



TE RŪNANGA O NGĀTI AWA

26 October 2023

Attention: Nicholas Woodley

Manager Policy, Planning & Consents Compliance
Whakatāne District Council
Private Bag 1002
Whakatāne 3158

Te Rūnanga o Ngāti Awa (TRONA) Under Clause 3B¹ Schedule 1 of the Resource Management Act 1991 to Proposed Plan Change 8 Huna Road Urban Zoning and Structure Plan

Tēnā koe,

Introduction

Thank you for inviting Te Rūnanga o Ngāti Awa (TRONA) input to Council's Plan Change 8 (PC8) to the Whakatāne District Plan, to install the Huna Road Urban Zoning and Structure Plan.

This TRONA input is provided on a without prejudice basis and may change as more information becomes known. It is written with our Ngāti Awa reader in mind and includes extracts from Whakatāne District Council's (WDC's) PC8 Summary² document and Draft Section 32 Report³ (dated August 2023).

Plan Change 8 to the Whakatāne District Plan

The main purpose of PC8 is to rezone land at Huna Road to provide additional housing capacity in the Whakatāne district. Most of the land (approx. 10ha) is zoned Deferred Residential and part of the land (5ha) is zoned rural and intended for papakainga housing (a controlled activity in that zone – see Appendix 4).

An assessment of district housing demand identified more land is needed for residential development. The PC8 land proposed for rezoning is capable of providing 150-175 house sites overall and is intended to be integrated with existing residential developments at Shaw Road.

The primary features of PC8 are to:

- Rezone the land as Residential Zone and Urban Living Zone
- Amend the Shaw/Huna Road Structure Plan to show:

¹ See Appendix 1

² Proposed Plan Change 8 Huna Road Summary Document prepared by Whakatāne District Council

³ Plan Change 8 – Huna Road Housing Draft Section 32 Report Prepared for Whakatane District Council 22 August 2023 by Craig Batchelor, Version 9

- Revised internal road layout
- Medium density housing area (up to 25 dwelling units)
- Papakainga housing area (up to 60 dwelling units)
- Other housing
- Mixed Centre Use
- Access controls on State Highway 30
- Active transport routes for cycling and walking
- Retain an 80m setback from the State Highway and area for on-site stormwater management on the Shaw/Huna Road Structure Plan
- Add a new rule to restrict development until safety improvements are provided on State Highway 30
- Add new objectives, policies and assessment criteria for stormwater and land use integration using minimal impact design measures
- Add a new rule to enable a Mixed-Use Centre business activity of up to 100m² to be established on the site at a location defined generally on the Structure Plan.



Figure 1: Land Proposed for Rezoning

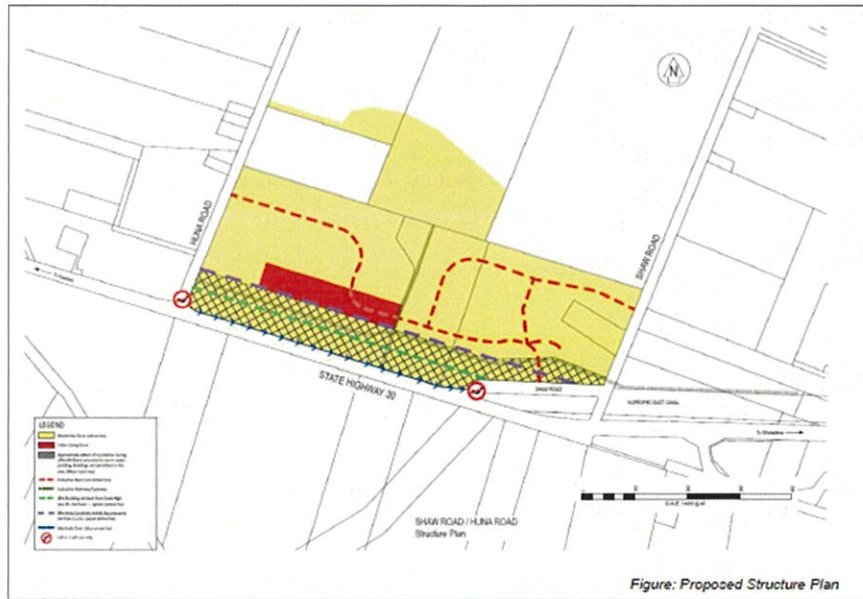


Figure: Proposed Structure Plan

Ngāti Awa hapū with relationships with the subject land

TRONA archival records show that after the raupatu (Crown confiscation) of 1867, some 2500 acres of land was surveyed and renamed as the Rangitaiki 28B blocks. Between 1878 and 1928 these blocks were divided further with titles issued to tipuna who affiliate to Ngai Te Rangihouhiri, Ngāti Hikakino, Ngai Taiwhakaea, Ngāti Hokopu (both) and Wharepaia hapū.

