MACA, and other Māori groups with interests in the project area; and
    b. relevant principles and provisions in Treaty settlements and other arrangements.
9. This report is structured accordingly. We have provided a list of the relevant provisions of section 18 at **Attachment 1**.

Proposed project

10. The applicant, OceanaGold, proposes to expand their existing gold and silver mining operations in Waihi, including establishing new open pit and underground mines. Approvals are sought under the RMA (discharge permit, land use consent, water permit); Heritage New Zealand Pouhere Taonga Act 2014 (archaeological authority); Wildlife Act 1953 (wildlife approval); Conservation Act 1987 (concession); Crown Minerals Act 1991 (access arrangement, variation of access arrangement).
11. We have provided a location map at **Attachment 2**.

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

12. 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

13. We consider the following groups to be the relevant iwi authorities for the project area:
    a. Hako Tupuna Trust, representing Hako;
    b. Ngāti Maru Rūnanga Trust, representing Ngāti Maru;
    c. Te Rūnanga o Ngāti Pu, representing the hapū Ngāti Pū;
    d. Ngāti Tumutumu Trust, representing Ngāti Rāhiri Tumutumu;
    e. Ngāi Tai ki Tāmaki Trust, representing Ngāi Tai ki Tāmaki;
    f. Ngāti Tara Tokanui Trust, representing Ngāti Tara Tokanui;
    g. Ngaati Whanaunga Incorporated Society, representing Ngaati Whanaunga;
    h. Ngāti Tamaterā Treaty Settlement Trust, representing Ngāti Tamaterā; and
    i. Hauraki Trust Board, representing Hauraki iwi[1].

[1] Ngāti Hako, Ngāti Hei, Ngāti Maru, Ngāti Paoa, Patukirikiri, Ngāti Porou ki Harataunga ki Mataora, Ngāti Pūkenga ki Waiau, Ngāti Rahiri-Tumutumu, Ngāi Tai, Ngāti Tamaterā, Ngāti Tara Tokanui, and Ngaati Whanaunga.

Treaty settlement entities

14. 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).

15. We have identified Ngāi Tai ki Tāmaki Trust, PSGE for Ngāi Tai ki Tāmaki Claims Settlement Act 2018 as a relevant Treaty settlement entity for this project area.

16. 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. Ngāti Tara Tokanui Trust, PSGE for Ngāti Tara Tokanui;
    b. Ngāti Maru Rūnanga Trust, PSGE representing Ngāti Maru;
    c. Ngaati Whanaunga Ruunanga Trust, PSGE representing Ngaati Whanaunga;
    d. Ngāti Tamaterā Treaty Settlement Trust, PSGE representing Ngāti Tamaterā;
    e. Ngāti Tumutumu Trust, PSGE representing Ngāti Rāhiri Tumutumu;
    f. Pare Hauraki Cultural Redress Trust/Pare Hauraki Whenua Limited Partnership/Pare Hauraki Ngahere Limited Partnership;
    g. Taonga o Marutūāhu Trustee Limited/Marutūāhu Rōpū Limited Partnership, PSGE representing the Marutūāhu Iwi collective; and
    h. Hako Tupuna Trust, PSGE representing Hako.

Groups mandated to negotiate Treaty settlements

17. We have not identified any groups which have recognised mandates to negotiate a Treaty settlement over an area which may include the project area beyond the PSGEs identified at paragraphs 15 and 16.

Takutai Moana groups and ngā hapū o Ngāti Porou

18. The project area does not include the common marine and coastal area, and accordingly there are no relevant applicant groups under MACA, and no court orders or agreements that recognise protected customary rights or customary marine title within the project area.

19. 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

20. The project area is not within a taiāpure-local fisheries area, mātaitai reserve, or area subject to a bylaw made under Part 9 of the Fisheries Act 1996.

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

21. 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:

    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.

22. 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

23. 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.

24. 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

25. The applicant has consulted with Waihi Community marae, Ngāti Porou ki Harataunga ki Mataora, and Ngāti Hei, so under section 18(2)(k) we have included them as other Māori groups with relevant interests in the project area.

26. Te Puni Kōkiri also identified land block owners of Mataora 4, however, the block is not adjacent to the project site so, under the Act, the landowners do not fall within the definition of Māori group with relevant interests.

Relevant principles and provisions in Treaty settlements and other arrangements

Treaty settlements

27. 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.

28. The following Treaty settlements relate to land, species of plants or animals, or other resources within the project area:

    Settlement Act

    a. Ngāi Tai ki Tāmaki Claims Settlement Act 2018;

    Signed deeds of settlement

    b. Pare Hauraki Collective Redress Deed signed August 2018 (Pare Hauraki Collective Redress Bill currently awaiting first reading); and

c. Ngāti Tara Tokanui Deed of Settlement signed 28 July 2022 (Ngāti Tara Tokanui Claims Settlement Bill currently awaiting Committee of the Whole stage).

