

**BEFORE THE HEARING COMMISSIONERS
NAPIER**

IN THE MATTER of the Resource Management Act 1991
(the Act)

AND

IN THE MATTER of applications by Port of Napier Limited to undertake wharf expansion, associated capital and maintenance dredging, disposal of dredged material within the coastal marine area, and occupation of the coastal marine area for existing port activities and the proposed new wharf

STATEMENT OF EVIDENCE OF LAURENCE (LAURIE) O'REILLY

Sainsbury Logan & Williams
Solicitors
PO Box 41
NAPIER 4140

Phone: 06 835 3069
Fax: 06 835 6746
Ref: Lara Blomfield

 **ATKINS | HOLM | MAJUREY**

Paul F Majurey
PO Box 1585
Shortland Street
AUCKLAND 1140

Solicitor on the record Paul F Majurey
Paul.Majurey@ahmlaw.nz (09) 304 0420

INTRODUCTION

Qualifications and experience

1. My name is Laurence (Laurie) O'Reilly. I hold the degrees of Bachelor of Laws, and Bachelor of Commerce from the University of Otago. I hold a Diploma in Frontline Management (NZ Institute of Management) and am a holder of a valid certificate in Making Good Decisions.
2. I am a consultant and project manager. I hold various positions including as managing director of a marketing company – AWA Studios; the manager of Waiohiki Community Charitable Trust; managing director of Prolong Roofing Ltd, and managing director of Matau Cultural Ltd. I have worked in these roles for the past 5 years. Prior to this I worked for the Ministry of Primary Industries as a specialist advisor.
3. I was born in Napier where I spent most of my formative years, including attending Waiohiki Marae Kohanga Reo, Omahu Primary School, and Bledisloe Primary School. My ancestors include Pania Reef, and Tareha Te Moananui, the paramount chief of Ahuriri at the time of the signing of the Treaty of Waitangi. My mother is a long-time trustee of the Waiohiki Marae Trust Board. I am currently a trustee of the Ngati Parau Hapu Trust and chair of the Ngati Hinewera Trust. I was previously the Waiohiki Marae representative on the board of Te Taiwhenua o Te Whanganui a Orotu up until March 2018.

Involvement in project

4. I prepared the Cultural Impact Assessment (CIA) on behalf of Mana Whenua for the Ahuriri area. This is included in the consent application documentation in Volume 3, Appendix Q.
5. In preparation of the CIA, I had the full confidence and support of Ngati Parau (the Mana Whenua and Mana Moana hapu for the Napier Port area), Ngati Kahungunu Iwi Incorporated (mandated Iwi organisation), and Maungaha Tangitu Trust (post settlement governance entity for Maungaharuru-Tangitu hapū).

Expert Witness Code of Conduct

6. I have been provided with a copy of the Code of Conduct for Expert Witnesses contained in the Environment Court's Practice Note dated 1 December 2014. I have read and agree to comply with that Code. This evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

CULTURAL IMPACT ASSESSMENT AND FINDINGS

7. The purpose of the CIA was to document the cultural values, interests, and associations Mana Whenua have with the Ahuriri/Napier Port area. The CIA was also intended to document any perceived or real impact(s) the proposed construction and associated dredging may have on the mauri and natural resources of the area, and to propose strategies to mitigate any such impact.
8. The Napier Port and the Marine Coastal Area around the port are the traditional boundary of Ngāti Parau hapu. Ngāti Parau are the Mana Whenua hapū for the Napier City area, and the Mana Moana hapu for the Ahuriri Port harbour area. Marangatuhetaua/Ngāti Tu and Ngai Te Ruruku hapu also have traditional rights in the Napier Port area, though these rights are subordinate to Ngāti Parau.
9. Ngāti Tu and Ngai Te Ruruku hapu are represented by Maungaha Tangitu Trust (MTT) post settlement governance entity for Maungaharuru-Tangitu hapū. Ngāti Parau are still in the process of finalising its Treaty settlement claims.
10. Ngāti Parau are part of a large natural settlement grouping with six other Ahuriri hapu (which includes Ngāti Tu and Ngai Te Ruruku) that have recently completed Treaty settlement negotiations with the Crown. Mana Ahuriri Trust (MAT) has been established as a post settlement governance entity to manage the settlement assets from the Treaty settlement. The settlement deed is yet to be enacted by Parliament. In the interim, Ngāti Parau will represent its own interests through its hapu body, Ngāti Parau Trust.
11. Ngāti Kahungunu Iwi Incorporated (NKII) is the mandated Iwi authority for the Hawke's Bay and Wairarapa region. NKII

manages the fisheries assets on behalf of Ngāti Kahungunu hapu. NKII are prominent in promoting and protecting the cultural, environmental and economic welfare of Ngāti Kahungunu hapu, marae and whanau in the region.

