

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

ENV-2020-AKL-000064

**I MUA I TE KOOTI TAIAO O AOTEAROA
TĀMAKI MAKAURAU ROHE**

IN THE MATTER of an appeal under the first
schedule of the Resource
Management Act 1991 (**RMA**)

BETWEEN **AWATARARIKI RESIDENTS
INCORPORATED**

Appellant

AND **BAY OF PLENTY REGIONAL
COUNCIL**

First Respondent

AND **WHAKATĀNE DISTRICT
COUNCIL**

Second Respondent and
Requestor of Plan Change 17

**STATEMENT OF EVIDENCE OF RONALD TE PIO KAWE
ON BEHALF OF WHAKATĀNE DISTRICT COUNCIL**

CULTURAL

12 August 2020

**BROOKFIELDS
LAWYERS**

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1. INTRODUCTION

- 1.1. My full name is Ronald Te Pio Kawe.
- 1.2. My evidence is given on behalf of the Whakatāne District Council (the **District Council**) in relation to:
 - (a) Proposed Plan Change 1 (Awatarariki Fanhead, Matatā) to the Operative Whakatāne District Plan; and
 - (b) Proposed Plan Change 17 (Natural Hazards) to the Bay of Plenty Regional Natural Resources Plan (a private plan change request from the District Council)

(together referred to as the **Proposed Plan Changes**).
- 1.3. My evidence relates to the cultural values, sites of significance, waahi tapu and natural resources identified by Iwi / tangata whenua within the Awatarariki Stream Fanhead.

2. QUALIFICATIONS AND EXPERIENCE

- 2.1. I have the following qualification and experience relevant to this review:
 - (a) I hold a Bachelor of Business Studies in Property Management and Development from Massey University (1986).
 - (b) I have completed the first two years of the Te Ataarangi Māori language revitalisation course in Tauranga in 2006-07.
- 2.2. I currently hold the position of Kaiarataki - Te Hīhiri Strategic Iwi / Māori Advisor and Associate Principal with Boffa Miskell Ltd (Boffa Miskell) in Tauranga.
- 2.3. I was employed by Housing Corporation New Zealand (**HCNZ**) from 1986 to 1990 in Hamilton and 1990 to 1993 implementing the Corporations lending on multiple owned Māori land in the Waikato and Bay of Plenty Regions.
- 2.4. During the restructure of HCNZ, I transferred to the NZ Community Funding Agency (**CFA**) with Department of Social Welfare from 1993 –

1997. CFA contracted the delivery of social support initiatives and emergency housing programmes with approved community-based groups to deliver children and families support services.

- 2.5. In August 2002 I was a part-time employee with Boffa Miskell. I was engaged to be a part of the technical advisory team with other consultants and council staff tasked to develop the western Bay of Plenty sub-regional strategic plan and actions to manage growth and development known as “SmartGrowth”.
- 2.6. In 2004 I became a permanent employee at Boffa Miskell. I provided independent professional advice and support to the 28 members of the SmartGrowth Combined Tangata Whenua Forum (**SGCTW**) across the western Bay of Plenty. I was the Tu Pakari technical advisor to the SGCTWF and the governance members through to November 2010.
- 2.7. I have practised as a Kaiarataki practitioner working with Māori entities, whānau, hapū, marae, Māori land trusts, collective bodies and Iwi authorities on a range of projects directly or through engagement on behalf of a third-party including Local / Regional Councils or private entities in the Bay of Plenty and Waikato Regions since joining Boffa Miskell in August 2002.

3. MY ROLE

- 3.1. I have not been directly involved in the Proposed Plan Changes process prior to preparing this statement, but I have worked with, met and listened to many Iwi / tangata whenua representatives on their relationships with the cultural values, sites and natural resources in Matatā during the planning, design and consenting processes for the Matatā regeneration projects from 2005 to 2009.
- 3.2. The proposed Matatā “regeneration” projects included:
 - (a) Ohinekoao Stream works;
 - (b) Waimea Stream works;
 - (c) Te Awa o Te Atua (Matatā Lagoon) restoration works;
 - (d) Railway Lagoon and Debris Disposal Area;

- (e) Awatarariki Stream flood mitigation works;
- (f) Waitepuru Stream debris flow diversion works;
- (g) Awatarariki Debris Control System.