Relevant principles and provisions

29. 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

30. 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.

31. In the Ngāti Tara Tokanui deed of settlement, the Crown acknowledged that environmental changes and pollution since the 19th century have been a source of distress and grievance for Ngāti Tara Tokanui. In particular, the Crown acknowledged that goldmining activities since 1895 have polluted and degraded the Ohinemuri and Waihou Rivers, and this has caused significant harm to the health and wellbeing of Ngāti Tara Tokanui communities that relied upon the rivers for physical and spiritual sustenance.

32. Similarly, in the Pare Hauraki collective deed of settlement, the Crown has acknowledged that mineral extraction in Hauraki has resulted in ongoing environmental degradation, changes and pollution to lands, waterways (including contamination from heavy metals), and food sources, including modifications to the course of the Waihou and Ohinemuri Rivers and their tributaries that drained resource-rich wetlands, destroyed wāhi tapu, and caused significant harm to Tīkapa Moana (Hauraki Gulf) and its kaimoana resources.

33. As part of its apologies to Ngāi Tai ki Tāmaki and Ngāti Tara Tokanui, the Crown stated that 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.

Conservation Relationship Agreements

34. Because the project area incorporates public conservation land, the conservation redress in Treaty settlements is relevant when assessing this application.

Ngāi Tai ki Tāmaki

35. The Ngāi Tai ki Tāmaki Deed of Settlement provides for a conservation relationship agreement with the Department of Conservation (DOC). The agreement requires DOC to consult with Ngāi Tai ki Tāmaki on applications for statutory authorisations in their area of interest, through a process consistent with consultation provisions in the Ngā Mana Whenua o Tāmaki Makaurau[2] Conservation Relationship Agreement. Ngāi Tai ki Tāmaki are one of the iwi party to the Tāmaki Makaurau Collective Redress Deed. Under the Ngāi Tai ki Tāmaki conservation relationship agreement, statutory authorisations include those approvals being sought by the applicant under the Conservation Act 1987 and the Wildlife Act 1953.

36. While the project area is not within Tāmaki Makaurau, we have interpreted these conservation relationship agreement provisions in the Ngāi Tai ki Tāmaki deed of settlement, particularly the process for consultation, as applying to the Ngāi Tai ki Tāmaki

[2] Tāmaki Makaurau Collective Redress Deed provides collective redress for the shared interests of the Tāmaki Collective in maunga, motu and lands within Tāmaki Makaurau.

area of interest (which does include the project area) generally. Ngā Mana Whenua o Tāmaki Makaurau Conservation Relationship Agreement requires an iterative engagement process with the Ngā Mana Whenua o Tāmaki Makaurau on statutory authorisations that includes DOC seeking their feedback, confirming how their feedback will be included in decision making processes, considering how their interests are reconciled with other considerations, and communicating the final decision to them. Further detail on Ngā Mana Whenua o Tāmaki Makaurau Conservation Relationship is at **Attachment 4a.**

Ngāti Tara Tokanui

37. There is also provision in the Ngāti Tara Tokanui deed of settlement for a conservation relationship agreement to be entered into with DOC, by the settlement date. The settlement date is 60 working days after the date on which the Ngāti Tara Tokanui Claims Settlement Act (once passed) comes into force. The conservation relationship agreement provisions in the Ngāti Tara Tokanui deed of settlement are high-level, and do not go into detail on what the relationship agreement will cover).

Pare Hauraki Collective Conservation Framework

38. The Pare Hauraki Collective Redress Deed provides for a conservation framework relating to co-governance and co-management of natural resources and historical and cultural heritage.

39. The deed states that when exercising functions under the relevant legislation[3] in relation to each of Pare Hauraki conservation framework's elements, the relevant person or entity must:

    a. give effect to the principles of Te Tiriti o Waitangi / the Treaty of Waitangi as required by section 4 of the Conservation Act 1987; and

    b. acknowledge and provide for the Statement of Pare Hauraki World View and Programme for a Culture of Natural Resource Partnership, unless to do so would be contrary to the purposes of the Conservation Act 1987.

40. There are several elements of the Pare Hauraki conservation framework including a conservation management strategy, relationship agreement, and decision-making framework. Neither the conservation management strategy nor relationship agreement have been established. However, the decision-making framework is relevant to decisions taken under this application.

Conservation decision-making framework

41. The decision-making framework applies to decisions made under the conservation legislation in the Pare Hauraki conservation region. Relevant to this application are decisions made under the Conservation Act 1987 and the Wildlife Act 1953. The framework requires an iterative engagement process with the Pare Hauraki collective on applications for approvals that includes the Director-General seeking their feedback, confirming how their feedback will be included in decision making processes, considering how their interests are reconciled with other considerations, and communicating the final decision to Pare Hauraki collective. Further detail on the framework is provided at **Attachment 4b**.

