

Before a Board of Inquiry
Transmission Gully
Notices of Requirement and Consents

under: the Resource Management Act 1991

in the matter of: Notices of requirement for designations and resource consent applications by the NZ Transport Agency, Porirua City Council and Transpower New Zealand Limited for the Transmission Gully Proposal

between: **NZ Transport Agency**
Requiring Authority and Applicant

and: **Porirua City Council**
Local Authority and Applicant

and: **Transpower New Zealand Limited**
Applicant

Statement of evidence of Miria Louise Woodbine Pomare (Cultural effects)
for the NZ Transport Agency, Porirua City Council and Transpower New Zealand Limited

Dated: 17 November 2011

REFERENCE: John Hassan (john.hassan@chapmantripp.com)
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**STATEMENT OF EVIDENCE OF MIRIA LOUISE WOODBINE
POMARE FOR THE NZ TRANSPORT AGENCY, PORIRUA CITY
COUNCIL AND TRANSPower NEW ZEALAND LIMITED**

QUALIFICATIONS AND EXPERIENCE

- 1 My full name is Miria Louise Woodbine Pomare.
- 2 I am currently self-employed as a consultant specialising in the areas of Maori resource management and the Treaty settlement process. I have 'whakapapa' (genealogical) connections to numerous Iwi around the country, but of relevance to this Project are my affiliations to the principal Tangata whenua tribes of the Wellington area – Te Atiawa and Ngati Toa Rangatira (*Ngati Toa*).
- 3 On my Ngati Toa side, I am a descendant of Kahe Te Rauoterangi who was one of only five women with the 'mana' to sign the Treaty of Waitangi in 1840. She believed this would protect Ngati Toa's land and ensure that it would be passed on to future generations. I was born and raised on ancestral land at Hongoeka Bay (in Plimmerton) which, in spite of my ancestors' signature to the Treaty, is today the last remnant of Ngati Toa reserve land still in the possession of Ngati Toa descendants. Therefore, as a Ngati Toa descendant myself, and having lived in the area for most of my life, I am familiar with the area that the Project covers.
- 4 Following the introduction of the Resource Management Act in 1991 (*RMA*), I was employed by Ngati Toa as the first Resource Management Officer. In this role, I was responsible for providing Ngati Toa's views on resource consent applications and various development proposals within Ngati Toa's 'rohe' (traditional area). This included the provision of cultural advice in relation to early plans for Transmission Gully in 1995, and the completion of a report on the southern section of the proposed inland route. In 1997 Matiu Rei, the Executive Director of the Runanga, presented a submission based on the findings of my report to a panel of commissioners hearing matters in relation to the Transmission Gully Project.
- 5 As Resource Management Officer for the Runanga, I also played a key role in the drafting of Tangata whenua input into the Wellington, Porirua and Kapiti Coast District Plans, and I have continued to be involved in reviews of these plans since that time. I have also held various representative roles and positions on behalf of Ngati Toa over the years, including positions on local and regional body committees (for example, Ara Tahī and Te Whakaminenga o Kapiti) that have been established in response to local government obligations under the RMA.
- 6 I am also an accredited Hearing Commissioner with almost ten years experience. I have been involved in approximately 15

hearings to-date, mostly related to projects in the Wellington region. Two of these hearings have involved projects of a similar nature to Transmission Gully; namely the McKays Crossing Bypass and the Grenada to Petone Upgrade.

- 7 My evidence is given in support of Notices of Requirement (*NoRs*) and applications for resource consent lodged with the Environmental Protection Agency (*EPA*) by the NZ Transport Agency (*NZTA*), Porirua City Council (*PCC*) and Transpower New Zealand Limited (*Transpower*) on 15 August 2011 2011 in relation to the Transmission Gully Proposal.
- 8 The Proposal comprises three individual projects, being:
- 8.1 The 'NZTA Project', which refers to the construction, operation and maintenance of the Main Alignment and the Kenepuru Link Road by the NZTA;
- 8.2 The 'PCC Project' which refers to the construction, operation and maintenance of the Porirua Link Roads by PCC;¹ and
- 8.3 The 'Transpower Project' which refers to the relocation of parts of the PKK-TKR A 110kV electricity transmission line between MacKays Crossing and Pauatahanui Substation by Transpower.
- 9 My evidence is given in support of all three projects. In this evidence, when referring to the NZTA and PCC Projects collectively, I shall use the term "Transmission Gully Project" (and thereafter *the Project*).
- 10 I have read the Code of Conduct for Expert Witnesses as contained in the Environment Court Consolidated Practice Note (2011), and I agree to comply with it as if this Inquiry were before the Environment Court. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

SCOPE OF EVIDENCE

- 11 My evidence will deal with the following:
- 11.1 My background and role in relation to the Proposal;
- 11.2 Ngati Toa's relationship with the Proposal area;

¹ The Porirua Link Roads are the Whitby Link Road and the Waitangirua Link Road.