Kawarehe Trust (Lot 28B6B2 Parish of Rangitaiki)

‘Pātaka Whenua’ Maori Land Court records show that Rangitaiki 20B6B2 (the subject block) is Maori Freehold Land owned as tenants-in-common by 236 owners. The land is vested in land administrators called Kawarehe Trust, whose trustees were nominated by the shareholders and appointed by the Maori Land Court of New Zealand.

Kawarehe Trust and shareholders also own and administer Rangitaiki 28B6B1 over which an easement granting right-of-way to the land proposed for papakainga development was formalised by the Court.

Kawarehe Trust has willingly joined Plan Change 8 and is preparing consent applications to establish a papakainga residential development on 5ha of the 15.1124 ha parcel of land called Rangitaiki 28B6B2.

Kawarehe Trust, its agent (and uri) Dan Ratahi (Housing & Infrastructure Project Lead for Te Tohu o Te Ora o Ngāti Awa – Ngāti Awa Social & Health) and its consultant Kathryn McGuire have also sought TRONA’s assessment of its proposed papakainga housing development activities when the applications and Assessments of Environmental Effects material is available for assessment in November 2023.

Ngāti Awa Affected Parties

TRONA encourages Council to engage with the following Ngāti Awa Affected Parties on PC8 district planning provisions and provide for their engagement in transport planning and consenting processes, as well:

- Shareholders of Kawarehe Trust
- Ngai Te Rangihouhiri hapu delegate, hapu and pukenga
- Ngāti Hikakino hapu delegate, hapu and pukenga
- Ngai Taiwhakaea hapu delegate, hapu and pukenga

- Ngāti Hokopu (both) hapu delegate, hapu and pukenga
- Wharepaia hapu delegate, hapu and pukenga
- Paroa Rugby Club
- Residents of Huna and Fergusson Roads.
- **Ngāti** TRONA via TRONA Taiao Manager, Policy Planner and Consents Assessor

Ngāti Awa Right of First Refusal Area

TRONA notes:

- All the land subject to Plan Change 8 is within the Ngāti Awa Right of First Refusal Area.
- No other iwī need be engaged in the development of PC8 and subsequent consenting processes.
- Anyone can make submissions to a publicly notified Plan Change if they wish.

TRONA Input to Plan Change 8

This input is provided during the pre-notification phase of the planning process.

TRONA provides the input in accord with Clause 3B Schedule 1 of the Resource Management Act 1991 which 'enables iwi authorities to identify environmental issues of concern to them' and 'indicate how these issues might be addressed'.

TRONA reserves discretion to make submissions when PC8 is formally notified and encourages Ngāti Awa hapu, whanau, affiliates, and their Clubs to make submissions to the Plan Change, as well.

Outcomes of Early Engagement in the Pre-Notification Phase

Council consulted some people early in the development of PC8, including some from our Ngāti Awa community. Council summarises the outcomes of that early engagement as follows:

6 Consultation

consultation undertaken to date is summarised in the following table.

Party	Key Matters Raised	Outcome
BOPRC	Stormwater Management	Stormwater inundation areas shown on Structure Plan
Waka Kotahi	Road Safety	Traffic Safety Performance Standards included in Plan Provisions.
Landowners	Development issues	Agreed approach on zoning, rules and structure plan.
Te Rūnanga o Ngati Awa	Impact on water	On-site stormwater mitigation measures in accordance with BOPRC requirements and low impact design.
Paroa Rugby and Sports Club	Reverse sensitivity	Zoning changes do will not change noise limits or existing use. Opportunity for wastewater connection.

TRONA Concerns and How they Might be Addressed

TRONA concerns are highlighted below followed by suggestions as to how each might be addressed

Concern 1: Stormwater Management

TRONA supports the proposed stormwater management approach.

TRONA notes Kawarehe Trust land sits in a 'sweet spot' where the soil is friable and soaks stormwater away and where the contour is, on average, slightly elevated as well.

