

## APPENDIX D – STATUTORY ACKNOWLEDGEMENTS

The Whanganui District Council as the relevant consent authority must attach information recording a statutory acknowledgement to all District Plans that wholly or partly cover the statutory area.

The purpose of the statutory acknowledgements are –

- a. To require Council, Heritage New Zealand and the Environment Court to have regard to these statutory acknowledgements when forming an opinion as to affected parties when assessing District Plan provisions or development; and
- b. To require Council to forward summaries of resource consent applications to the relevant iwi and hapū governance entity; and
- c. To enable the iwi and hapū governance entity and a member of the iwi and hapū to cite the statutory acknowledgements as evidence.

The statutory acknowledgements for Ngaa Rauru Kiitahi and Ngāti Apa include the adjoining Coastal Marine Area. The coastal marine area is not part of the Whanganui District Council's territory once past the mean high spring water level, however potential activities within the Council territory could impact the coastal marine area, in which case the statutory acknowledgement for the coastal marine area must be considered.

## **Ngaa Rauru Kiitahi Claims Settlement Act 2005**

Below are the relevant extracts from the settlement act that the Whanganui District Council is required to show within the District Plan.

### **40. Statutory acknowledgements by the Crown**

The Crown acknowledges the statements made by Ngaa Rauru Kiitahi of the particular cultural, spiritual, historical, and traditional association of Ngaa Rauru Kiitahi with the statutory areas listed in [Part 1](#) of Schedule 3, the texts of which are set out in [Schedules 4 to 11](#).

### **41. Purposes of statutory acknowledgements**

(1) The only purposes of the statutory acknowledgements are—

- a. to require consent authorities, the Environment Court, and Heritage New Zealand Pouhere Taonga to have regard to the statutory acknowledgements, as provided for in [sections 42 to 44](#); and
- b. to require relevant consent authorities to forward summaries of resource consent applications to the governance entity, as provided for in [section 46](#); and
- c. to enable the governance entity and a member of Ngaa Rauru Kiitahi to cite the statutory acknowledgements as evidence of the association of Ngaa Rauru Kiitahi with the relevant statutory areas, as provided for in [section 47](#).

(2) This section does not limit the operation of [sections 53 to 56](#).

### **42. Consent authorities to have regard to statutory acknowledgements**

(1) From the effective date, a consent authority must have regard to a statutory acknowledgement relating to a statutory area in forming an opinion in accordance with [sections 93 to 94C](#) of the Resource Management Act 1991 as to whether the governance entity is a person who may be adversely affected by the granting of a resource consent for activities within, adjacent to, or impacting directly on, the statutory area.

(2) Subsection (1) does not limit the obligations of a consent authority under the [Resource Management Act 1991](#).

### **43. Environment Court to have regard to statutory acknowledgements**

(1) From the effective date, the Environment Court must have regard to a statutory acknowledgement relating to a statutory area in determining

under [section 274](#) of the Resource Management Act 1991 whether the governance entity is a person having an interest in the proceedings greater than the public generally in respect of an application for a resource consent for activities within, adjacent to, or impacting directly on the statutory area.

(2) Subsection (1) does not limit the obligations of the Environment Court under the [Resource Management Act 1991](#).

#### **44. Heritage New Zealand Pouhere Taonga and Environment Court to have regard to statutory acknowledgements**

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 governance entity is a person directly affected by the decision.

#### **45. Recording statutory acknowledgements on statutory plans**

(1) From the effective date, relevant consent authorities must attach information recording a statutory acknowledgement to all statutory plans that wholly or partly cover the statutory area.

(2) The attachment of information under subsection (1) to a statutory plan—

- a. must include the relevant provisions of this subpart in full, the description of the statutory area, and the statement of association (as recorded in the statutory acknowledgement); and
- b. is for the purpose of public information only, and the information is not—
  - i. part of the statutory plan (unless adopted by the relevant consent authority); or

- ii. subject to the provisions of [Schedule 1](#) of the Resource Management Act 1991.