42. The Pare Hauraki conservation decision-making framework is subject to enactment of the Pare Hauraki Collective Redress Bill. We discuss this further below.

[3] The Conservation Act 1987 and the Acts listed in its first schedule (including the Wildlife Act 1953).

Other redress

Waihou, Piako, and Coromandel catchment redress

43. The application includes proposed approvals (such as discharges) which affect the Ohinemuri River – a tributary of the Waihou River. The Pare Hauraki Collective Redress Deed and Bill provide for the establishment of the Waihou, Piako and Coromandel Catchment Authority (Catchment Authority).

44. The Pare Hauraki Collective Redress Deed and Bill also provides for:

    a. relevant local authorities to inform the Catchment Authority of notified resource consent applications;

    b. when appointing hearing commissioners, for particular regard to be given to the commissioner register maintained by the Catchment Authority; and

    c. relevant local authorities to provide to the Catchment Authority and the Pare Hauraki collective cultural entity an electronic summary of resource consent applications for activities within the catchments.

45. A function of the Catchment Authority is to prepare and approve the Waihou, Piako and Coromandel Catchments Plan. The plan's purpose is to:

    a. identify the issues, vision, objectives and desired outcomes for the waterways of the Waihou, Piako and Coromandel catchments;

    b. provide direction to decision makers where decisions are being made in relation to the waterways of the Waihou, Piako and Coromandel catchments; and

    c. convey the Catchment Authority's aspirations for the health and wellbeing of the waterways of the Waihou, Piako and Coromandel catchments.

46. Where a consent authority is processing or making a decision on an application for resource consent in relation to the waterways of the Waihou, Piako or Coromandel catchments, that consent authority must have regard to the Waihou, Piako and Coromandel Catchments Plan.

47. While the Catchment Authority and Catchments Plan provisions are relevant to the project area, the Pare Hauraki Collective Redress Bill has yet to be enacted so the Catchment Authority has not been established nor the Catchments Plan developed. We discuss this further below.

Statutory acknowledgement

48. We have identified that the statutory acknowledgement over the Ohinemuri River and its tributaries provided for in the Ngāti Tara Tokanui deed of settlement is relevant to the project area. The applicant is seeking a discharge permit to discharge treated water from the water treatment plant into the Ohinemuri River, and a land use consent to disturb the bed of unnamed tributaries of the Ohinemuri River.

49. A statutory acknowledgement is an acknowledgement by the Crown of a 'statement of association' between the iwi and an identified area (the 'statutory area'). 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. For your reference, we have included the relevant statutory acknowledgement provisions from the Ngāti Tara Tokanui deed of settlement at **Attachment 4c**. This statutory acknowledgement is subject to the enactment of the Ngāti Tara Tokanui Claims Settlement Bill. We discuss this further below.

Summary of advice

52. Under clause 5 schedule 3 of the Act, if any Treaty settlement Act includes procedural arrangements relating to the appointment of a decision-making body for hearings and other procedural matters, the panel convener or panel must comply with the arrangements in the legislation as if they were a relevant decision maker. Other procedural matters include:

    a. a requirement for iwi or hapū to participate in the appointment of hearing commissioners to determine resource consent applications or notice of requirement lodged under the Resource Management Act 1991:

    b. a requirement that notice be given to any person or specified class of person of any steps in a resource management process:

    c. any consultation requirements with iwi or hapū; or

    d. any other matter of procedure for determining a matter granted under a specified Act that corresponds to an approval under the Act.

53. Of the Treaty settlements relevant to the project area identified above, only Ngāi Tai ki Tāmaki is a 'Treaty settlement Act' under the Act. Strictly speaking, the Ngāi Tai ki Tāmaki conservation relationship agreement is provided for by the deed of settlement rather than the settlement Act, although the relationship agreement is tied to the passage of the legislation (as it is to be entered into by settlement date).

54. The Ngāi Tai ki Tāmaki conservation redress requires a consultation process which would be partially met by inviting comments as per section 53(2) of the Act. However, to meet all of the commitments in the settlement, and its obligations under clause 5 schedule 3 of the Act, the panel needs to consider how it could accommodate the iterative, 'back and forth' nature of the consultation process outlined above. The Act enables the Panel Convener to obtain the agreement of the relevant party under the legislation (i.e. Ngāi Tai ki Tāmaki) to a modified arrangement that is consistent with achieving the purpose of the Act and the settlement Act.

55. There are further provisions relating to this alternative approach[4], but the key implication is that even this option will require the panel to undertake further engagement with Ngāi Tai ki Tāmaki than simply inviting them to comment on the application. As noted above, the provisions in the other settlements have yet to come into force, as even though they are in signed deeds of settlement they are contingent on legislation being enacted. For example,

[4] The iwi cannot unreasonably withhold agreement, and if agreement is not able to be obtained then the process is paused (see subclauses 3 and 4).

the Ngāti Tara Tokanui Deed of Settlement states that the "deed, and the settlement, are conditional on the settlement legislation coming into force".