- 3.3. I led the consultation and engagement for each of the above Matatā project packages with mandated representatives from Te Rūnanga o Ngāti Awa, Ngāti Rangitahi, Tūwharetoa ki Kawerau, Te Rangatiratanga o Ngāti Rangitahi.
- 3.4. During the course of the project I also consulted with Ngāti Hinerangi as the owners of 10 individual properties identified as Lot 20 DPS 306286 / archaeological site V15/1331 between Clem Elliot Drive, Tohi St and McPherson St in the Awatarariki Stream Fanhead.
- 3.5. I worked with the mandated representatives from Te Rūnanga o Ngāti Awa, Ngāti Rangitahi and Tūwharetoa ki Kawerau to produce the Tangata Whenua of Te Awa o Te Atua Cultural Impacts Assessment of the Resource Consent Applications for Matatā Township Recovery Works by the Whakatāne District Council and Others and Te Awa o Te Atua (Matatā Lagoon) Rehabilitation Works by the Department of Conservation, 8 January 2007 (**Collective Iwi CIA**).
- 3.6. The resource consent decisions on the Matatā lagoon restoration, Awatarariki Stream flood mitigation works, and Waitepuru Stream debris flow diversion works were appealed to the Environment Court. I provided statements of cultural evidence in support of the Council as respondent.

4. CODE OF CONDUCT

- 4.1. I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Consolidated Practice Note 2014 and that I also:
- (a) Agree to comply with the Code when presenting evidence to the Court.
 - (b) Confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state that I rely upon the evidence of another expert witness.

- (c) Confirm that I have not omitted to consider material facts known to me that might alter or detract from the opinions.

5. SCOPE OF EVIDENCE

- 5.1. I have been asked to provide evidence on the effects of both Proposed Plan Changes on the cultural sites of significance identified by Tangata whenua within the Awatarariki Stream Fanhead.
- 5.2. This includes determining what effects the Proposed Plan Changes will have on the relationships and associations Iwi / tangata whenua have with their cultural sites of significance within the Awatarariki Fanhead area and the wider Matatā cultural landscape. In particular, my evidence will cover:
 - (a) Areas of Significance to Tangata Whenua within and around the area of the Awatarariki Fanhead;
 - (b) The responses and submissions from Māori / Iwi authorities to the Proposed Plan Changes;
 - (c) The cultural matters included in the Section 32 evaluation report prepared for the District Council.

6. AREAS OF SIGNIFICANCE TO TANGATA WHENUA

- 6.1. The “Areas of Significance to Tangata Whenua” section in the Collective Iwi CIA Report informed Council of the significance of the Matatā areas to all three Iwi. The assessment report provided a list of 92 Waahi Tapu sites and of 23 recorded archaeological sites; 58 of the waahi tapu sites were included in the “Matatā Archaeological and Waahi Tapu Sites Map.” This is a key tool used by Tangata Whenua to highlight the possible effects of the proposed works on their cultural sites and relationships within each catchment area. A copy of the “Matatā Archaeological and Waahi Tapu Sites Map” is attached as **Appendix 1**.
- 6.2. The three Iwi involved with the Collective Iwi CIA produced an addendum document in June 2009 with two additional maps:

- (a) the first map includes the cultural and archaeological sites of significance to Tangata Whenua across the wider Matatā Scenic Reserve including the Awatarariki, Waimea and Waitepuru Streams landscape;
- (b) the second map focuses specifically on six significant cultural and archaeological sites of significance to Tangata Whenua.

Copies of the Awatarariki Stream Sites of Significance to Tangata Whenua Maps are attached as **Appendix 2**.