(3) In this section, **statutory plan**—

- a. means a district plan, proposed plan, regional coastal plan, regional plan, or regional policy statement as defined in [section 2\(1\)](#) of the Resource Management Act 1991; and
- b. includes a proposed policy statement provided for in [Schedule 1](#) of the Resource Management Act 1991.

#### **46. Distribution of resource consent applications to governance entity**

(1) A relevant consent authority must, for a period of 20 years from the effective date, forward to the governance entity a summary of resource consent applications received by that consent authority for activities within, adjacent to, or impacting directly on a statutory area.

(2) The information provided under subsection (1) must be—

- a. the same as would be given under [section 93](#) of the Resource Management Act 1991 to persons likely to be adversely affected, or as may be agreed between the governance entity and the relevant consent authority; and
- b. provided as soon as reasonably practicable after the application is received, and before a determination is made in accordance with [sections 93 to 94C](#) of the Resource Management Act 1991.

(3) The governance entity may, by notice in writing to a relevant consent authority,—

- a. waive its rights to be notified under this section; and
- b. state the scope of that waiver and the period it applies for.

(4) For the purposes of this section, a regional council dealing with an application to carry out a restricted coastal activity in a statutory area must be treated as if it were the relevant consent authority in relation to that application.

(5) This section does not affect the obligation of a consent authority to—

- a. notify an application in accordance with [sections 93 and 94C](#) of the Resource Management Act 1991;
- b. form an opinion as to whether the governance entity is a person that is likely to be adversely affected under those sections.

## **47. Use of statutory acknowledgement**

(1) The governance entity and a member of Ngaa Rauru Kiitahi may, as evidence of the association of Ngaa Rauru Kiitahi with a statutory area, cite the relevant statutory acknowledgement in submissions to, and in proceedings before, a consent authority, the Environment Court, or Heritage New Zealand Pouhere Taonga concerning activities within, adjacent to, or impacting directly on the statutory area.

(2) The content of the statement of association, as recorded in the statutory acknowledgement, is not, by virtue of the statutory acknowledgement, binding as deemed fact on—

- a. consent authorities:
- b. the Environment Court:
- c. Heritage New Zealand Pouhere Taonga:
- d. parties to proceedings before those bodies:
- e. any other person able to participate in those proceedings.

(3) Despite subsection (2), the statutory acknowledgement may be taken into account by the bodies and persons specified in that subsection.

(4) Neither the governance entity nor a member of Ngaa Rauru Kiitahi is precluded from stating that Ngaa Rauru Kiitahi have an association with a statutory area that is not described in the statutory acknowledgement.

(5) The content and existence of the statutory acknowledgement do not limit a statement made under subsection (4).

## **Schedule 4 – Statutory acknowledgement for Nukumarū Recreation Reserve**

### **Statutory Area**

The only Statutory Acknowledgement for Ngaa Rauru Kiitahi within the Whanganui District is part of the Nukumarū Recreational Reserve.

The reserve runs along the coastline starting at Ototoka Beach Road and continuing west into the South Taranaki District. The legal description for these lots are:

- Lot 1 DP 52794
- Section 63 Waitotara District
- Section 66 Waitotara District
- Part Section 67 Waitotara District

Schedule 4 of the Ngaa Rauru Kiitahi Claims Settlement Act 2005 sets out following the statutory acknowledgement for Nukumaru Recreation Reserve:

**Preamble**

*Under section 40, the Crown acknowledges the statement by Ngaa Rauru Kiitahi of the cultural, spiritual, historical, and traditional association of Ngaa Rauru Kiitahi with the Nukumaru Recreation Reserve as set out below.*