Concern 2: Traffic Safety

TRONA Concerns:

- Dangerous right hand turn to SH30 from Huna Road
- Increased traffic effects from Huna Road to SH2 when heading north
- Uncertainty about whether affected residents, hapū, Kawarehe Trust and TRONA will be engaged on suggested transport solutions identified in section 6.9.2 and 6.9.3 of the Section 32 Report, and who will engage them

These might be addressed by:

- Statutory organisations undertaking early and ongoing engagement with Ngāti Awa parties and other affected parties on the design of proposed safety improvements like those identified in section 6.9.2 and 6.9.3 of the Section 32 and potential new PC8 rules 2.2.5

Concern 3: Reverse Sensitivity

TRONA Concerns:

- PC8 does not recognise and provide for pre-existing Paroa Rugby Club activities and traffic movements
- Paroa Rugby Club activities should be protected from potential complaints about noise, traffic movements, parking, late night activities and other reverse sensitivity effects potential residents in PC8 lands and nearby Shaw Road may assert.

These reverse sensitivity concerns might be addressed by:

- Working with the Club on amending reverse sensitivity provisions that recognise and provide for pre-existing activities at Paroa Rugby & Sports Club and Lawson Park.

Concern 4: Provide for Ngāti Awa values, interest and mātauranga in land management planning and decision-making

TRONA Concerns:

- Challenges associated with the development and use of Maori freehold land is not always recognised and provided for by Council
- PC8 does not recognise and provide for Kawarehe Trusts ongoing role in perpetuity in deciding tenancy of up to 60 homes on multiply owned Maori Freehold Land, the tenure of which is as tenants in common, by preferred classes of alienee of which the Maori Land Court currently records 236 names.

These concerns might be addressed by:

- Seek specialist advice from a suitably qualified and experienced Maori Land specialist who understands the peculiarities of Maori Freehold Land tenure
- Talk with Kawarehe Trustees about the potential to include provision that may assist their decision-making
- Foster and maintain positive neighbourly rapport between the PC8 parties to provide for ongoing peaceful sharing of geographic space

Concern 6 : Protect Places and Relationships of Cultural Significance

TRONA Concerns:

- The damage, modification or destruction of our cultural heritage has significant adverse impacts on our tribal wellbeing, integrity, and identity. Contributing factors include (but are not limited to) the following:

- Consultation not occurring with the right Ngāti Awa representative and/or pukenga and/or decision-makers – including hapu representatives, Maori Land Trusts, Kaitiaki and TRONA staff members
- Consultation occurring too late and with little to no information provided, or with expectations Ngāti Awa respondents have capacity to contribute at their cost and outside of reasonable timeframes
- Not all places or resource of significance are known, registered, or scheduled
- If a cultural heritage site, taonga tuku iho, or koiwi is accidentally uncovered, the correct statutory procedures and Ngāti Awa kawa is not always known or followed by the finder.

These issues might be addressed by:

- Working with Ngāti Awa affected parties on wording to insert into regulation that will require persons commissioning earthworks and land disturbance activities associated with residential development in the PC8 area to:
 - provide an archaeological survey to determine whether Heritage NZ Authority is required
 - comply with the contents of the Ngāti Awa Discovery Protocol (a draft example is provided in Appendix 3) to be given effect at the cost of the developer or resident undertaking the activity
 - work with TRONA, Kawarehe Trust and Ngāti Awa affected hapu on clarifying the right people to deploy and engage are identified in the Ngāti Awa Discovery Protocol
- Work with TRONA and Ngāti Awa affected parties on:
 - the identification of appropriate street names
 - The appropriate treatment and interpretations for Te Kawarehe site and the values associated with it and
- Foster the capacity of Ngāti Awa people and entities to manage and make decisions on these important matters.

Ngai Taiwhakaea hapu has identified several concerns, including about the effects of rezoning on the rural community, increased traffic movement, housing density, potential effects of wastewater and stormwater discharge to Te Orini Canal (by groundwater influence), overland flow effects on neighbouring properties, and a lack of consultation with Ngai Taiwhakaea, Huna Road residents and Maori land block owners.

These issues might be addressed in engagement with those parties, at workshops that might be facilitated with support from TRONA.

This input is provided on a without prejudice basis and may change.

Enquiries should be directed to Bev Hughes after 6 November 2023.