- 6.3. A second, “Cultural Impact Assessment Report on the Whakatāne District Council’s Proposed Matatā Regeneration Projects; An Assessment of their Impact on Ngāti Rangitihī Cultural Values” was prepared by Tangihia Consultants & Associates on behalf of Te Rangatiratanga o Ngāti Rangitihī, April 2007. This report provided a collection of Ngāti Rangitihī historical narratives and tupuna associations with the Matatā township that weave the Rangitihī identity through their sites of significance, land blocks, waterways and coastline. The Assessment Report provides the Ngāti Rangitihī, Ngāti Tionga and Ngāti Mahi hapū historical narratives, tipuna associations, significant sites, kainga, Pa, mahinga kai and other natural resources and korero for each of the six Matatā regeneration catchment projects.
- 6.4. Both CIA reports confirm the significance and cultural importance of Matatā as a strategic coastal settlement on the western ridgeline and bluffs of the Rangitaiki wetlands and plains that extend east to Whakatāne. Resident Iwi, hapū and whānau have continuously occupied, lived, died and defended their surrounding cultural resources, marae, pa, kainga, waahi tapu, natural resources including their wetlands, waterways, coastal waters, islands, dunes and fertile lands for generations. The iconic place names and landscapes reflect the historical relationships and identity of tangata whenua in Matatā. The landing of the Te Arawa waka at Te Awa o Te Atua records the earliest arrival of Iwi to Matatā. Both Reports acknowledged the historical flood events and debris flows that have occurred in this area in 1869, 1906 and 1939.

- 6.5. The Matatā area, including the Awatarariki Fanhead has been a historical meeting point for Iwi groups and the gateway to travel west along the coastline to Otamarakau, Maketu and Tauranga. This coastal location has great cultural significance to many Iwi across the Eastern Bay of Plenty.
- 6.6. Iwi lived and occupied the Matatā wetlands, fertile land, coastal dunes as well as a series of interconnected Pa sites that stretch along the steep bluffs and ridgelines above the Matatā township and on both sides of the Awatarariki Stream. The extent and location of these Pa are shown on the “Matatā Archaeological and Waahi Tapu Sites map” which is attached to the Collective Iwi CIA.
- 6.7. During coastal skirmishes resident Iwi would seek the safety of these fortified retreats (such as Whakapaukorero) from raiding parties travelling along the coast highway. The cultural narratives provided in the Collective Iwi CIA and the Te Rangatiratanga o Ngāti Rangitihī historical account describe the rich natural resources and the strategic river transport links inland along the Tarawera River and the coastal access with the Awatarariki Stream, Te Awa o Te Atua access to the open coastal waters. The fertile gardens and springs supplemented the harvest of kaimoana and fish from the sea directly in front of their kainga and Pa.
- 6.8. The 1864 Te Kaokaoroa battle was a significant event in terms of loss of life and the extent of the battle that occurred along the coastline and ended at the convergency of the original Awatarariki Stream and Te Awa o Te Atua outlet to the ocean. This area is located within the current Fanhead area and is considered to be the extent of the Te Kaokaoroa waahi tapu area by tangata whenua and other Iwi who lost warriors during this and other battles along the Matatā coastline.
- 6.9. The Ngāti Awa Claims Settlement Act 2005 includes a statutory acknowledgement for Te Kaokaoroa Historic Reserve in Schedule 13. The reserve lies in the centre of the Awatarariki Fanhead, bounded by Clem Elliott Drive, Kaokaoroa Street and Arawa Street (State Highway 2). The reserve is a sacred waahi tapu to many Ngāti Awa hapū and other Iwi because it commemorates such a significant milestone event in the history of Iwi within the Matatā coastline.

