

The Value of Engagement

Contaminated land risk assessment to address a Treaty of Waitangi settlement property affected by contamination

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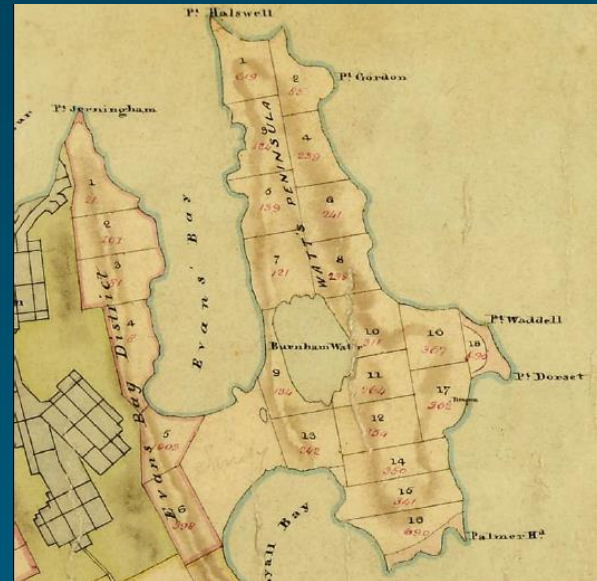
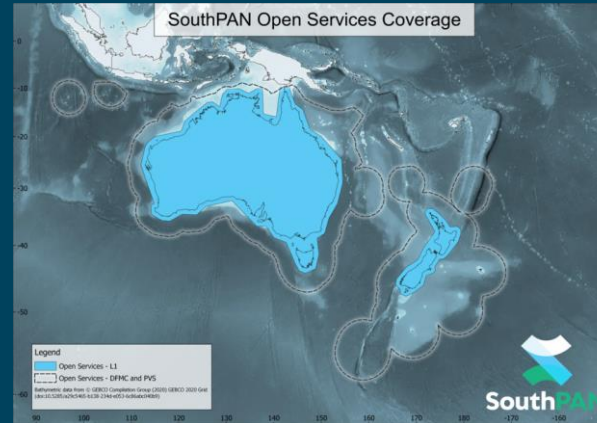
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Director, HAIL Environmental Ltd.

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About Toitū Te Whenua

Land is central to New Zealand's identity and to the country's economic growth, and it will exist long after we have gone.



Crown Property Management

2,000,000

hectares

8%

NZ Land area

The Crown estate includes:

- land held for Treaty settlements
- the beds of lakes and rivers
- forest land
- high country pastoral land in the South Island
- sites such as Waihi gold mine
- residential and commercial properties, closed schools, courthouses and prisons.



Treaty of Waitangi Settlements

Settlements give 3 kinds of redress to the claimant group:

1. A historical account of the Treaty breaches, and Crown acknowledgement and apology

The historical account details the ways that the Crown breached the Treaty. Both the Crown and the claimant group must agree on these. The Crown acknowledges and apologises for the Treaty breaches and the impact they had on the claimant group.

2. Cultural redress

Cultural redress can include things like:

- changing place names
- the transfer of Crown land to the claimant group, and
- co-governance of rivers and lakes.