- 11.3 Effects of the Proposal on matters of cultural importance;
 - 11.4 Mitigation measures and conditions proposed;
 - 11.5 Assessment of the Proposal against the relevant Part 2 RMA matters (i.e. sections 6(e), 7(a) and 8); and
 - 11.6 Conclusions.
- 12 I understand that none of the submissions lodged on the Proposal raised particular concerns regarding the cultural effects of the Proposal.

SUMMARY OF EVIDENCE

- 13 The Proposal is located within the 'rohe' (traditional area) of Ngati Toa, which extends from Whangaehu in the north, to the Tararua Ranges in the east, south by Turakirae Heads to Kaikoura and west to Arahura, then returning to Whangaehu.
- 14 Ngati Toa's customary rights to the Proposal area were applied mainly through the customary use of resources, rather than strictly through occupation. Ngati Toa had settlements at either end of the Project route, at Whareroa in the north and Pauatahanui in the south. However, Ngati Toa settled predominantly in coastal locations, such as Wainui (at Paekakariki), Pukerua, Taupo (Plimmerton), Paremata and Porirua. The environs of the Pauatahanui Inlet and Porirua Harbour also provided attractive locations for settlement and facilitated access to the coast for fishing and gathering kaimoana.
- 15 Historically, the importance of the Proposal area to Ngati Toa was therefore primarily as an area of plentiful resources that were vital to the Iwi's health and cultural wellbeing, including large areas of forest that sustained native plants for medicinal purposes as well as food sources, and the network of streams in the area that were highly valued as a source of kaiawa (freshwater food). The Inlet itself was a key attraction, given its close resemblance to the estuary at Kawhia (Ngati Toa's ancestral home).
- 16 The streams and waterways in the Proposal area provide important habitat for a variety of native fish species. There are relatively few streams in the Wellington Region that support significant fish populations, therefore protection of these stream habitats is of particular importance to Ngati Toa. Native fish species are highly prized by Ngati Toa who continue to exercise their customary fishing rights throughout these catchments. As such, any adverse effects on water bodies will compromise their ability to exercise these customary fishing activities, as well as their cultural relationship with the water bodies.

- 17 Although there are few sites of cultural significance and no waahi tapu have been identified within the Proposal area there is potential for undiscovered or unidentified sites. As such, it is important that a precautionary approach is taken, as there may be a possibility of unknown sites being present and adversely impacted on, especially during construction. Measures will be needed to ensure correct protocol is followed in the event of an accidental discovery of culturally significant material.
- 18 The Assessment of Cultural Effects² has identified potential adverse effects on Ngati Toa's values from both the construction and operation of the Proposal. In particular, the construction and operational effects on stream and marine environments in the vicinity of the Proposal are of paramount concern to Ngati Toa. A range of measures will be necessary to effectively mitigate these effects. These are discussed in paragraphs 82-101 of my evidence.
- 19 Conditions to address potential cultural effects arising from both the construction and operation of the Proposal will also be necessary.
- 20 I conclude that, in Ngati Toa's view, any adverse cultural effects arising from the Proposal can be effectively mitigated when considered alongside the benefits of the Proposal, particularly in terms of the enhancement of ecological values over the longer term.

BACKGROUND AND ROLE

- 21 Te Runanga o Toa Rangatira Inc (*the Runanga*) is the mandated Iwi authority for all matters relating to the social, economic, educational, environmental, cultural and spiritual development of Ngati Toa. The Runanga deals with the political and public issues of national interest through the management of relevant activities such as Treaty of Waitangi claims, customary fishing activities, tourism, health and medical services, vocational training and resource management.
- 22 As such, the Runanga is responsible for the protection of Ngati Toa's customary rights, including the exercise of Kaitiakitanga (sustainable management) in relation to the natural and physical resources within Ngati Toa's 'rohe'.
- 23 I was engaged by the Runanga to prepare the Cultural Impact Assessment³ on behalf of Ngati Toa. The Cultural Impact Assessment forms part of the Assessment of Environmental Effects (AEE) lodged in support of the Project.

² Technical Report 18.

³ Technical Report 18.

- 24 In undertaking my assessment I worked closely with the Runanga’s Resource Management Officer and I consulted regularly with the Runanga Board. Therefore, the views expressed in the Assessment of Cultural Effects are consistent with those of the Runanga.
- 25 I have also met with members of the Proposal team on a number of occasions to properly understand aspects of the Proposal that are directly relevant to my work. In particular, an understanding of the ecological effects and proposed mitigation for these effects has been important for my cultural assessment, as Ngati Toa’s concerns largely relate to the bio-physical effects of the Proposal on water bodies and habitats.