- 6.10. The maps provided with the Collective Iwi CIA shows the location of each waahi tapu site including the 1864 Te Kaokaoroa battle site / area, Te Waipunahou (a freshwater spring), Mihimarino and Te Awa o Te Atua (Matatā Lagoon) with the Awatarariki Fanhead. The Map also includes the Ngāti Awa Te Kaokaoroa Historical Reserve and the Ngāti Hinerangi Trust properties as one block.
- 6.11. All of these sites have been modified to some extent by the existing residential subdivision and development. The current residential development restricts the opportunities for Iwi and their members to access and recognise the cultural significance of the waahi tapu sites in the Awatarariki Fanhead area. For example, the Mihimarino site has six residential homes built on approximately one third of the site with the remaining area located in the coastal dunes. There are no remaining physical features or structures associated with these sites other than the spatial location and indicative boundaries. Hence, the residential retreat from the Fanhead, will be a progressive step forward to restoring the relationships, mauri and spiritual essence and reverence of the waahi tapu sites with Iwi and their whānau members.
- 6.12. All of the above references to historical narratives and the details of events, sites of significance, places of occupation, traditional landscapes, natural resources and the relationships that Iwi / tangata whenua have with these taonga as kaitiaki have been presented to the Court as cultural evidence in support of post-May 2005 Matatā debris flow regeneration projects by the District Council.

7. GENERAL CONSULTATION WITH TANGATA WHENUA

- 7.1. The District Council's updated Section 32 Report¹ describes the consultation process and discussions with Iwi / Tangata Whenua who are associated with the Awatarariki Stream Fanhead. Council have been in discussions with Iwi / tangata Whenua since 2009 / 10 with Te Rūnanga o Ngāti Awa, Ngāti Rangitihī, and Te Mana o Ngāti Rangitihī

¹ Section 5.5 Advice from iwi Authorities.

Trust (i.e. the Post Settlement Governance Entity - PSGE) and Ngāti Tūwharetoa ki Kawerau.

7.2. In my opinion, this consultation occurred with the correct entities.

8. TE RŪNANGA O NGĀTI AWA (TRONA) RESPONSE AND SUBMISSION

8.1. TRONA wrote to the District Council to acknowledge the Council's engagement with them on both Proposed Plan Changes on 29 November 2017.

8.2. TRONA support the District Council's precautionary approach and extensive investigations to address the level of risk of harm to families and future loss of investment in residential properties in the high-risk areas within the Awatarariki Fanhead.

8.3. In addition, TRONA proposed the opportunity for tangata whenua and the District Council to identify a new reserve in which koiwi can be reinterred in an area outside of the Fanhead that will not be affected by future debris flows.

8.4. TRONA made a submission on the Plan Changes confirming their position outlined in their letter to support the Proposed Plan Changes of the managed treat of residential activities from the Awatarariki Stream Fanhead area.

9. ASSESSMENT OF THE PLAN CHANGES

9.1. The primary Iwi consideration for these plan changes is the preservation of human life in the area based on the May 2005 event being the 4th flood / debris flow event to occur in the past 150 years. The likelihood of this type of event occurring again is understood to be high and the consequences for human life are high. Councils / Iwi should not put future lives and property at risk.

9.2. From an Iwi perspective the residential retreat from the Awatarariki Stream Fanhead is a sign of respect to the power of environment and natural phenomenon. The other perspective is that the Matatā community is also able to preserve the mana (respect) and wairua

(sacredness) of the area with specific reference to the Te Kaokaoroa waahi tapu area.

- 9.3. My experience with the Matatā regeneration projects to date would indicate that the effects of the Proposed Plan Changes on the cultural values, relationships and sites of significance of Iwi and Tangata Whenua are either neutral or positive. Iwi and Tangata whenua have voiced their views on the Proposed Plan Changes as they have done in all of the other Matatā catchment projects.

