

2017 Block Offer Submission November 2016

Ngāti Pāhauwera Development Trust

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Ko Tawhirirangi te maunga, Ko Mohaka te awa, Ko Te Kahu-o-te-Rangi te tangata

Ko Ngāti Pāhauwera te iwi

24 November 2016

Kia ora

Ngāti Pāhauwera iwi is a confederation of approximately 80 hapū located between Napier and Wairoa. We are a coastal iwi centered around our three awa, the Mohaka, Waihua and Waikare Rivers. The traditional communities of Ngāti Pāhauwera are Raupunga, Mohaka, Putere, Kotemaori, Waihua and Waikare. We have active marae in Mohaka, Raupunga, Putere, Waihua and the Te Huki rebuild is still to be completed.

The Ngāti Pāhauwera Development Trust is the settlement entity that manages the resources returned in redress. We currently have over 7000 members many of them live in Hawkes Bay, but we have members living all over Aotearoa and internationally.

Ngāti Pāhauwera are leaders in our rohe, we were the first in Hawkes Bay to settle our Treaty claim. It has always been about the protection of what is ours, kaitiakitanga and looking after our natural resources and people. We have always been clear in our aim for 'Te Oranganui o Ngāti Pāhauwera' – the health of Ngāti Pāhauwera. Over the past two years we have been working on riparian fencing and planting of our tributaries and rivers. There are many reasons for doing this, but one is so that whatever run off is coming off our lands and farms and into our rivers, does not pollute the moana and affect the fish life.

While we are working on protection, there are others who are exploiting the moana, by overfishing, polluting and now oil and gas exploration.

The Ngāti Pāhauwera Development Trust has previously submitted to MBIE regarding block offers (29 October 2015) and our stance remains the same. In that letter we supported the points made by the Hawkes Bay Regional Council with regards to their comments on the Proposed block offer (Appendix One).ⁱ

We support the points in the submission regarding the block offer made by Ngāti Kahungunu Iwi Incorporated (NKII)ⁱⁱ in February 2015, in that:

- the *‘Kahungunu ki Uta, Kahungunu ki Tai Marine and Freshwater Fisheries Strategic Plan’* which Ngāti Pāhauwera members contributed to, launched in 2008, be considered and provided to any applicants
- potential risks and negative impacts should be avoided
- that a pre-cautionary approach be used in terms of unknown economic benefits of oil and gas versus the fishing industry (fisheries)
- they support the recommendations of the *Drilling for oil and gas in New Zealand: Environmental oversight and regulation* (“Oil and Gas report”) released in June 2014
- that a contingency fund should be established and ‘the Crown be held responsible to ensure there is adequate capacity and capability for appropriate equipment to be available to clean up any potential mishap, disaster, and catastrophe’

Ngāti Pāhauwera Development Trust oppose any oil exploration and exploitation and will do so until the Crown engages with our Iwi on the issue of how it can provide for the recognition our oil and gas property rights including the matter of compensation. Our position is the Crown cannot continue to breach the undertakings given in the Treaty of Waitangi to protect and respect Iwi property rights.

The acceptance by tangata whenua of the Crown's governance role is conditional on the Crown fulfilling the conditions of the Treaty exchange. Respect is something you have to have if you want it reciprocated.

Iwi expect the Crown to recognise and actively protect the full and exclusive use by tangata whenua of their taonga. This extends to the protection of all of our natural resources. The moana is a taonga and tupuna to Ngāti Pāhauwera and all of the other hapū and iwi in Hawkes Bay. It is an important Kaimoana collection area and fisheries breeding area. It is a kohanga for fish species that replenishes the stock.

Under our Treaty Settlement we are to be appointed to an advisory committee in relation to the Mohaka River and the ‘Wairoa Hard’ (Ngāti Pāhauwera Treaty Claims Settlement Act 2012, Section 63).