56. While the panel's obligations under clause 5 schedule 3 of the Act may not apply to the Pare Hauraki and Ngāti Tara Tokanui redress at this time, 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 consistent with the obligations arising under existing Treaty settlements (where 'Treaty settlements' includes a signed Treaty settlement deed).

57. Accordingly, it would be appropriate for the panel to consider how it can act consistently with those elements of the Pare Hauraki and Ngāti Tara Tokanui redress that are not necessarily precluded by settlement legislation which has yet to be enacted.

58. For example, DOC have advised that although the Pare Hauraki decision-making framework is not yet in effect, their approach since 2013 has been to send all applications for conservation approvals to the iwi members of the Pare Hauraki Collective. While an invitation to comment on this application would partially meet the Crown's consultation obligations under the Pare Hauraki decision-making framework, the Act may provide scope for the panel to accommodate some of the more iterative elements of the process.

59. Other aspects of the redress, such as the Waihou, Piako and Coromandel Catchments Authority and Catchments Plan, are not able to be practically replicated without a Treaty settlement Act. The panel would also need to be mindful that, notwithstanding the commitments made through signing a deed of settlement, Parliament still has the authority to amend the relevant settlement bills.

60. 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.

Redress negotiated between the Crown and yet-to-settle groups

61. We are also aware of redress which has been negotiated between the Crown and negotiating groups, and included in 'initialled' deeds of settlement, that may potentially be within the project area.[5] We think the following redress may be affected by the application:

    a. Pukehangi Maunga (above the 580-metre contour) – to be vested in Ngāti Maru; and

    b. Whakamoehau (above the 660-metre contour) – to be vested jointly in Ngāti Maru and Ngāti Tamaterā.

62. Within the statutory timeframe for preparing this report we have been unable to verify whether the above redress is definitely within the project area. Through the EPA we have requested 'shapefiles' (which provide location data for use in GIS systems) from the applicant, but they were not able to provide them. Access to shapefiles would enable The Office of Treaty Settlements and Takutai Moana – Te Tari Whakatau to overlay the project area with negotiated settlement redress, whereas the sites we identified above were only based on a rudimentary comparison between the maps provided by the applicant and the deed plans from the deeds of settlement. A more rigorous check might also reveal other redress which may be affected. For example, it appears that a deferred selection property for the Hauraki Collective (Wentworth Valley property) is adjacent to the project area.

[5] An initialled deed of settlement has been agreed between the Crown and iwi negotiators but has yet to be signed – generally because the deed has yet to be ratified by the claimant community or signing the deed has been delayed for other reasons, such as litigation.

63. While redress in initialled deeds of settlement is outside the scope of this report, we are drawing this to the attention of the panel for their information and note that the panel could invite the Minister for Treaty of Waitangi Negotiations to comment on the application under section 53(2)(j) of the Act and provide further clarity.

Customary Marine Title/Protected Customary Rights

64. 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.

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

65. As noted above, the project area is not within a Taiāpure-local fishery, mātaitai reserve, or area subject to bylaws or regulations made under Part 9 of the Fisheries Act 1996.

Mana Whakahono ā Rohe/Joint management agreement

66. 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 and Ministers

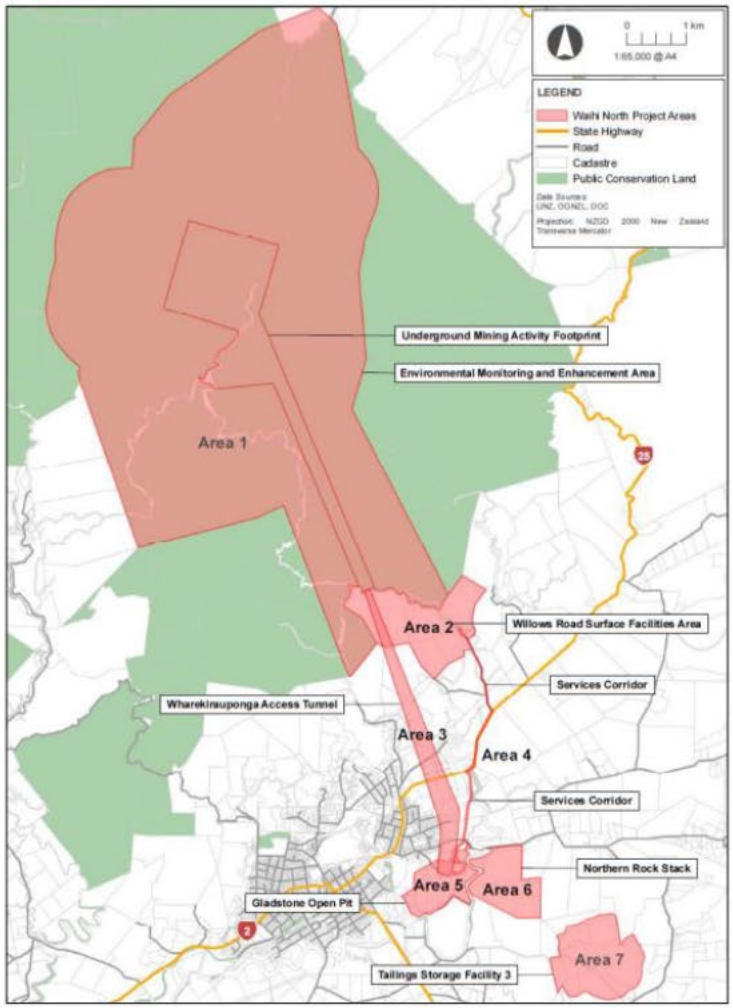
67. In preparing this report, we are required to consult relevant departments. We sought advice from Te Puni Kōkiri and The Office of Treaty Settlements and Takutai Moana – Te Tari Whakatau regarding the relevant Māori groups, and advice from the Department of Conservation and the Ministry for Business, Innovation and Employment on the approvals relevant to them as administering agencies. We have incorporated their views into this report.