3. Commercial and financial redress

This is cash, property or a mixture of both

Treaty Settlements Landbank

942

Properties

\$381.5m

Land Value

\$92.5m

Improvements Value

Past uses = high potential for contamination



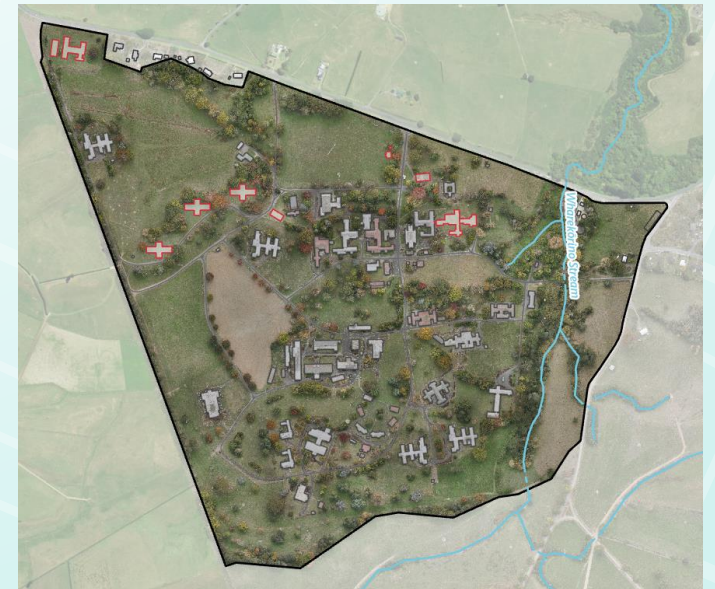
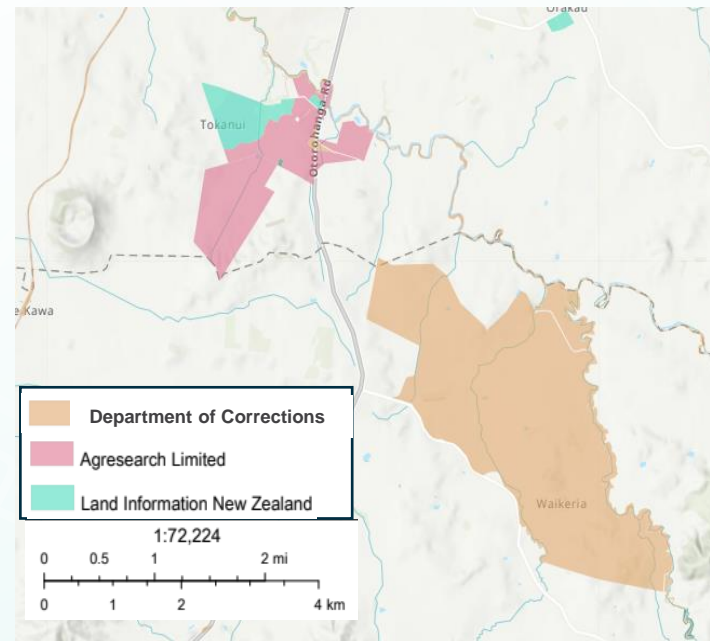
Te Tiriti o Waitangi