Ngā mihi,

Reuben Araroa
Manahautū

Supporting Data

The following extracts and information support the input provided above.

Three Land Parcels

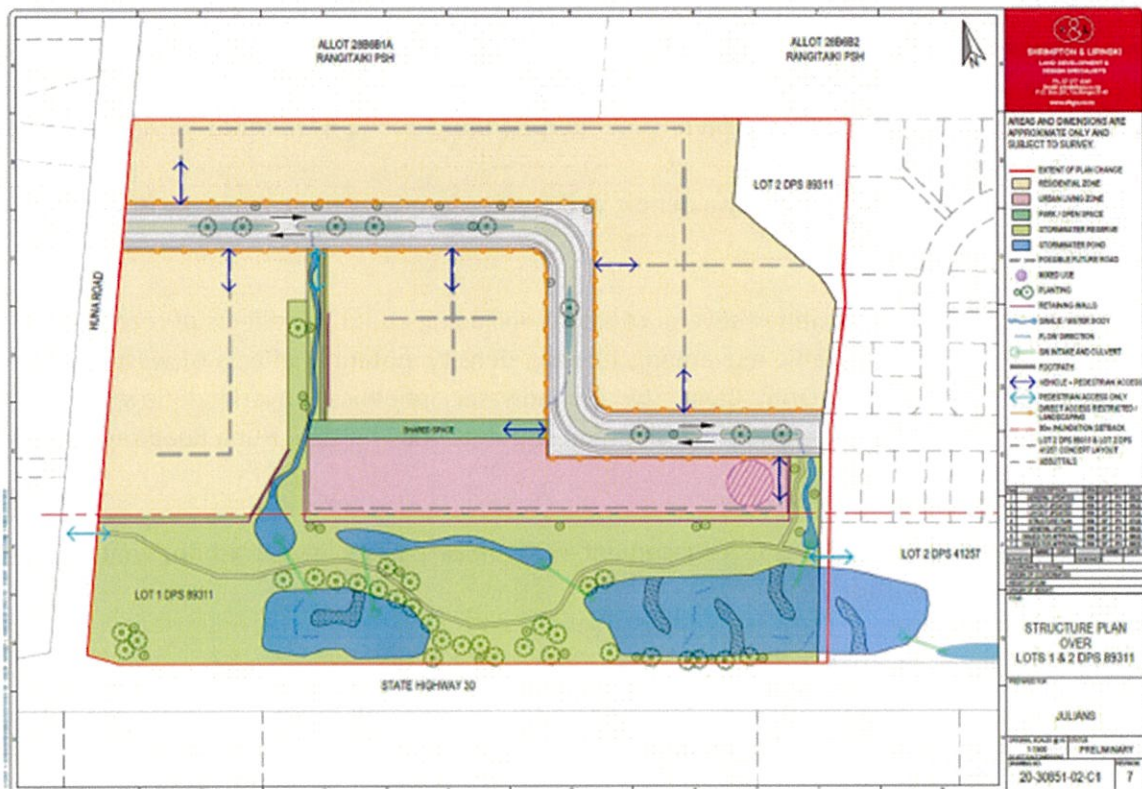
Julians Land Co Ltd, Dawn Parade 2012 Ltd, Kawarehe Trust Papakainga

Julians Land Co Ltd

Julian Land Co Ltd comprises 10.8165ha of General Land of Land Use Capability Class 2 (highly Productive Soils), currently Deferred Residential/Residential Zone because of which the recently established National Policy Statement for Highly Productive Land does not apply.

The berry farm covers the majority of the Plan Change 8 land. A large building is located on the western boundary of the site which acts as a visitor centre / shop / café and accommodates the management, ablution and storage facilities associated with the strawberry farms operational requirements. A large, sealed carpark with access to Huna Road is located outside the main building.

The owners seek to establish a comprehensively designed residential subdivision yielding approximately 100 residential units consisting of 71 standard dwellings and 29 medium density dwellings as shown below:



Proposed Development Layout

The Julians initially requested a private plan change to rezone the land. The technical information provided with the draft rezoning request has been used to support the proposed plan change.

Dawn Parade 2012 Ltd

Dawn Parade 2012 Ltd comprises 5.187m² of General Land with relatively highly productive soils (see Appendix 2) part of which is in Deferred Residential Zone and the remainder is in an existing Residential Zone because of which the recently established National Policy Statement for Highly Productive Land does not apply.