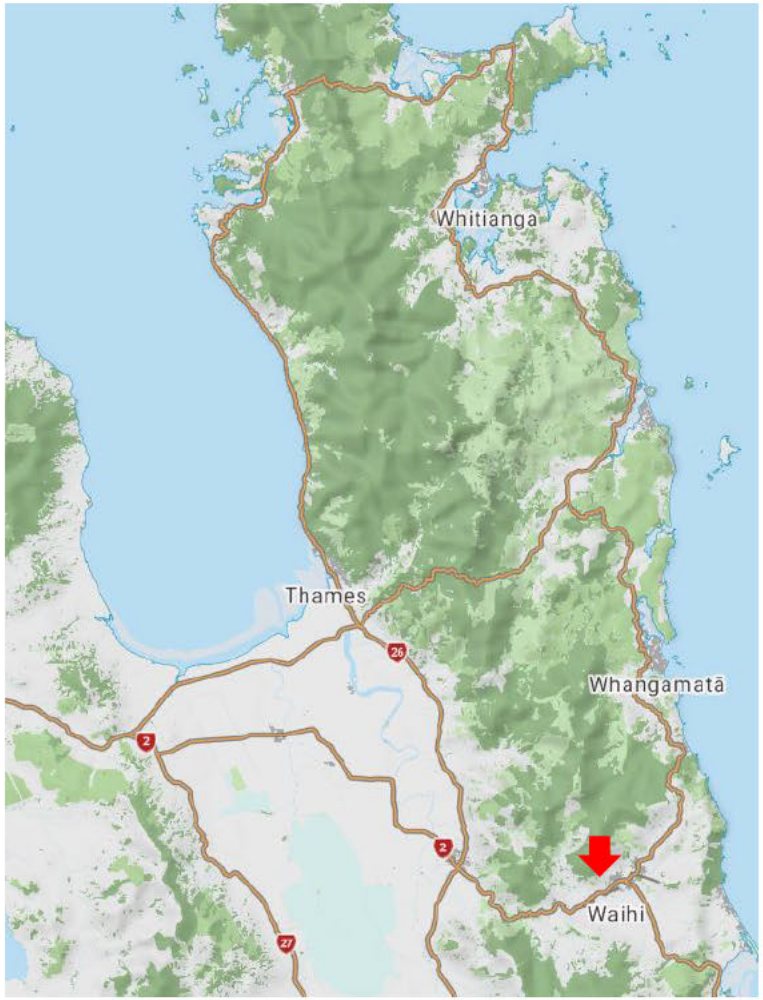
Attachment 1: Provisions of section 18 of the Fast-track Approvals Act 2024

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	13-16
18(2)(b)	Any Treaty settlements that relate to land, species of plants or animals, or other resources within the project area	27-28
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	29-63
18(2)(d)	Any recognised negotiation mandates for, or current negotiations for, Treaty settlements that relate to the project area.	17
18(2)(e)	Any court orders or agreements that recognise protected customary rights or customary marine title within the project area.	18
19(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.	18
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).	19
18(2)(h)	Whether the project area includes any taiāpure-local fisheries, mātaitai 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).	20
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).	21-22
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), (i) iwi authorities and groups that represent hapū that are parties to any relevant Mana Whakahono ā Rohe or joint management agreements.	23-24