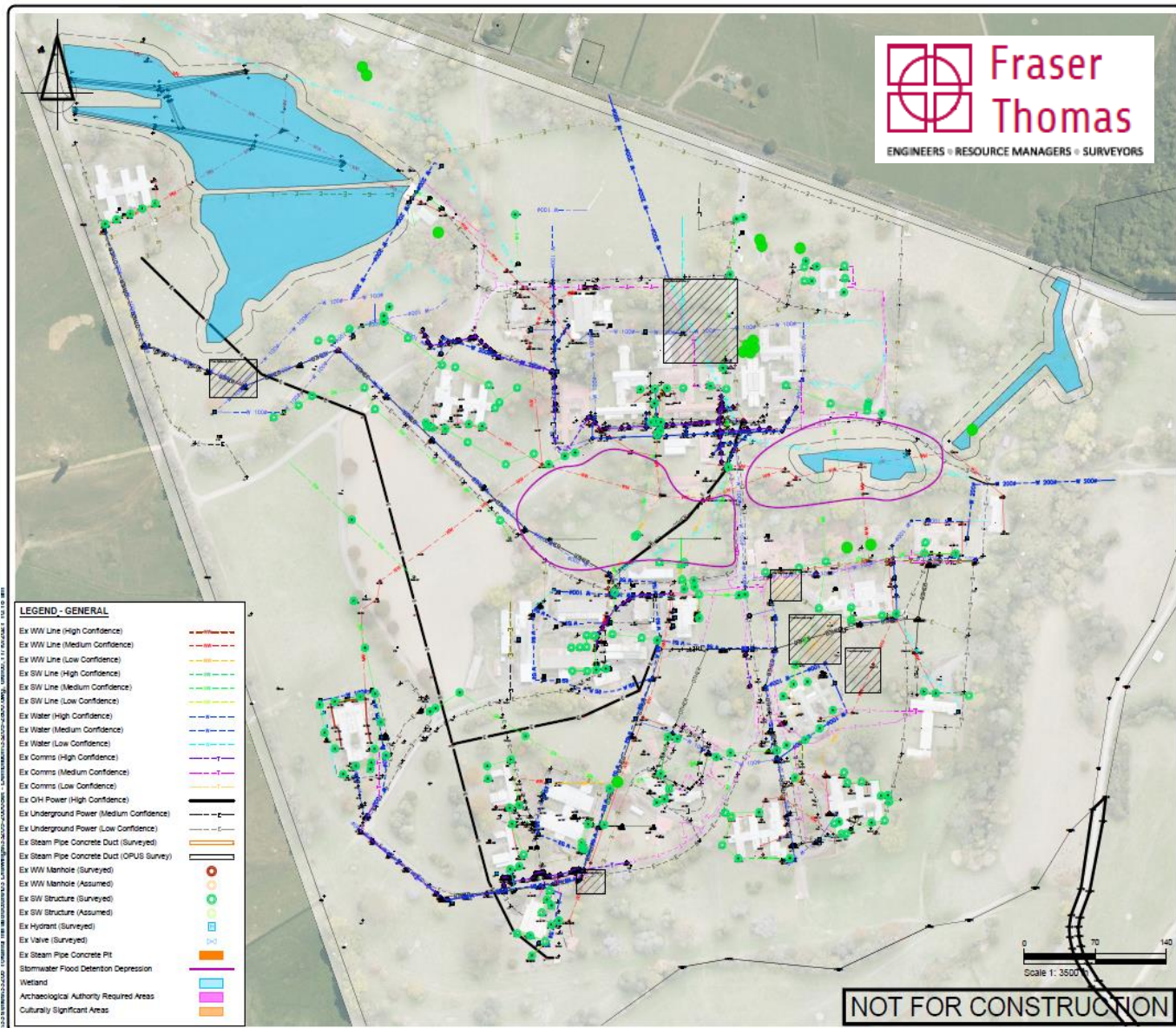
In 1840, Maniapoto rangatira signed Te Tiriti o Waitangi at the heads of the Waikato River (Waikato Heads) and Kāwhia.

Waitangi Tribunal Report:

Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claim, Wai No. 898, 2019

- The Crown acknowledges that it compulsorily acquired a large amount of Maniapoto land for Tokanui Mental Hospital without sufficiently detailed planning that demonstrated the need to take that land.
- That failure led the Crown to acquire an excessive amount of land at Tokanui and caused significant prejudice to the Maniapoto owners whose land base had already diminished as a result of raupatu and extensive Crown purchasing.
- The Crown acknowledges that its acquisition of the land at Tokanui in these circumstances was a breach of te Tiriti o Waitangi and its principles.





Site Overview

- ~80 ha, 1 stream, 3 wetlands
- ~76 buildings in poor condition (LBP & ACM)
- ~9 km roading (with Coal Tar)
- Extensive underground infrastructure:
 - 2.9 km Concrete ducting
 - 7.2 km Water piping (~4 km asbestos cement)
 - 6.2 km Stormwater
 - 4.9 km Wastewater
 - 7.3 km Power
 - 4.6 km Telecom
- 1 Swimming pool
- 8 Substations
- 2 WWTP (decommissioned)
- ~2 ha Closed Landfill (~30,000 m³)

Difficult conversations

- Traditional practices generally unlikely to have caused contamination.
- Claimant groups offered land with potential for contamination.
- Hardly any Māori are site contamination specialists – and hardly any site contamination specialists are Māori

What we hear	What it means to a contaminated land practitioner
"We just want the filth gone"	"Remediate to applicable standard"
"We just want the land to be safe"	"Minimal risk to <u>human</u> health"
Narrative outcome	Numerical outcome