Dawn Parade 2012 Ltd seeks to achieve a residential subdivision creating 4 lots in the deferred residential zone area (at left and outlined in yellow below), and about 26 house lots within the existing residential zoned land outlined in red below:



Figure Proposed Development Layout with the existing zoned area outlined in red.

The layout does not follow the operative Structure Plan which envisages an access connection between Karearea Drive and Kotare Drive.



Figure – Kawarehe Trust Concept Master Plan

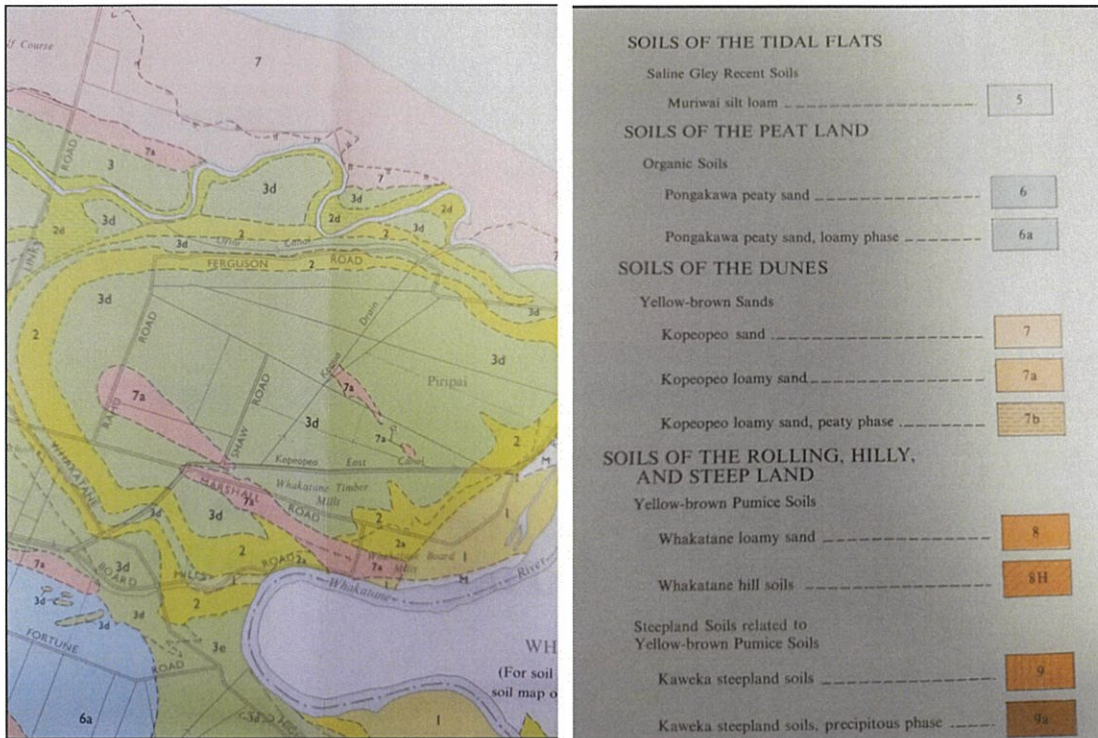
The housing will remain in Trust ownership and rented or leased to occupiers. Roads and open space will also remain in Trust ownership.

The Trust are considering whether they will retain ownership (and maintenance) of three waters infrastructure within the Trust land or vest the infrastructure with Council, including easements over all of the infrastructure.

A wastewater connection between the Trust land and Karearea Drive is also proposed, through Lot 2 DPS 89311 - Dawn Parade 2012 Ltd.

Soils and Contour

The NZ Department of Scientific and Industrial Research (NZDSIR) 'Soils & Land Use of the Whakatāne Borough and Environs, Bay of Plenty, New Zealand, Report prepared by WA Pullar, SR Hewitt, and JC Heine in 1978 shows the soil on which Kawarehe Trust proposes to establish the papakainga is Kopepeo sand or loamy sand Class 7 – 7a LUC Classification.