**Cultural, spiritual, historical, and traditional association of Ngaa Rauru Kiitahi with statutory area**

*Waikaramihi is the name given to the marae tawhito that is situated within the Nukumaru Recreation Reserve, on the coast between Waiinu and Tuaropaki. Ngaa Rauru Kiitahi traditionally camped at Waikaramihi from October to March each year. The main food gathering area was between the Waitotara river mouth and Tuaropaki. The sources of food include kakahi (fresh water mussels), sea mussels, kina, paua, papaka (crabs), karingo (seaweed), and very small octopus stranded in the small rock pools from the receding tides. While Ngaati Maika and Ngaati Ruaiti were the main hapuu that used Waikaramihi, all Ngaa Rauru Kiitahi hapuu traditionally gathered kai moana in accordance with the values of Ngaa Raurutanga.*

*The Karewaonui canoe (over 100 years old) was until 1987 housed at Waikaramihi and was used by Ngaa Rauru Kiitahi (mainly Ngaati Maika and Ngaati Ruaiti) to catch stingray, shark, snapper, and hapuka about 10 miles off the coast. Karakia were used when Karewaonui was “put to sea”, and an offering of the first fish caught on Karewaonui was always given to the Kaitiaki-o-te-moana.*

*The area is still significant to Ngaa Rauru Kiitahi as a mahinga kai source from which the physical well-being of Ngaa Rauru Kiitahi is sustained, and the spiritual well-being nourished.*

## Ngāti Apa (North Island) Claims Settlement Act 2010

Below are the relevant extracts from the settlement act that the Whanganui District Council is required to show within the District Plan.

### **28. Purposes of statutory acknowledgement**

(1) 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, as provided for in [sections 30](#) and [31](#); and
- b. require relevant consent authorities to forward summaries of resource consent applications to the trustees, as provided for in [section 33](#); and
- c. enable the trustees and any member of Ngāti Apa (North Island) to cite the statutory acknowledgement as evidence of the association of Ngāti Apa (North Island) with the relevant statutory areas, as provided for in [section 34](#).

(2) This section does not limit [sections 38 to 40](#).

### **29. Relevant consent authorities to have regard to statutory acknowledgement**

(1) On and from the effective date, a relevant consent authority must have regard to the statutory acknowledgement relating to a statutory area in deciding, under [section 95E](#) of the Resource Management Act 1991, whether the trustees are affected persons in relation to an activity within, adjacent to, or directly affecting the statutory area for which an application for a resource consent has been made.

(2) Subsection (1) does not limit the obligations of a relevant consent authority under the [Resource Management Act 1991](#).

### **30. Environment Court to have regard to statutory acknowledgement**

(1) On and from the effective date, the Environment Court must have regard to the statutory acknowledgement relating to a statutory area in deciding, under [section 274](#) of the Resource Management Act 1991, whether the trustees are persons who have an interest in proceedings that is greater than the interest that the general public has in respect of an application for a resource consent for activities within, adjacent to, or directly affecting the statutory area.

(2) Subsection (1) does not limit the obligations of the Environment Court under the [Resource Management Act 1991](#).

### **31. 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.

### **32. 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 28 to 31](#) in full; and
- b. the descriptions of the statutory areas wholly or partly covered by the plan; and
- c. any statements of association for the statutory areas.

(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—

- a. part of the statutory plan, unless adopted by the relevant consent authority; or
- b. subject to the provisions of [Schedule 1](#) of the Resource Management Act 1991, unless adopted as part of the statutory plan.

### **33. Resource consent applications must be provided to trustees**

(1) Each relevant consent authority must, for a period of 20 years starting on 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) 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 provided under subsection (1)(a)—

- a. as soon as is reasonably practicable after the consent authority receives the application; and
- b. before the consent authority decides under [section 95](#) of the Resource Management Act 1991 whether to notify the application.

(4) A copy of a notice of an application must be provided under subsection (1)(b) no later than 10 business days after the day on which the consent authority receives the notice.