Deed Negotiation & Implementation

Year	Description
2016	<ul style="list-style-type: none"> The site transferred to LINZ with other Landbank properties The Crown and the Maniapoto Māori Trust Board (MMTB) signed Terms of Negotiation on 17 December 2016 to negotiate a comprehensive settlement of Maniapoto's historical Te Tiriti o Waitangi.
2017	<ul style="list-style-type: none"> MMTB & the Crown signed the Te Huatahi Agreement in Principle to Settle Historic Claims. <ul style="list-style-type: none"> Includes Tokanui Mental Hospital as Potential Staged Deferred Selection Properties. Crown acknowledged Maniapoto's aspiration to purchase the Tokanui property in a remediated state.
2018 – 2019	<ul style="list-style-type: none"> LINZ completed preliminary site assessments and indicative cost assessments to identify demolition and funding options.
2020	<ul style="list-style-type: none"> LINZ, Te Arawhiti and MMTB developed a unique process for the Former Tokanui Hospital Deferred Selection Property, includes process to develop Site Specific Remediation Standards. The Crown and Ngati Maniapoto initialled the Deed of Settlement on 17 December
2021	<ul style="list-style-type: none"> Funding confirmed by Cabinet via between-Budget contingency in February. LINZ start procurement for project delivery. Deed of Settlement signed by Ngati Maniapoto and the Minister for Treaty of Waitangi Negotiations on 11 December
2022	<ul style="list-style-type: none"> Consultants engaged to undertake detailed investigations to inform options and consenting MoU signed between Te Nehenehenui trustees and LINZ Maniapoto Settlement Claims Act receives royal ascent on 27 September. Cultural Impact Assessment completed by mana whenua
2023 to now	<ul style="list-style-type: none"> Many, many detailed assessments completed. NESCS specific: PSI, DSI, Site Specific Risk Assessment & Remedial Options Continue engagement with mana whenua throughout project delivery via in person and virtual hui.
24 Nov 2024	<ul style="list-style-type: none"> Deadline to apply for all necessary consents required for the demolition and remediation works.

Tokanui Hospital Deferred Selection Process

Under the Deed, the Crown has committed to a standalone process within the Property Redress Schedule for the transfer of the Site which details specific requirements for the demolition and remediation of the Site before it is available for transfer to Maniapoto.

LINZ is the Government agency responsible for delivering this project.