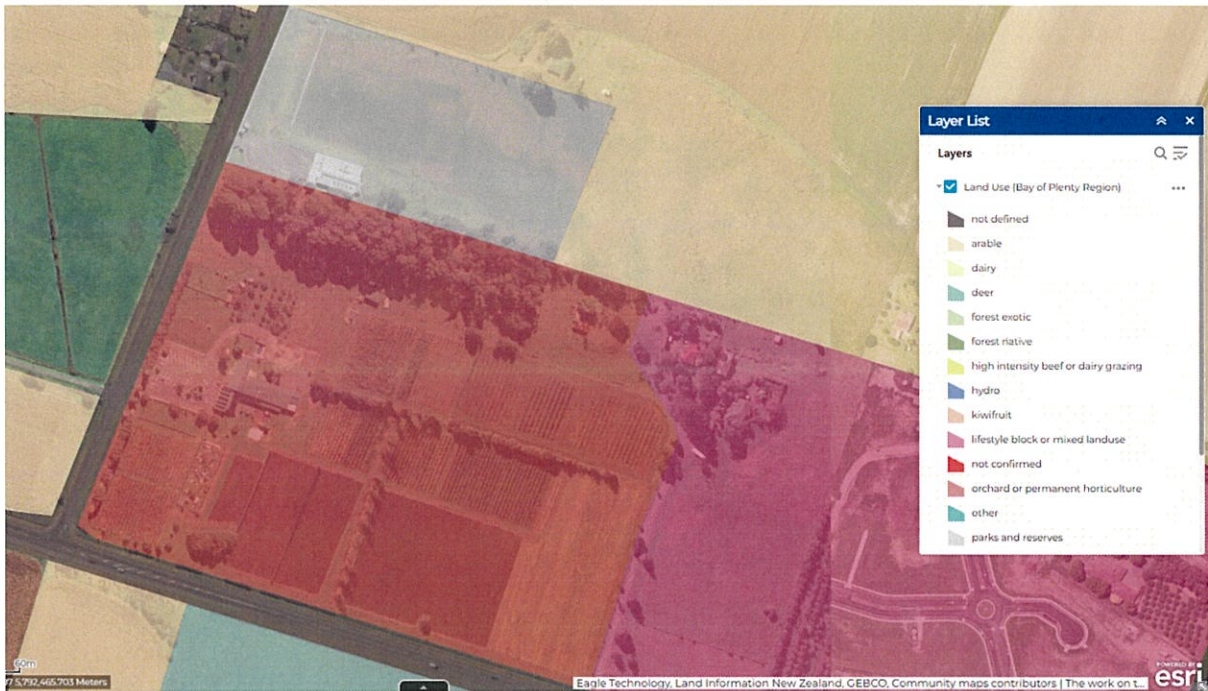


This indicates the soils beneath the proposed papakainga are:

- Arable but not highly productive
- Relatively free draining and more capable of accommodating stormwater soakage than other soil types in the plan change 8 area
- May drain towards Te Orini Canal rather than Koepoepo Canal.

From the BOPRC Bay Explorer Bathymetry and Contours Map below we note the contour across the proposed Kawarehe papakainga site is a 4m, dipping to 3m towards the north, with the higher dune system to the south rising to a maximum of 8m, thus providing some natural contour that will screen the papakainga from residential development on the Julian and Dawn Parade lands in the south.





Te Kawarehe Site

The iwi planning document 'Waahi Tapu Sites of Ngāti Awa' October 1999, identifies Site 52 Te Kawarehe as:

"This site begins at State Highway 2 encompassing all the land area on the Paroa Rugby Club side of Huna Road, heading east following Fergusson Road a distance, then bearing south whether the Shaw Road entrance and the Kopeopeo Canal passes under the State Highway. Various rites and ceremonies were conducted in and around this site due to its proximity to Orini River."