	(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.	25-26
18(2)(l)	A summary of— (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 there are significant rights and interests identified in the report and, as a result, it would 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)	In preparing the report required by this section, the responsible agency must— (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.	Section 18(3)(b) not applicable to substantive applications
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	FTAA section	Contact person	Contact email	Copies to
Hako Tūpuna Trust	18(2)(a), 18(2)(d)	John Linstead	[redacted]	
Ngāti Maru Rūnanga Trust	18(2)(a), 18(2)(d)	Waati Ngamane	[redacted]	[redacted]
Te Rūnanga o Ngāti Pu	18(2)(a)	Josephine Gage		[redacted]
Ngāti Tumutumu Trust	18(2)(a)	Daniel Braid	[redacted]	[redacted]
Ngāi Tai ki Tāmaki Trust	18(2)(a)	Rewa Brown	[redacted]	[redacted]
Ngāti Tara Tokanui Trust	18(2)(a)	Amelia Williams	[redacted]	
Ngaati Whanaunga Incorporated Society	18(2)(a)	Boni Renata	[redacted]	
Ngaati Whanaunga Ruunanga Trust	18(2)(a), 18(2)(d)	Boni Renata	[redacted]	[redacted]

				[redacted]
Ngāti Tamaterā Treaty Settlement Trust	18(2)(a, 18(2)(d)	Antony Royal	[redacted]	[redacted]
Hauraki Trust Board	18(2)(a)	David Taipari	[redacted]	
Taonga o Marutūāhu Trustee Limited/ Marutūāhu Rōpū Limited Partnership	18(2)(a), 18(2)(d)	Paul Majurey	[redacted]	
Pare Hauraki Cultural Redress Trust/Pare Hauraki Whenua Limited Partnership/Pare Hauraki Ngahere Limited Partnership	18(2)(a)	Paul Majurey	[redacted]	
Waihi Community marae	18(2)(k)	Te Awhi Cooper	[redacted]	
Ngāti Hei Charitable Trust	18(2)(k)	Shelley Balsom	[redacted]	[redacted]
Ngāti Porou ki Harataunga ki Mataora	18(2)(k)	John Tamihere	[redacted]	

Attachment 4a: Ngā Mana Whenua o Tāmaki Makaurau Conservation Relationship Agreement

11 STATUTORY AUTHORISATIONS

11.1 The strategic partnership objectives will guide the parties to determine appropriate engagement on statutory authorisations within the Tāmaki Makaurau Region.

11.2 As part of these strategic objectives, Ngā Mana Whenua and the Department will identify, and keep under review, categories of statutory authorisations that may have high impact on the spiritual, ancestral, cultural, customary, and historic values of Ngā Mana Whenua.

11.3 As the Department works within time limits to process applications for some forms of statutory authorisations, it will notify Ngā Mana Whenua o Tāmaki Makaurau (as part of the meetings referred to in paragraph 11.2) of the time frames for providing advice.

11.4 The strategic partnership objectives will guide the parties to determine potential opportunities for Ngā Mana Whenua o Tāmaki Makaurau to obtain statutory authorisations on public conservation land within the Tāmaki Makaurau Region, including in relation to commercial opportunities.

11.5 The Department will actively advise and encourage all prospective applicants within the Tāmaki Makaurau Region to consult with Ngā Mana Whenua before filing their application. The Department will also consult Ngā Mana Whenua at an early stage on such categories of authorisations or renewal of authorisations within the Tāmaki Makaurau Region.

11.6 For the types of Statutory Authorisations within the Tāmaki Makaurau Region agreed to in clause 11.2 , Ngā Mana Whenua and the Department will adopt the following process:

a. the Department notifies Ngā Mana Whenua of the application, timeframe for a decision and the timeframe for Ngā Mana Whenua response;

b. Ngā Mana Whenua, within an agreed timeframe, notify the Department of their response including the nature of their interests in the proposal and their views in relation to the proposal;

c. the Department acknowledges Ngā Mana Whenua interests and views as conveyed (providing an opportunity to clarify or correct the Department's understanding of those interests and views), how those interests and views will be included in the decision-making process and any apparent issues or conflict that may arise;

d. the Department will, in making a decision, consider whether it is possible to reconcile any conflict between Ngā Mana Whenua interests and views and other considerations in the decision-making process;

e. the Department will record in writing as part of a decision document the nature of Ngā Mana Whenua interests and the views of Ngā Mana Whenua as conveyed; and

f. the Department will communicate its decision to Ngā Mana Whenua as soon as practicable after it is made.

Attachment 4b: Pare Hauraki conservation decision-making framework

DECISION MAKING FRAMEWORK

9.59 To avoid doubt:

9.59.1 clauses 9.4 to 9.6.1 apply to this section of the Pare Hauraki conservation framework; and

9.59.2 clause 9.6.2 applies to this section of the Pare Hauraki conservation framework to the extent it is not already covered in this section.

9.60 This section of the Pare Hauraki conservation framework applies to conservation decisions in the Conservation Framework Area.

9.61 To avoid doubt, the decision-making framework will apply to any concession applications under Part 3B of the Conservation Act 1987 that are initiated by the Iwi of Hauraki.

