

Statutory Context

Description and Expectations

A statutory acknowledgement is a formal acknowledgement from the Crown of the mana of **tangata whenua** in relation to a special area.

It recognises the particular cultural, spiritual, historical and traditional association of an iwi or hapū with the site, which is identified as a statutory area. In some instances, there may be more than one hapū or iwi who is recognised as having an association with a given area.

Statements of association within a statutory acknowledgement/area are set out in Treaty of Waitangi settlement legislation.

While there may be minor variations in the legislation for each settlement, the purposes of a statutory acknowledgement will generally include the following:

- Notification of resource consent applications.
- Environment court regard to statutory acknowledgement in determining whether or not iwi or hapū have an interest greater than the general public.
- Consent authorities are required to forward summaries of resource consent applications to the relevant iwi or hapū for activities within or adjacent to or impacting directly on the statutory area.
- The relevant iwi or hapū may cite a statutory acknowledgement as evidence of association with a statutory area in submissions to and proceedings before Council.
- Recording of the statutory acknowledgement in the district plan.

Statutory Areas

Pakikaikutu coastal statutory area

Location: As shown on OTS-060-009

In accordance with Section 38 of the of the Ngāti Pūkenga Claims Settlement Act 2017:

1. In relation to the Pakikaikutu coastal statutory area, the statutory acknowledgement
 - a. applies, and is limited, to an area 100m wide on the seaward side of, and adjoining, the line of mean high water springs; but
 - b. does not of itself constitute, and may not be relied upon as, evidence that Ngāti Pūkenga is an iwi whose territory abuts Whangārei Harbour for the purposes of section 143 of the Māori Fisheries Act 2004.

Maps of the statutory areas can be found in the document *Ngāti Pūkenga and The Trustees of Te Tāwharau o Ngāti Pūkenga Trust and the Crown, Deed of Settlement: Attachments*:
<https://www.govt.nz/dmsdocument/5539.pdf>

Statements of Association

Ngāti Pūkenga, also known as Te Tāwera, settled the Pakikaikutu block near Pārua Bay in 1838. The area is more commonly known as Tamaterau today. The **land** was 'tuku whenua' due to the killing of a Ngāti Pūkenga chief at the place.

According to tribal history, Te Tāwera were on their way north in canoes to trade for firearms. On the way one of the crew members, Te Kohupō wished to visit with his sister who had married an important chief of the area. Disembarking near Whangārei Heads he made his way around the

coast, passing through Parua Bay. Unbeknown to him, he was being stalked by a local warrior and when he took rest near a small **stream** he was surprised and killed at Pakikaikutu.

News of Te Kohupō's murder soon reached Te Tāwera in the Bay of Islands. Readying and arming themselves with their recently acquired firepower they set forth heading southwards towards Whāngarei Harbour where they entered intent on 'utu'. Arriving at Pārua Bay they spied a large contingent of people on the shore, and emissaries issued forth carrying with them terms of peace.

The canoes were drawn up on the beach and the entire retinue made their way up from Pārua Bay over to Pakikaikutu. The Whāngarei chiefs pointed out the place where Te Kohupō had met his end, rituals were enacted and in recognition of the unwarranted taking of his life, the **land** was given over to Te Tawera.

The coastal areas, particularly from Waiakaraka to Parua Bay (where the canoes landed), was incredibly important to Ngāti Pūkenga, more so because of the steep nature of the Pakikaikutu block, and the challenges these presented when food needed to be grown, dwellings built, or game taken. The 'kāpata kai' as expressed by elders was the moana itself. There were oyster reefs at Tamaterau and Pārua that were utilized by the locals, spots where kina, scallops and mussels could be harvested. Every type of fish imaginable could be caught according to its own season in the shallows and deeper channels around the coast. When transport by **water** was the main mode of travel, the beaches and small coves provided safe anchorages, and canoes could ply this area taking aboard large seine nets to encircle large schools of herrings, kahawai, parore, snapper and myriad of other species.

The shallows along this coastal strip abounded in various types of pipi, a staple for the people living there, as these could be taken at almost any time of the year regardless of the weather, dried and stored for leaner times, or gathered in quantities to supply the many gatherings, mourning ceremonies or taken as gifts for other iwi and hapū. Indeed, all of the marine life mentioned and more, when presented to other tribal groups in the quantities required helped to balance the delicate inter-tribal relationships and ensure the mana of Ngāti Pūkenga was upheld and enhanced.

Sections 29 – 33, 35 and 36 of the Ngāti Pūkenga Claims Settlement Act 2017

In accordance with Section 34 of the Ngāti Pūkenga Claims Settlement Act 2017, Sections 29 – 33, 35 and 36 of the Act are recorded:

29 Statutory acknowledgement by the Crown

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

30 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 31 to 33; 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 34 and 35; and
- c. to enable the trustees and any member of Ngāti Pūkenga to cite the statutory acknowledgement as evidence of the association of Ngāti Pūkenga with a statutory area, in accordance with section 36.

31 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.

32 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.

33 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.

35 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 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) no 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.

36 Use of statutory acknowledgement

1. The trustees and any member of Ngāti Pūkenga may, as evidence of the association of Ngāti Pūkenga 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, by virtue 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. The content of a coastal statement of association is not, by virtue of the statutory acknowledgement, binding as fact on—
 - a. Te Ohu Kai Moana Trustee Limited for the purposes of determining coastline entitlements under section 11 and Schedule 6 of the Māori Fisheries Act 2004; or
 - b. the Māori Land Court or any person or body in the determination of a dispute under Part 5 of the Māori Fisheries Act 2004.
5. To avoid doubt, the content and existence of the statutory acknowledgement do not—
 - a. imply, and should not be treated as implying, that the association Ngāti Pūkenga has with a statutory area is exclusive; or
 - b. preclude any iwi other than Ngāti Pūkenga from stating that they have, or from being treated as having, an association with, or an interest in, a statutory area; or

- c. preclude either the trustees or members of Ngāti Pūkenga from stating that Ngāti Pūkenga has an association with a statutory area that is not described in the statutory acknowledgement; or
- d. limit any statement made by Ngāti Pūkenga, other iwi, or their members.