Appendix 1

Clause 3B Schedule 1 RMA 1991

3B Consultation with iwi authorities

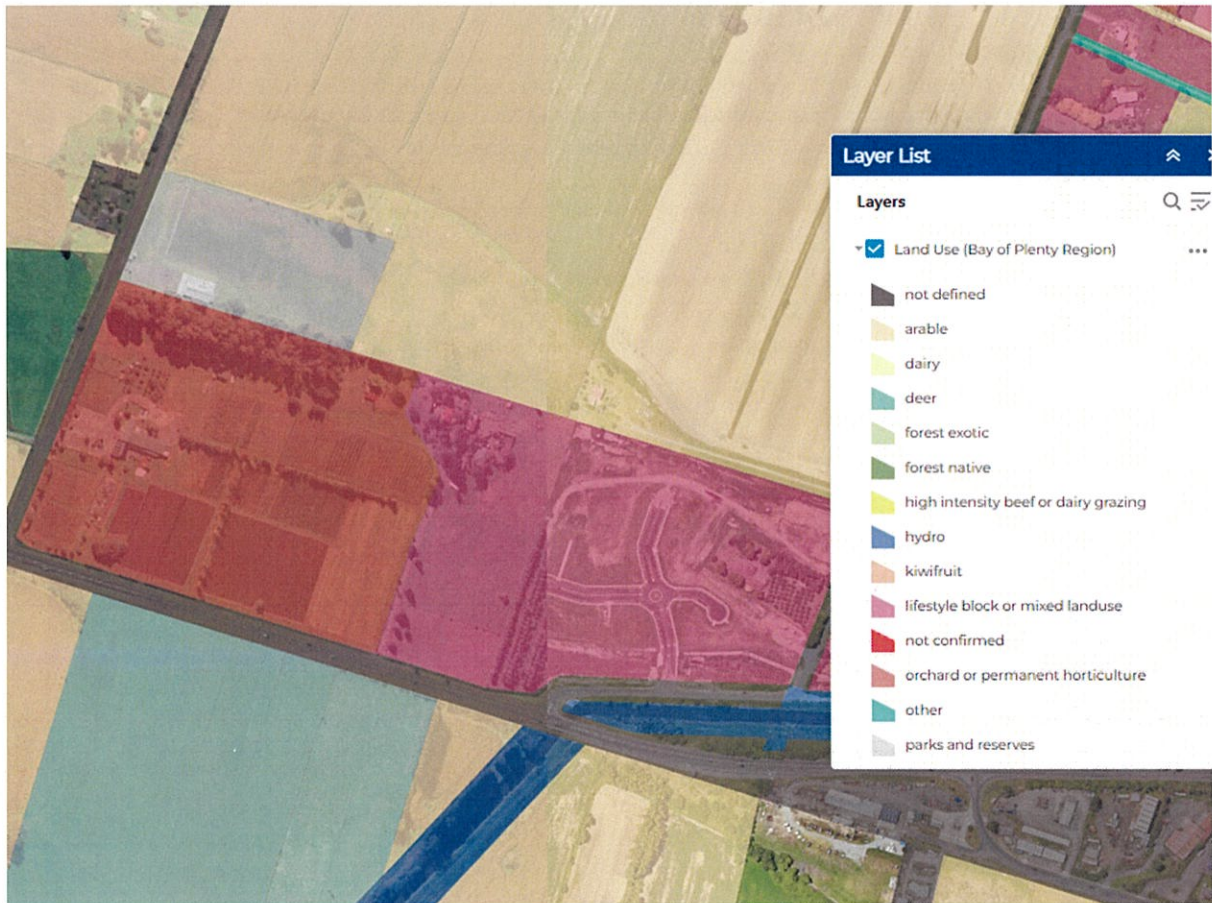
For the purposes of [clause 3\(1\)\(d\)](#), a local authority is to be treated as having consulted with iwi authorities in relation to those whose details are entered in the record kept under [section 35A](#), if the local authority—

- (a) considers ways in which it may foster the development of their capacity to respond to an invitation to consult; and
- (b) establishes and maintains processes to provide opportunities for those iwi authorities to consult it; and
- (c) consults with those iwi authorities; and
- (d) enables those iwi authorities to identify resource management issues of concern to them; and
- (e) indicates how those issues have been or are to be addressed.

Schedule 1 clause 3B: inserted, on 10 August 2005, by [section 129\(1\)](#) of the Resource Management Amendment Act 2005 (2005 No 87).

Appendix 2

BOPRC Land Use Capability Map



Appendix 3

EXAMPLE ONLY – TO BE AMENDED

Ngāti Awa Protocol For Dealing With Koiwi Or Taonga Tuturu Or Sites Of Significance At Te Kawarehe Site Huna Road And Shaw Road Vicinity

UNEARTHED DURING LAND DISTURBANCE AND EARTHWORKS ACTIVITIES

1. Background

1.1 Te Rūnanga o Ngāti Awa has prepared this Protocol for Dealing with Koiwi or Taonga Tuturu or sites of significance in the event that *koiwi, sites* or other *taonga* are unearthed during the course of operations.