“Net restrictions at Wairoa Hard

- (1) No person may use a net for taking finfish in the waters of Hawke Bay known as the Wairoa Hard.
- (2) In this regulation, Wairoa Hard means the waters within a line that—
 - (a) commences at the mouth of the Moeangiangi River at a point 39°14.75’S and 177°01.32’E; and

- (b) then proceeds in a southerly direction to a point 39°16.6'S and 177°07.6'E; and
- (c) then proceeds in a north-easterly direction to a point 39°11.3'S and 177°21.2'E; and
- (d) then proceeds in a north-westerly direction to the Waihua River Mouth at a point 39°05.51'S and 177°17.60'E; and
- (e) then proceeds along the mean high-water mark to the northernmost bank of the mouth of the Mohaka River; and
- (f) then proceeds along the mean high-water mark to the point of commencement.ⁱⁱⁱ

The Wairoa Hard is very close to the area that the Pegasus and East Coast North Islands current block offer is. In the Deed of Settlement the Crown also acknowledged the significance of our three rivers^{iv} which are connected to the moana, and apologized for its breaches of Te Tiriti o Waitangi and its principles^v.

Yet with the other hand the Crown's current activity in regards to oil and gas is little different to that of a thief who takes from its owners that which it has not been given permission to take and expects the owner to watch and not feel violated. Additionally, seismic testing and the threat of oil spills to the ocean environment threatens our fisheries and all we value in the realm of Tangaroa. Dialogue needs to be held by the Crown with Ngāti Pāhauwera and other Iwi affected to enable its Treaty partners to have a meaningful input and the ability to benefit from as well as mitigate risk to our fisheries and environment from oil and gas exploration or exploitation.

We have seen with the Rena Disaster and the recent Kaikoura earthquakes that New Zealand's emergency services are stretched when environmental emergencies occur. Any oil exploration that involves offshore drilling is a risk given the technology does not exist to ensure 100% that oil leaks can be capped. It would take many days to get a response team in place. Hawkes Bay is a high risk earthquake area and given that we have had thousands of aftershocks in Aotearoa in the past week alone, conducting seismic activities in our rohe is extremely irresponsible.

As well as working on the ground riparian fencing and planting, we also work to influence legislation, including providing submissions such as this one, on government consultation that relates to legislation that impacts our people. I am the co-chair of the Regional Planning committee for the Hawkes Bay Regional Council. The Deed of Settlement of Historical Claims of Ngāti Pāhauwera committed the Crown to establish the Joint Planning Committee by legislation. It is made up of an equal number of councilors and tangata whenua representatives, the main purpose of the Committee is the review and development of the Hawkes Bay Regional Policy Statement and Regional Plans under the Resource Management Act 1991. On 23 November 2016

“the Committee voted to recommend [Hawkes Bay Regional] Council progress a prohibition of oil and gas exploration activities within productive aquifers, aquifer recharge zones and surface water bodies through a standalone plan change spanning the whole region” (see HBRC Media Release - Appendix Two)

Ngāti Pāhauwera looks forward to the day when the Crown ceases to treat Iwi like someone who can be exploited at will. We demand the basic human right and courtesy of providing our consent before our resources are taken and our environment endangered. Other indigenous peoples throughout the civilised world have their oil and gas property rights acknowledged. In that context our expectations are not unreasonable. The Crown should be mindful of the text of the United Nations Declaration on the Rights of Indigenous Peoples (see Appendix 3) and its own commitment to reduce greenhouse gas emissions to 30% below 2005 levels by 2030^{vi}. Ngāti Pāhauwera invites the Crown to reassess its approach to the exploitation of Maori resources. We wish to see Ministers work with the Oil and Gas claimants to resolve the issues and concerns outlined in Ngāti Pāhauwera and other iwi and hapū submissions.

Kua oti mo tenei wa



Toro Waaka

Chairperson, Ngāti Pāhauwera Development Trust

APPENDIX ONE

Aside from the consideration of an (unlikely) well blowout, exploration activities have potential for a wide range of environmental effects. These include oil spills, sediment disturbance, disruption to wildlife, discharges to air, discharges of drilling chemicals and loss of natural character.