9.62 The Pare Hauraki collective cultural entity and the Director-General must, by the settlement date, discuss what will be reasonable timeframes for responses at various stages in the decision-making framework and in various scenarios.

9.63 The Pare Hauraki collective cultural entity and the Director-General must, by the settlement date, discuss and agree a schedule identifying:

9.63.1 any decisions that do not require the application of the decision-making framework; and

9.63.2 any decisions for which the decision-making framework may be modified, and the nature of that modification, including any decisions that need to be made at a national level.

9.64 The Pare Hauraki collective cultural entity and the Director-General may agree to review the schedule agreed under clause 9.63.

9.65 The decision-making framework involves the following stages:

9.65.1 **Stage One**: the Director-General will notify the Pare Hauraki collective cultural entity of the decision to be made and the timeframe for a response;

9.65.2 **Stage Two**: the Pare Hauraki collective cultural entity will, within the timeframe for response, notify the Director-General of:

(a) the nature and degree of the Pare Hauraki interest in the relevant decision; and

(b) the views of Pare Hauraki in relation to the relevant decision;

9.65.3 **Stage Three**: the Director-General will respond to the Pare Hauraki collective cultural entity confirming:

(a) the Director-General's understanding of the matters conveyed under clause 9.65.2;

(b) how the matters conveyed under clause 9.65.2 will be included in the decision-making process; and

(c) whether any immediately apparent issues arise out of the matters conveyed under clause 9.65.2;

9.65.4 **Stage Four**: the relevant decision maker will make the decision in accordance with the relevant conservation legislation, and in doing so will:

(a) consider the confirmation of the Director-General's understanding provided under clause 9.65.3, and any clarification or correction provided by the Pare Hauraki collective cultural entity in relation to that confirmation;

(b) explore whether, in making the decision, it is possible to reconcile any conflict between the interests and views of the Pare Hauraki collective cultural entity and any other considerations in the decision-making process;

(c) in making the decision, where a relevant interest is identified, give effect to the principles of Te Tiriti o Waitangi / the Treaty of Waitangi:

(i) in a meaningful and transparent manner; and

(ii) in a manner commensurate with the nature and degree of the Pare Hauraki interest; and

(d) in complying with clause 9.65.4(c), where the Pare Hauraki interests in their taonga justify it, give a reasonable degree of preference to the Iwi interest;

9.65.5 **Stage Five**: the relevant decision maker will record in writing as part of a decision document:

(a) the nature and degree of the Pare Hauraki interest in the relevant decision as conveyed to the Director-General under clause 9.65.2(a);

(b) the views of the Pare Hauraki collective cultural entity in relation to the relevant decision as conveyed to the Director-General under clause 9.65.2(b); and

(c) how, in making that decision, the relevant decision maker complied with clauses 9.65.3 to 9.65.5(b); and

9.65.6 **Stage Six**: the relevant decision maker will communicate the decision to the Pare Hauraki collective cultural entity including the matters set out in clause 9.65.5.

9.66 The Pare Hauraki collective cultural entity and the Director-General will:

9.66.1 maintain open communication as to the effectiveness of the process set out in Stage One to Stage Six above; and

9.66.2 no later than two years after the settlement date, or as otherwise agreed between the Pare Hauraki collective cultural entity and the Director-General, jointly commence a review of the effectiveness of the process set out in Stage One to Stage Six above.

Attachment 4c: Statutory Acknowledgement provisions from Ngāti Tara Tokanui Claims Settlement Bill

Subpart 3—Statutory acknowledgement

64 Interpretation

In this subpart,—

relevant consent authority, for a statutory area, means a consent authority of a region or district that contains, or is adjacent to, the statutory area

statement of association, for a statutory area, means the statement—

(a) made by Ngāti Tara Tokanui of their particular cultural, historical, spiritual, and traditional association with the statutory area; and

(b) set out in part 2 of the documents schedule

statutory acknowledgement means the acknowledgement made by the Crown in **section 65** in respect of the statutory areas, on the terms set out in this subpart

statutory area means an area described in **Schedule 3**, the general location of which is indicated on the deed plan for that area

statutory plan—

(a) means a district plan, regional coastal plan, regional plan, regional policy statement, or proposed policy statement as defined in section 43AA of the Resource Management Act 1991; and

(b) includes a proposed plan, as defined in section 43AAC of that Act.

65 Statutory acknowledgement by the Crown

The Crown acknowledges the statements of association for the statutory areas.

66 Purposes of statutory acknowledgement

The only purposes of the statutory acknowledgement are—

(a) to require relevant consent authorities, the Environment Court, and Heritage New Zealand Pouhere Taonga to have regard to the statutory acknowledgement, in accordance with **sections 67 to 69**; and

(b) to require relevant consent authorities to record the statutory acknowledgement on statutory plans that relate to the statutory areas and to provide summaries of resource consent applications or copies of notices of applications to the trustees, in accordance with **sections 70 and 71**; and

(c) to enable the trustees and any member of Ngāti Tara Tokanui to cite the statutory acknowledgement as evidence of the association of Ngāti Tara Tokanui with a statutory area, in accordance with **section 72**.