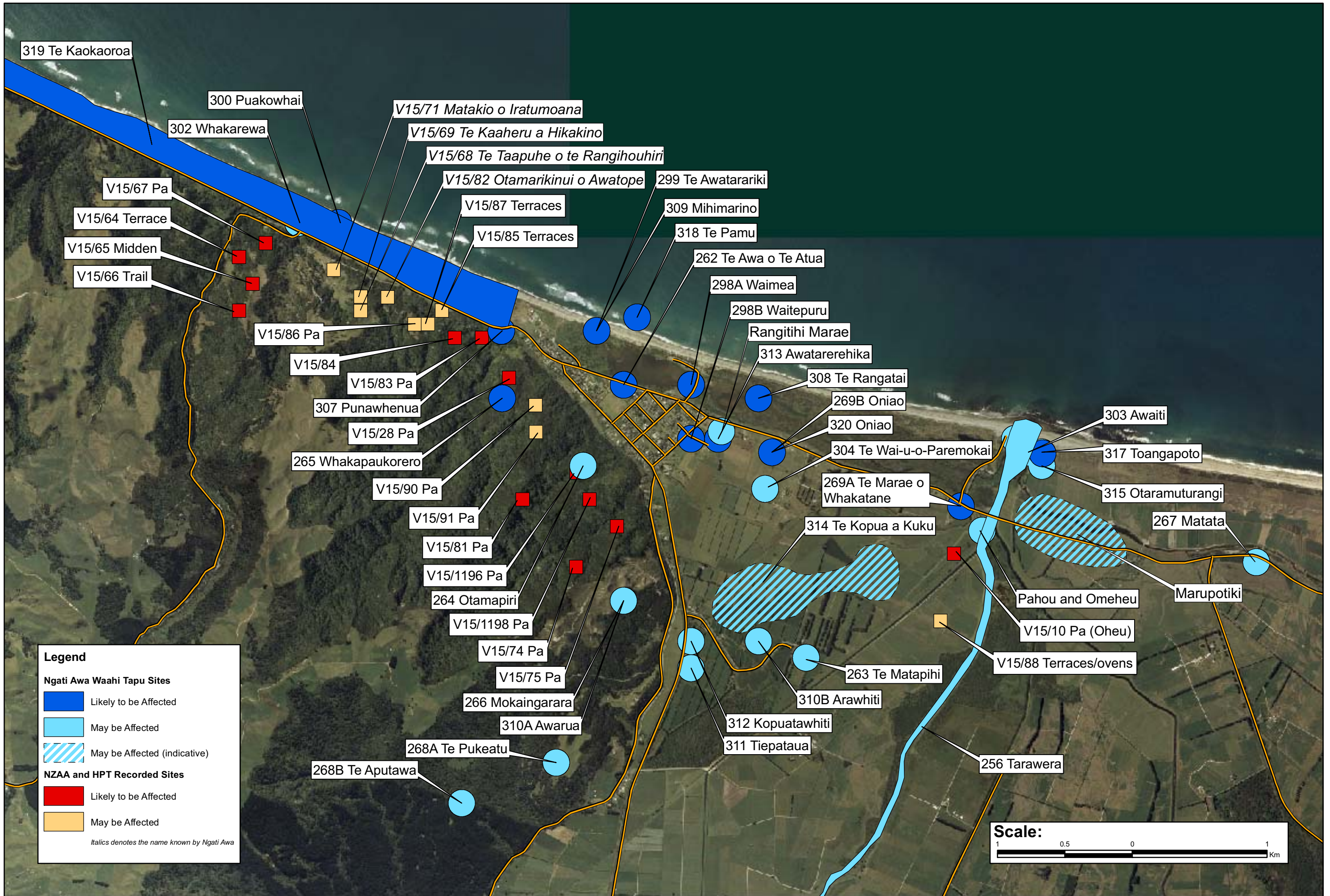
10. CONCLUSIONS

- 10.1. It is my opinion that there are no direct cultural matters and concerns with the Proposed Plan Changes to facilitate the retreat of the existing residential activities from the Awatarariki Fanhead and the prohibiting any future residential activities.