12. At a meeting between Napier Port, and the Mana Whenua group consisting of the environmental manager for NKII, the general manager of MTT and a trustee of Ngāti Parau Trust, it was agreed that I be appointed as the lead author of the CIA. The Mana Whenua group also insisted that an independent marine scientist should peer review the scientific studies commissioned by the Port on behalf of Mana Whenua. Shade Smith (Marine scientist, Triplefin) was contracted to undertake this work.
13. The Mana Whenua group met several times with the Napier Port to discuss findings and results of scientific reports. The group was also kept up to date with regular emails and phone calls. The findings of the Cawthron Report and the Worley Parsons (Advisian) Reports became available in May 2017. Thoughts and comments on the reports were sought from a wide range of hapu groups and marae representatives.
14. Shade Smith facilitated a meeting with representatives of NKII, Ngāti Pārau and MTT to discuss the findings of the studies commissioned by the Port. Shade also facilitated a meeting with the representatives of Ahuriri marae associated to Te Taiwhenua o Te Whanganui-a-Orotū. At both meetings Shade communicated to the group that he had no major concerns with the project.
15. During September 2017 the Port held a consultation hui at Pa Whakairo, now the Waiōhiki Arts Village. The hui was mainly attended by Ngāti Pārau whanau. Shade Smith attended as an independent advisor for mana whenua. The Port provided presentations on the project, stating the need for the development, the construction process, potential adverse impacts of the project and mitigation strategies to prevent any adverse impacts. Questions and concerns with the Project were raised by attendees, the major concern being the impact that the increased dredging would have on Pania Reef.
16. Pania Reef is site of great significance for Mana Whenua hapu. The Reef is the embodiment of Pania, who is a prominent ancestor of Mana Whenua hapu. Pania Reef is

the only significant offshore reef system in the Hawke's Bay Region, west of Mahia Peninsula. It is a significant conservation area and remains an important source of kaimoana for Mana Whenua. Pania Reef is also a registered 'wahi tapu' site on the Historic Places register of Heritage New Zealand.

17. Mana Whenua hapu believed that the current dredging operation by the Port was having a detrimental impact on the mauri of Pania Reef through the increase of sediment from the dredge spoil drifting onto Pania Reef. Through a thorough consultation process, the Port was able to assure Mana Whenua that the proposed dredge material disposal site would reduce the chances of sediment from dredging and dredge material disposal drifting onto Pania Reef. This assertion was supported by Shade Smith. On that basis Mana Whenua hapu became supportive of the Port's proposed development.
18. Mana Whenua hapu are committed to working with Napier Port to ensure a healthy marine coastal environment for the Ahuriri marine coastal area. Mana Whenua hapu are pleased that the Port has included an environmental monitoring programme involving Mana Whenua hapu as a condition of its consent application.

RESPONSE TO MATTERS RAISED IN SECTION 42A REPORT

19. The section 42A report is generally favourable towards the proposed project. However, I understand that it also proposes additional conditions that would require that some of the dredged material would be deposited in the existing inshore disposal area (see conditions under Disposal of Suitable Material for Beach Nourishment). While the condition is limited to "suitable" material, it appears that this has not been defined and would only be determined as part of the Dredging and Disposal Management Plan. This is an internal document which must be certified by HBRC and the details would not necessarily be discussed by HBRC with mana whenua.
20. This proposal is of significant concern to Mana Whenua for the reasons I have previously discussed, and it appears to potentially be in conflict with the aims of the conditions under Cultural Monitoring and Information Sharing.

RESPONSE TO MATTERS RAISED IN SUBMISSIONS

21. I acknowledge the concerns raised by the submitters. I have only recently become aware of these views from Ngaio Tuika (NKII), Johnathan Dick (NKII) and Shayne Walker (MTT).
22. As noted in the CIA we have had a long, free and open dialogue regarding the Port's applications. I have relied on the scientific data provided in the various reports prepared for the Port and the peer review of Shade Smith regarding the proposed disposal site, who determined the site as adequate. In terms of environmental impact, there was a consensus that the proposed disposal site was a vast improvement on the original proposed disposal site that was discussed (areas H and R Ext and the area in between) and an improvement on the current disposal site (area R Ext). Furthermore, the Marine Cultural Health Programme (MCHP) condition was the mechanism to identify and manage any adverse impacts from the proposed disposal site.
23. The author agrees with Ngaio Tuika. The mauri of Town Reef must be monitored as a condition of the MCHP. Also, Tangoio Beach must be included within the ambit of the MCHP.

CONCLUSIONS AND RECOMMENDATIONS

10. Mana Whenua hapu support the Napier Port's proposed project. Mana Whenua hapu support the change to the dredge spoil disposal site, as the existing disposal site is possibly contributing to the degradation of Pania Reef. The proposed disposal site reduces the probability that dredge spoil will drift onto Pania Reef. There is evidence that the current disposal site is not providing the intended benefits of preventing erosion to West Shore Beach.
11. Mana Whenua hapu are committed to working alongside the Napier Port to ensure a healthy marine coastal environment for Ahuriri, particularly to ensure that the mauri (lifeforce) of Pania Reef is being protected. Mana Whenua hapu are pleased that the Napier Port has agreed to a condition which requires the Port to prepare and implement

a Marine Cultural Health Programme to ensure the cultural health of the marine environment and in particular Pania Reef is being monitored.

LAURENCE (LAURIE) O'REILLY

6 August 2018