67 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.

68 Environment Court to have regard to statutory acknowledgement

(1) This section applies to proceedings in the Environment Court 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, 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 the 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.

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

(1) This section applies to an application 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.

(2) On and from the effective date, Heritage New Zealand Pouhere Taonga must have regard to the statutory acknowledgement relating to the statutory area in exercising its powers under section 48, 56, or 62 of the Heritage New Zealand Pouhere Taonga Act 2014 in relation to the application.

(3) On and from the effective date, the Environment Court must have regard to the statutory acknowledgement relating to the statutory area—

(a) in determining whether the trustees are persons directly affected by the decision; and

(b) in determining, under section 59(1) or 64(1) of the Heritage New Zealand Pouhere Taonga Act 2014, an appeal against a decision of Heritage New Zealand Pouhere Taonga in relation to the application.

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

70 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) a copy of **sections 65 to 69, 71, and 72**; and

(b) descriptions of the statutory areas wholly or partly covered by the plan; and

(c) the statement of association for each statutory area.

(3) The attachment of information to a statutory plan under this section is for the purpose of public information only and, unless adopted by the relevant consent authority as part of the statutory plan, the information is not—

(a) part of the statutory plan; or

(b) subject to the provisions of Schedule 1 of the Resource Management Act 1991.

71 Provision of summary or notice to trustees

(1) Each relevant consent authority must, for a period of 20 years on and from the effective date, provide 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; or

(b) if notice of the application is served on the consent authority under section 145(10) of the Resource Management Act 1991, a copy of the notice.

(2) A summary provided under **subsection (1)(a)** must be the same as would be given to an affected person by limited notification under section 95B(4) of the Resource Management Act 1991 or as may be agreed between the trustees and the relevant consent authority.

(3) The summary must be provided—

(a) as soon as is reasonably practicable after the relevant consent authority receives the application; but

(b) before the relevant consent authority decides under section 95 of the Resource Management Act 1991 whether to notify the application.

(4) A copy of a notice must be provided under **subsection (1)(b)** not later than 10 working days after the day on which the consent authority receives the notice.

(5) The trustees may, by written notice to a relevant consent authority,—

(a) waive the right to be provided with a summary or copy of a notice under this section; and

(b) state the scope of that waiver and the period it applies for.

(6) This section does not affect the obligation of a relevant consent authority to decide,—

(a) under section 95 of the Resource Management Act 1991, whether to notify an application:

(b) under section 95E of that Act, whether the trustees are affected persons in relation to an activity.

72 Use of statutory acknowledgement

(1) The trustees and any member of Ngāti Tara Tokanui may, as evidence of the association of Ngāti Tara Tokanui with a statutory area, cite the statutory acknowledgement that relates to that area in submissions concerning activities within, adjacent to, or directly affecting the statutory area that are made to or before—

(a) the relevant consent authorities; or

(b) the Environment Court; or

(c) Heritage New Zealand Pouhere Taonga; or

(d) the Environmental Protection Authority or a board of inquiry under Part 6AA of the Resource Management Act 1991.

(2) The content of a statement of association is not, because of the statutory acknowledgement, binding as fact on—

(a) the bodies referred to in **subsection (1)**; or

(b) parties to proceedings before those bodies; or

(c) any other person who is entitled to participate in those proceedings.

(3) However, the bodies and persons specified in **subsection (2)** may take the statutory acknowledgement into account.

(4) To avoid doubt,—

(a) neither the trustees nor members of Ngāti Tara Tokanui are precluded from stating that Ngāti Tara Tokanui has 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.

General provisions relating to statutory acknowledgement

73 Application of statutory acknowledgement to river or stream

If any part of the statutory acknowledgement applies to a river or stream, including a tributary, 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, which is the land that the waters of the river or stream cover at their fullest flow without flowing over the banks 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) an artificial watercourse.

74 Exercise of powers and performance of functions and duties

(1) The statutory acknowledgement does not affect, and must not be taken into account by, a person exercising a power or performing a function or duty under an enactment or a bylaw.

(2) A person, in considering a matter or making a decision or recommendation under an enactment or a bylaw, must not give greater or lesser weight to the association of Ngāti Tara Tokanui with a statutory area than that person would give if there were no statutory acknowledgement for the statutory area.

(3) **Subsection (2)** does not limit **subsection (1)**.

(4) This section is subject to the other provisions of this subpart.

75 Rights not affected

(1) The statutory acknowledgement—

(a) does not affect the lawful rights or interests of a person who is not a party to the deed of settlement; and

(b) does not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, a statutory area.

(2) This section is subject to the other provisions of this subpart.