PROPERTY REDRESS

9: TOKANUI HOSPITAL DEFERRED SELECTION PROCESS

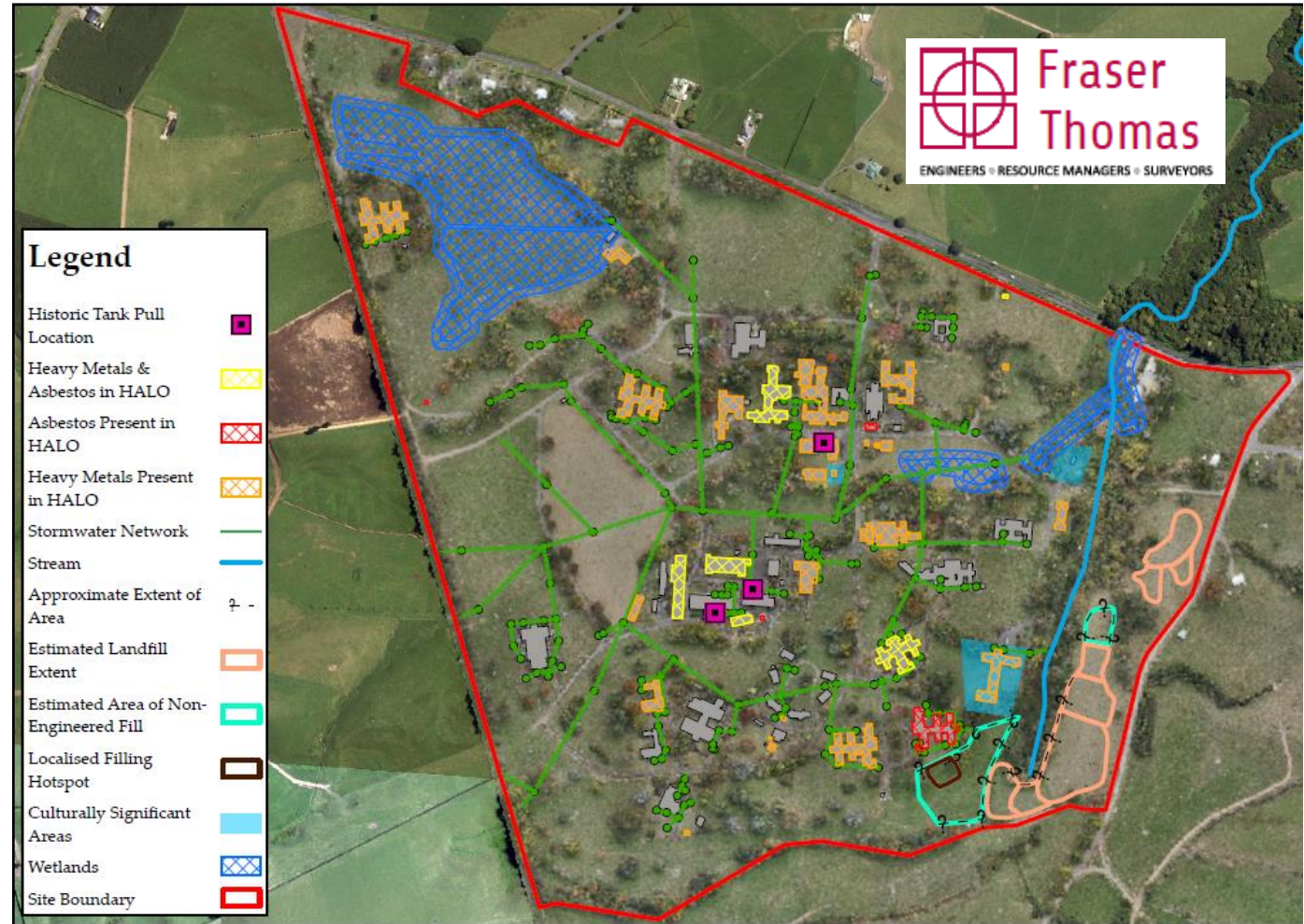
SUBPART B: DEMOLITION AND REMEDIATION STANDARDS AND WORKS

REMEDICATION STANDARDS

- 9.2. The parties acknowledge that, as at the date of this deed, there is not enough information available for the Crown to be able to commit to a particular remediation standard to be achieved for all of the Tokanui Hospital deferred selection properties.
- 9.3. Subject to the terms of this part (including, without limitation, paragraphs 9.7 and 9.13), the Crown will use best endeavours to remediate:
 - 9.3.1. 85% of the total land area of the Tokanui Hospital deferred selection properties to the rural residential remediation standard; and
 - 9.3.2. a contiguous area not exceeding 15% of the total land area of the Tokanui Hospital deferred selection properties, to the managed remediation standard.
- 9.4. The Crown will, prior to commencing any demolition and remediation works, in respect of the Tokanui Hospital deferred selection properties, prepare and/or obtain a detailed site investigation report, a remedial action plan, a demolition management plan, and an asbestos removal control plan, or plans.
- 9.5. The Crown may, if it considers it necessary, undertake site-specific risk assessment(s) in respect of any Tokanui Hospital deferred selection property.
- 9.6. The Crown will provide to the governance entity copies of the final reports referred to in paragraph 9.4 and any site-specific risk assessment carried out under paragraph 9.5 within 20 business days of the Crown receiving the same.
- 9.7. If the Crown reasonably determines, following the results of the reports listed in paragraph 9.4 and/or the site-specific risk assessment carried out under paragraph 9.5, that it is not practical to remediate any part of a Tokanui Hospital deferred selection property to the rural residential remediation standard or managed remediation standard (as relevant), the Crown may instead remediate the relevant land area to the standard set out in the remedial action plan and/or site-specific risk assessment.