(5) This section does not affect a relevant consent authority's obligation,—

- a. under [section 95](#) of the Resource Management Act 1991, to decide whether to notify an application, and to notify the application if it decides to do so; or
- b. under [section 95E](#) of that Act, to decide if the trustees are affected persons in relation to an activity.

## **36. Application of statutory acknowledgement to river or stream**

If any part of the 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 its fullest flow without flowing over its banks; or
  - iii. an artificial watercourse; or
  - iv. a tributary flowing into the river or stream.

## Schedule 1 – Statutory areas

Within the Whanganui District, the relevant statutory areas are:

- Ruakiwi
- Part of the Whangaehu River
- Part of the Mangawhero River

Ngāti Apa have prepared Statements of Association for the following statutory areas.

### Whangaehu River Statement of Association

*The Whangaehu River is of historical, cultural, spiritual and traditional significance to Ngāti Apa (North Island). The Whangaehu River is located in the northern area of the Ngāti Apa (North Island) area of interest. The extent of Ngāti Apa (North Island) interest in the Whangaehu River goes from its mouth on the west coast up to some 50 kilometres to the northern boundaries of the Heao and Maungakaretu No.1 land blocks.*

*The naming of the Whangaehu River occurred during Haunui a Nanaia's pursuit of his wife, Wairaka, naming the rivers that he crossed along the way. This event is recorded in the Orion mo Whauraurangi or the Lullaby for Whauraurangi that was composed by Te Rangitakoru of Ngāti Apa (North Island) for his young niece, Whauraurangi.*

*In referring to Whangaehu, the oriori records the following event:*

***"Ka Tiehua te wai, ko Whangaehu"***

*He splashed through cloudy waters, hence Whangaehu*

*The quote refers to the cloudy colour of the water in terms of its source being the acidic crater lake on Mt Ruapehu. The Whangaehu River is one of three rivers that form the identity of Nga Wairiki. Nga Wairiki leader, Eruera Whakaahu, stated that 'the name Nga Wairiki means three rivers and so the people who lived on Turakina, Whangaehu [and] Mangawhero were called Nga Wairiki.' It also provides the tribal domain for many hapu of Ngāti Apa (North Island), including Ngāti Rangiwhakaturia, Ngāti Tamaea, Ngāti Kiriwheke, Ngāti Hikapirau, Ngāti Ratua, Ngāti Paenga, Ngāti Houmahanga, & Ngāti Huru.*

*The River was navigable and provided hapu with an important access route to the sea. Whitiau and Waiharakeke were two kainga that were occupied on a seasonal basis for sea fishing, and Harakeke was an important tauranga waka (canoe landing area) that was used for launching fishing expeditions out to sea.*

*While the River was not abundant in fish life, it provided a passage way for fish life to access tributaries that were less affected by the acidic water, and swamps and lakes that were connected to the river. Pa tuna (eel weirs) were found in tributaries including the Mangawhero Stream, the Rakautaua*

*Swamp, Te Ngaire Stream, Kapakapa Stream. Three other pa tuna named Te Maire, Titau and Tuini were found on the Mangamahu Stream. Pa tuna were also noted in wetlands or swamps that were linked to the Whangaehu River at Taika, Onereingi, and Otukotu. Lake Okake and the Takaponui, Mangatipona, Mangarou, and Waiporotu Streams were utilised for traditional fishing.*

*The Whangaehu River had many kainga spread all along its length within the Ngati Apa (North Island) area of interest including Maraeaute, Waiharakeke, Ngahere, Wharepuarere, Whakapumahu, Akerama, Matatera, Matatera Papatupu, Orotaniwha, Ohopukia, Titirangi, Otawai, Takuao, Upokongahua, Kauangaroa, Te Koretu, Te Koukou, Whetukura, Te Waiawa, Totara, Atuahihhi, Kohanga, Te Umu Taro, Whitiau, Ngaue, Oeta, Tautarawhata, Wakapapa, and Aruekawa.*