Te Pio Kawe

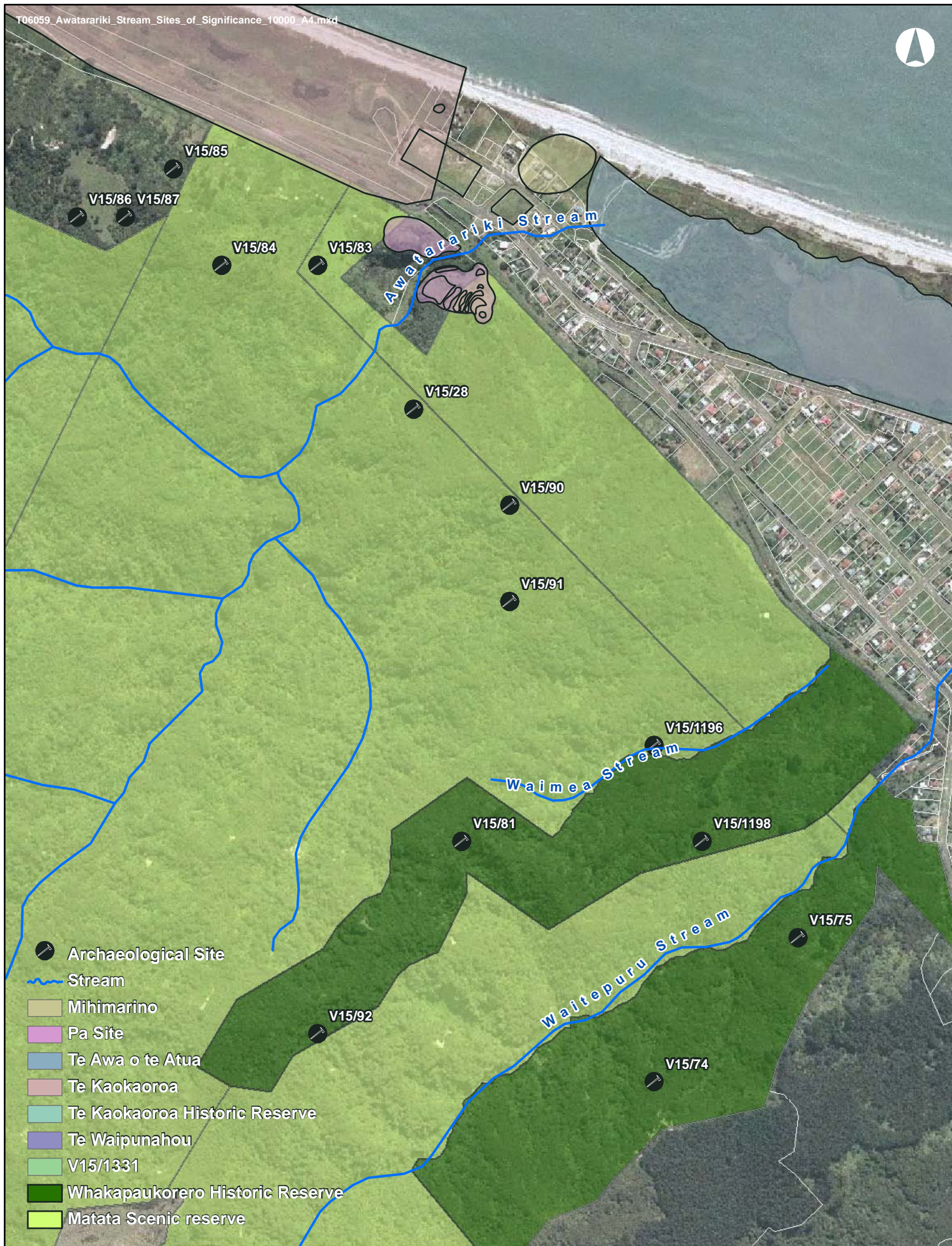
12 August 2020

APPENDIX 1



Matata Archaeological and Waahi Tapu Sites

APPENDIX 2



Matata Project

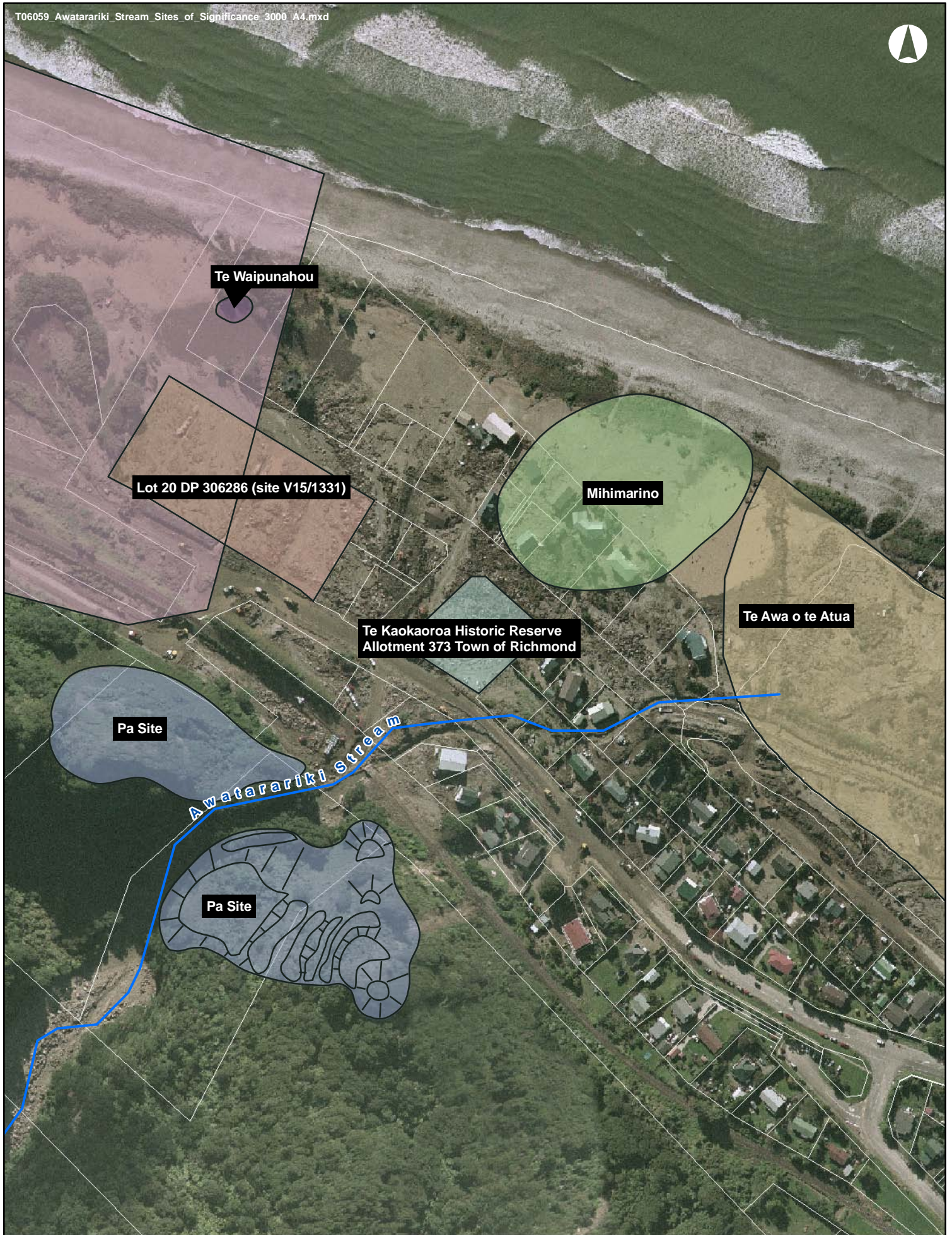
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Awatarariki Stream Sites of Significance to Tangata Whenua Map

2 June 2009

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Awatarariki Stream Sites of Significance to Tangata Whenua Map

2 June 2009