Applicable Standards

- Applicable standards for rural residential use or recreational use
- Chosen in accordance with CLMG#2, or SSRA
- NES-CS? MEMP!
Water, wetlands, soil



Site Specific Risk Assessment

Fruit bowl of NZ before the Waikato Wars

- More produce consumption
- Chickens

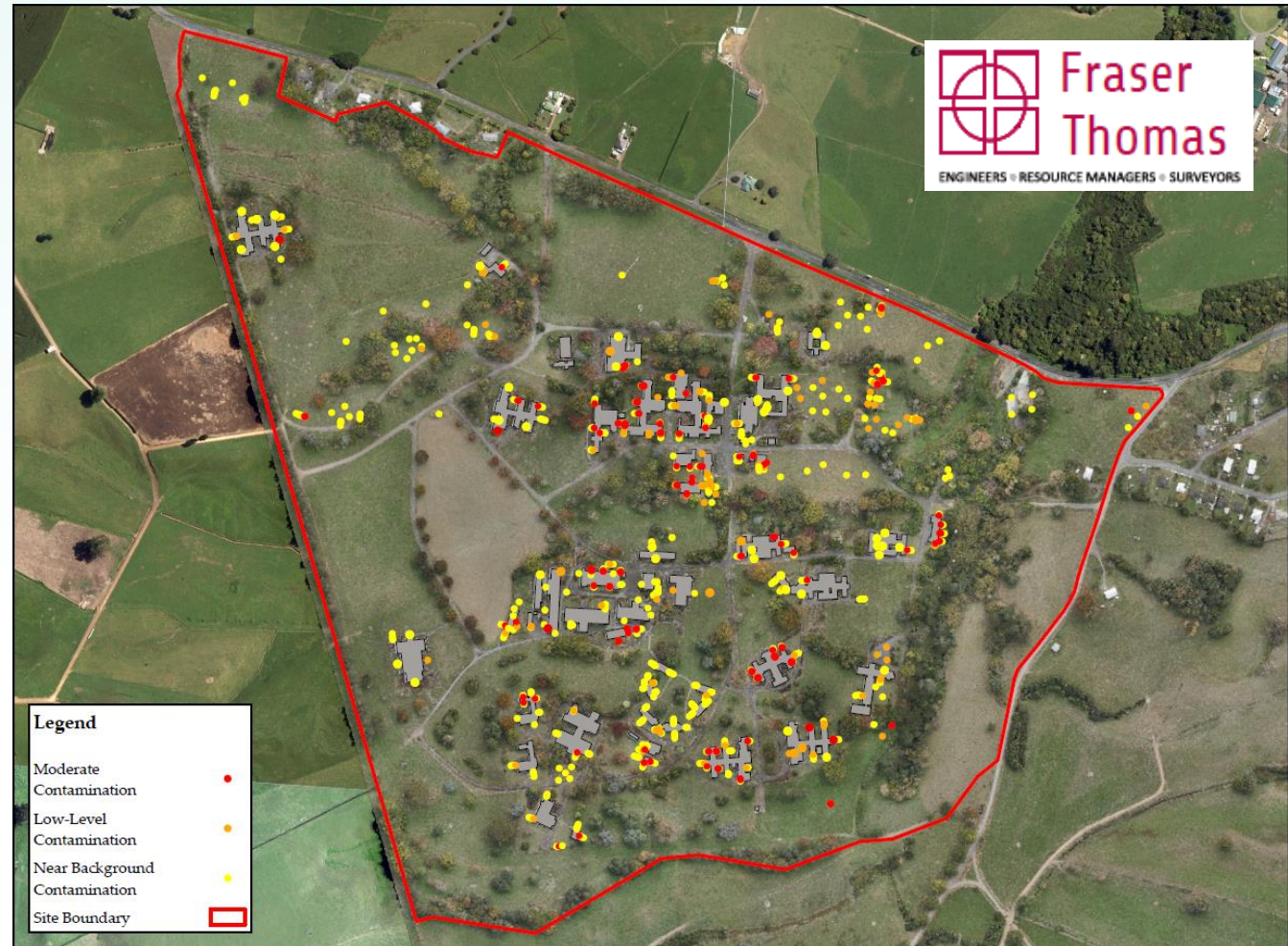
Allophanic soils

- Agricultural quality

Wetland

- Mahinga kai
- Hydric soils

Groundwater not sensitive



SGVs

Lowest of...