*The river banks were extensively cultivated with many sites being sheltered and fertile. Named cultivations include Parikorikori, Matatera Papatupu, Tauanui, Wharepu, Paitarata, Hekeheke, Oue, Topini, Pohatuanoa, Koaumau, Waiatoko, Te Takataka, Matahiwi, Rotakohu, Tawarauha, Tawhirirangi, Tamaraukaha, Te Rimu, Pitatangi, Ratanui, Te Karaka and Paranaki.*

*Other traditional resource sites along the River include bird snaring bushes at Iwiroa and Pakihi, fern root at Ruahoara, and harakiekie gathered at Te Paruparu.*

*The importance of the River for defence was evident by the number of pa including Waiharakeke, Te Ripo, Manuriro, Mangaroa, Te Ruapohatu, Otuwhangai, Aromanga, Te Rewa, Kawakawa, Te Karaka, Te Uwhi, Tiritiri, Ohakato, Otauira, Huhupara, Pihai, Kohurupo, Paekowhai, Akerama, and Te Umu Taro.*

*There were also burial areas at sites, including Matatera, Otuwhangai, Tongowhiti, Waiaua and Otaika.*

*In more recent times, water quantity issues are becoming increasingly significant. As the Whangaehu River provides a drainage system for the crater lake at Mt Ruapehu, the River rates poorly in terms of contact recreation and its life supporting capacity. Also, there is pressure for increased hydro - electricity activity on the River and its tributaries, which will impact the on the water quality.*

*As evidenced by the number of pa tuna found and the fisheries practices adopted by hapu in the tributaries and swamps connected to the river, the River still plays a significant part as the access route to the sea for many freshwater fish species. The River banks are also important breeding grounds for bird life, and the River mouth holds a sustainable white bait fishery.*

*Ngati Apa (North Island) will always seek to maintain the flows of the Whangaehu River in order to support tributary fisheries dependent upon those flows.*

## **Te Awa Tupua (Whanganui River Claims Settlement) Act 2017**

Below is a brief description of the purpose of the Act.

### *Section 12: Te Awa Tupua recognition*

*Te Awa Tupua is an indivisible and living whole, comprising the Whanganui River from the mountains to the sea, incorporating all its physical and metaphysical elements.*

### *Section 13: Tupua te Kawa*

*Tupua te Kawa comprises the intrinsic values that represent the essence of Te Awa Tupua, namely—*

#### *Ko Te Kawa Tuatahi*

*(a) Ko te Awa te mātāpuna o te ora: the River is the source of spiritual and physical sustenance:*

*Te Awa Tupua is a spiritual and physical entity that supports and sustains both the life and natural resources within the Whanganui River and the health and well-being of the iwi, hapū, and other communities of the River.*

#### *Ko Te Kawa Tuarua*

*(b) E rere kau mai i te Awa nui mai i te Kahui Maunga ki Tangaroa: the great River flows from the mountains to the sea:*

*Te Awa Tupua is an indivisible and living whole from the mountains to the sea, incorporating the Whanganui River and all of its physical and metaphysical elements.*

#### *Ko Te Kawa Tuatoru*

*(c) Ko au te Awa, ko te Awa ko au: I am the River and the River is me:*

*The iwi and hapū of the Whanganui River have an inalienable connection with, and responsibility to, Te Awa Tupua and its health and well-being.*

#### *Ko Te Kawa Tuawhā*

*(d) Ngā manga iti, ngā manga nui e honohono kau ana, ka tupu hei Awa Tupua: the small and large streams that flow into one another form one River:*

*Te Awa Tupua is a singular entity comprised of many elements and communities, working collaboratively for the common purpose of the health and well-being of Te Awa Tupua.*

When preparing documents under the Resource Management Act that relate to the Whanganui River or an activity within the Whanganui River catchment that affects the Whanganui River, Council must recognise and provide for the Te Awa Tupua status and Tupua te Kawa.