1.2 Accordingly, this protocol records those procedures.

2. Definition

In this protocol the following terms have the meanings set out herein:

2.1 “*Koiwi*” means human remains such as skeletal material.

2.2 “*Taonga*” means cultural artefacts such as implements; weapons or decorations traditionally and historically utilised by tangata whenua and includes parts or the remains thereof. Archaeological features such as rua (caves) and pits are also taonga. People can gain a greater understanding of the way that pre-European Maori lived.

2.3 “*Site*” means the relevant location within the subject land.

3. Unearthing of Koiwi or other Taonga

The following procedures will be adopted.

3.1 Immediately it becomes apparent or is suspected by workers at a work site, that koiwi tangata or taonga tuturu have been uncovered, all activity in the immediate area (i.e. within a 10m radius) will cease, and a cordon established.

- 3.2 The plant operator will shut down all machinery or activity within the cordon and advise the on-site supervisor, contractors, and client of the find and cordoned area.
- 3.3 The on-site Supervisor or contractor or their client will take the following immediate steps to:
- a. Secure the cordon area in a way that ensures the site, koiwi tangata and taonga tuturu remain untouched
 - b. Notify Te Rūnanga o Ngāti Awa Pou Kokiri Mike Panapa at 07 307 0760 (cell number 0272140370), 4 - 10 Louvain Street, PO Box 76, Whakatāne, that it is suspected a site, koiwi tangata or taonga tuturu have been uncovered at the site.
 - c. Te Rūnanga o Ngāti Awa Pou Kokiri or staff will contact the appropriate hapū representatives and their kaumatua to act, guide, and advise the developers and any other parties, including NZ Police, Heritage NZ staff and the Archaeologist as to the appropriate course of action, tikanga and kawa.
- 3.4 The Site Manager will notify the New Zealand Police and Heritage NZ that it is suspected that the site, koiwi tangata and taonga tuturu have been uncovered at the site.
- 3.5 Te Rūnanga o Ngāti Awa Pou Kokiri or staff, hapū representatives, iwi representatives and kaumatua have discretion to agree and request the attendance of a suitably qualified and experienced archaeologist in the event that this Heritage NZ is unable to send an officer to the site.
- 3.6 The Site Manager will ensure that all site staff are available to meet and guide Te Rūnanga o Ngāti Awa staff, hapū representatives and kaumatua, Police, or Heritage NZ staff to the site, assisting with any requests that they may make.
- 3.7 If Te Rūnanga o Ngāti Awa staff, Pou Kokiri, hapū representatives, iwi representatives and kaumatua are satisfied that the site, koiwi tangata or taonga tuturu are of significance to them, they will decide how they are to be dealt with and will communicate such decision to the landowner, NZ Police and such other parties as are considered appropriate. Note that the Ngāti Awa Research & Archives Centre at Louvain House, Louvain Street, Whakatāne is a registered collector of artefacts. An alternative destination for artefacts is the Whakatāne Museum.
- 3.8 The landowner shall ensure that Te Rūnanga o Ngāti Awa staff, hapū representatives, iwi representatives and kaumatua are given the opportunity to undertake karakia (prayer) and such other religious or cultural ceremonies and

activities at the site as may be considered appropriate in accordance with tikanga Maori (Maori custom and protocol).

Advice Notes:

1. Te Rūnanga o Ngāti Awa requests that copies of this Protocol are appended to all property files and Land Information Memoranda for each parcel of land subject to the proposed activity.
2. Te Rūnanga o Ngāti Awa Ngāti Awa Claims Settlement Act 2005 includes Protocols for Engagement with the Ministry of Heritage and Culture and the Heritage New Zealand for artefacts found on land within the Ngāti Awa rohe will be subject to return to Ngāti Awa who will seek ownership and custodianship of the artefact in perpetuity.

Signed for Te Rūnanga o Ngāti Awa



Dated this 31 day of Oct 2023

Appendix 4 Controlled Activity Status from Whakatāne District Plan 2017

3.3.4 Controlled Activities

3.3.4.1 A Controlled activity is an activity that;

- a. is identified as a controlled activity by a rule in the Plan;
- b. is allowed only if a resource consent is granted by the **Council** in respect of that activity;
- c. complies with the standards and rules specified in the Plan for that activity; and
- d. is assessed according to matters the consent authority has reserved control over in the Plan.

3.3.4.2 Conditions may be placed on a resource consent in reference to those matters over which the **Council** has reserved its control.