- SCS with 50 % produce, lead limit
- BRANZ asbestos
- Eco-SGV (site BG + ACL)
- Class 3 WAC
- Benzene, including GWP near SW
- Narrative for fuels / oils, wastes



	Rural Residential	Managed Recreational
Arsenic	9	70
Cadmium	0.9	10
Lead	120	460
ACM	0.01 %	0.02 %
Benzene	0.11	0.11
<i>etc...</i>		

Implementation comes next

- Remedial Options Assessment
- Consenting and Archaeological Authority...
- Clear iwi direction to make good, minimize encumbrance



Whatungarongaro te tangata toitū te whenua.
People come and go, but the land remains.

Thank you

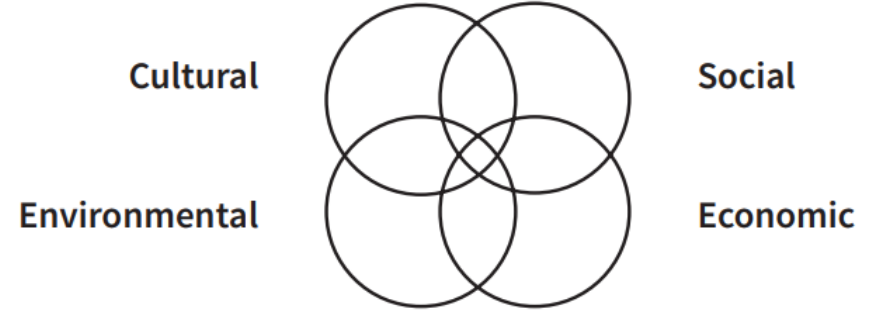


📍 Lake Tekapo, Canterbury Region.

Engagement Approach Summary

- Don't have a predetermined outcome
- Don't use too much jargon
- Timeframes
- Be on the ground
- Be clear on what you are there to do
- Do your homework
- Involve the right people
- Ask rather than assume
- Two-way relationship
- Create an open channel for communication
- Be adaptable
- Be consistent
- Be honest, respectful
- Be yourself!

Aligning Kaupapa Diagram



Guidelines for Engagement with Māori, Te Arawhiti, 2018



Learning by doing

Mistake	Consequence	Project impact
Unclear terminology	Misunderstanding on project objectives	<ul style="list-style-type: none">• Delays• Increased costs• Lack of trust• Reduced opportunities to develop meaningful relationships• Opportunities to develop better quality outcomes for iwi may be compromised.
Knowing when to front up	Breakdown in relationship	
Setting unrealistic timeframes	Māori unlikely to jump into action to align with your timeframes	
Feedback and transparency	Engagement may be perceived as a tick box exercise	