The risk of any scale event in Hawkes Bay must be taken into account, and anything in vicinity of Hawke Bay is likely to be highly contentious from our communities' perspective.

The high consequences of a blowout are in our view, justification for excluding exploration in close proximity to Hawke Bay. Attached is an annotated version of the block offer map to show the areas within the Hawke's Bay. On this map, we identify a number of proposed Blocks that we request be removed from the 2016 block offer process (and future offshore block offer proposals). Our reasons for requesting this include:

- a) The blocks' removal ensures no exploration within the visual and physical bay basin,*
- b) The blocks' removal ensures a minimum notional distance from those significant conservation areas already identified,*
- c) The blocks' removal ensures similar minimum distance from the highly culturally valued Mahia Peninsula at the northern end of Hawke Bay,*
- d) All areas within the coastal marine area (12 mile nautical limit) are also ensured to be removed,*
- e) Embodies environmental guardianship plus of our highly valued coastal marine area, coastal margins and the water of the bay,*
- f) The Mauri, the life sustaining force of natural and physical resources in the coastal water and environments must be safeguarded,*
- g) This supports Tangata Whenua in their role as Kaitiaki of the region's coastal waters and resources.^{vii}*

APPENDIX TWO

Media Release

23 November 2016



Proposed Plan Change for Oil & Gas Exploration Activities

The Hawke's Bay Regional Council's Regional Planning Committee has asked Council to progress a plan change which would see a prohibition of oil and gas exploration in many parts of Hawke's Bay.

Today's Regional Planning Committee voted to recommend Council progress a prohibition of oil and gas exploration activities within productive aquifers, aquifer recharge zones and surface water bodies through a standalone plan change spanning the whole region.

Many of the Tāngata Whenua Group representatives on the Regional Planning Committee supported a region wide plan change to address oil and gas exploration in Hawke's Bay.

HBRC Chairman and Co-Chair of the Regional Planning Committee Rex Graham says while the committee's decision doesn't call for a total ban on oil and gas exploration it is a step in the right direction and one many in the community have been asking for.

Regional Planning Committee Co-Chairman Toro Waaka says water is this region's most important asset and even this decision on prohibiting oil and gas exploration is about protecting that most precious asset.

The Committee has recommended that Council get staff to report back to the Regional Planning Committee on the process involved in the Plan Change and the legal advice it receives on the move early in the New Year.^{viii}

APPENDIX THREE

Adopted by the United Nations General Assembly during its 61st session at UN Headquarters in New York City on 13 September 2007

Reaffirming that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind

Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

Recognizing also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States

{...}

Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs^{ix},

{...}

Article 26^x

1. *Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.*
2. *Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.*
3. *States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.*

i

http://dmzweb.hbrc.govt.nz/meetings/Open/2015/RPC_04112015_AGN_AT.htm at 3.1

ii http://media.wix.com/ugd/b47397_e151f4958e0345baa8f31b7ca45461f9.pdf

iii Regulation 4: substituted, on 1 October 2009, by regulation 5 of the Fisheries (Central Area Amateur Fishing) Amendment Regulations 2009 (SR 2009/240).

iv Ngāti Pāhauwera Deed of Settlement at 3.12

v Ngāti Pāhauwera Deed of Settlement at 3.16

vi

<http://www4.unfccc.int/Submissions/INDC/Published%20Documents/New%20Zealand/1/New%20Zealand%20INDC%202015.pdf>

vii http://dmzweb.hbrc.govt.nz/meetings/Open/2015/RPC_04112015_AGN_AT.htm at 3.1

viii <http://www.hbrc.govt.nz/our-council/news/latest-news/article/188>

ix Page 2, United Nations Declaration on the Rights of Indigenous Peoples, adopted 13 September 2007

x Page 10, Article 26, United Nations Declaration on the Rights of Indigenous Peoples, adopted 13 September 2007.