Learning by doing

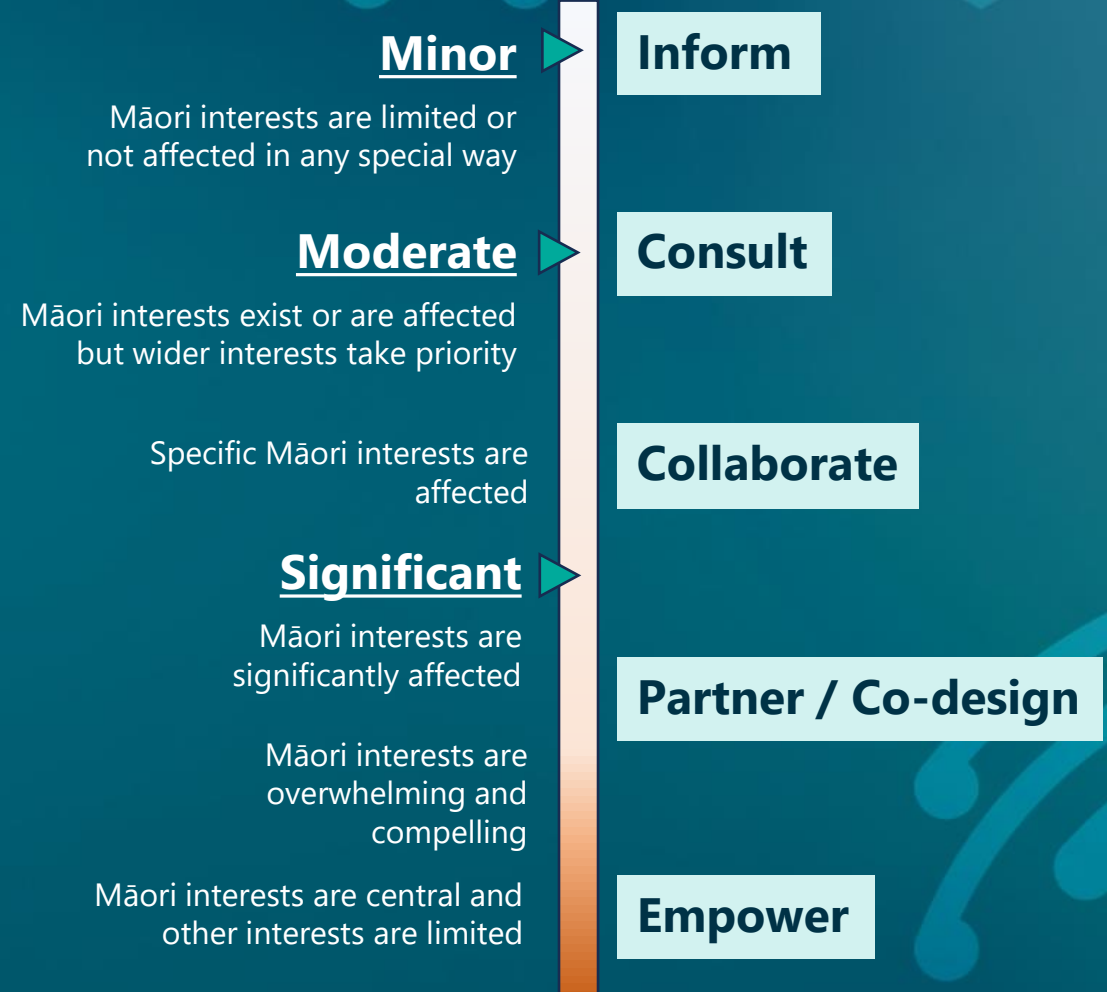
Mistake	Learning
Unclear terminology	<ul style="list-style-type: none">• Set clear definitions, especially for words that can have multiple meanings – like Remediation, Manage, Clean, Clear.• Agree these upfront or as early in the project as reasonably possible
Knowing when to front up	<ul style="list-style-type: none">• Make sure the right people at the right level are present depending on the matter at hand.• Build the relationship before handing over to the consultant• Involve decision makers and people that can answer the questions then and there
Setting unrealistic timeframes	<ul style="list-style-type: none">• Do not expect Māori to conform to your deadlines• Ensure Māori have the capacity, resource, interest, and desire to participate.
Feedback and transparency	<ul style="list-style-type: none">• Provide demonstrable examples of how their feedback has been translated into action – close the loop• Seek feedback on the process to improve next time

Engagement principles

- Engage early. Engage often!
- Define the purpose of your engagement
- He tangata, he tangata, he tangata
- Recognise, respect and use Māori protocols



How to Engage



Te Arawhiti, 2018

References:

- Finlayson, C., & Christmas, J., (2021). He Kupu Taurangi Treaty Settlements and the Future of Aotearoa New Zealand. Huia Publishers.
- Hutchings, J., & Smith, J. (2020). Te Mahi Oneone Hua Parakore: A Maori Soil Sovereignty and Wellbeing Handbook. Freerange Press.
- Manaaki Whenua Landcare Research. (n.d.). Principles and guidelines for engagement with Māori. <https://www.landcareresearch.co.nz/assets/Partner-With-Us/being-manuhiri/principles-and-guidelines-for-engagement-with-maori.pdf>
- Te Arawhiti. (n.d.) Crown Engagement with Māori. <https://www.tearawhiti.govt.nz/assets/Tools-and-Resources/Crown-engagement-with-Maori-Framework.pdf>
- Te Arawhiti. (n.d.). Guidelines for engagement with Maori. <https://www.tearawhiti.govt.nz/assets/Tools-and-Resources/Guidelines-for-engagement-with-Maori.pdf>