NGATI TOA’S RELATIONSHIP WITH THE PROPOSAL AREA

Ngati Toa Origins and Migration South

- 26 Ngati Toa belongs to the Tainui waka and their traditional homeland was at Kawhia. However, as a consequence of the pressure from their Waikato neighbours and the attractions of the Cook Strait as a place to settle and trade with pakeha, Te Rauparaha led Ngati Toa in a historic resettlement from the Kawhia region to the Cook Strait.
- 27 By 1840 Ngati Toa was established as the pre-eminent Iwi dominating the Kapiti, Porirua, Wellington and Te Tau Ihu (northern South Island) regions. Ngati Toa held a maritime empire founded on a virtual monopoly of access to European goods and trade in the Cook Strait region. Ngati Toa possessed a de facto military and economic power that was widely recognised and acknowledged by both Maori and European.
- 28 The Crown recently acknowledged this dominance in submissions to the Waitangi Tribunal and negotiations for the settlement of the Ngati Toa claim will address the loss Ngati Toa suffered as a result of Crown actions shortly after the signing of the Treaty of Waitangi.

Customary Rights

- 29 Ngati Toa’s customary rights within the Cook Strait area derive from two tikanga (or customary law) principles of raupatu and ahi kaa.

Raupatu

- 30 Rights through raupatu or conquest arise from a number of key incidents that clearly show that Ngati Toa subdued the iwi who were present in the area and as a result obtained rights through raupatu.
- 31 The key event marking the definitive establishment of Ngati Toa in the Cook Strait area was the Battle of Waiorua on Kapiti Island in 1824 where Ngati Toa defeated a combined allied force of the Kurahaupo tribes. This defeat was followed by a series of other battles which saw Ngati Toa clear any resistance to their settlement

from other iwi from Whangaehu to Te Whanganui-a-Tara (Wellington) as well as to areas in the South Island.

Ahi Kaa

- 32 By the 1830s Ngati Toa held over-arching rights in the Cook Strait area. The strategic importance of the Cook Strait became apparent to Te Rauparaha during a preliminary scouting expedition to the region in 1819. While visiting the south west coast, Te Rauparaha noticed a trading ship passing through the Cook Strait which highlighted its importance as a highway for trade and the significance of coastal areas including Porirua, Pukerua and Kapiti as vantage points and nodes of access.
- 33 In order for Ngati Toa to maintain control of their trading empire in the Cook Strait, it was necessary for them to follow up their conquest with rights of ahi kaa. Ahi kaa literally means to keep the home fires burning and recognises the idea that it is not enough to simply conquer an area but that the conquerors must also retain a presence there.

Transmission Gully

- 34 Ngati Toa exercised ahi kaa in relation to the Proposal area mainly through the customary use of resources. The predominant forest cover supported an array of native plants that were gathered for rongoa (medicine) and kai (food). Timber was another important resource obtained from this area and was important for the construction of whare (houses) and waka (canoes). The extensive network of streams flowing through the catchment supported large populations of native fish and were highly valued by Ngati Toa as important mahinga kai (food resources). The Pauatahanui Inlet and Porirua Harbour also sustained an abundance of fish and shell fish species that formed an essential part of Ngati Toa's diet.
- 35 Thus, traditionally the Proposal area provided a range of vital resources which Ngati Toa relied on for subsistence purposes. It was not favoured as a place for occupation, although important Ngati Toa settlements were located at either end of the proposed road alignment; at Whareroa in the north and Porirua in the south. The focus of Ngati Toa settlement was in coastal locations such as Wainui (Paekaakaariki), Pukerua, Taupo (Plimmerton), Paremata and Porirua. The environs of the Pauatahanui Inlet and Porirua Harbour also provided attractive locations for settlement and facilitated access to the coast for fishing and the gathering of kaimoana.
- 36 There are also a number of waahi tapu and other sites of cultural significance in the vicinity of the Proposal that reflect the importance of Ngati Toa's traditional relationship with the area. Of particular note are Matai Taua Pa (the site of present day St Albans Church) and Battle Hill which symbolise the turbulent history between Ngati

Toa and the Crown. The Pauatahanui area was the focus of the Crown's military strategy to undermine Ngati Toa's rangatiratanga (authority) by targeting Ngati Toa's leading chiefs. Te Rangihaeata was pursued up the Horokiri Valley and engaged in conflict with Crown forces at Battle Hill while Te Rauparaha was kidnapped from his pa in Plimmerton and held captive by Governor Grey for 18 months, forcing Ngati Toa to give up their lands to the Crown. This is how the Proposal area was ultimately alienated from Ngati Toa's possession.

- 37 Despite the Crown's military action against Ngati Toa which left the Iwi in a state of virtual landlessness, Ngati Toa has continued to exercise customary rights within their traditional rohe to the present day. This has occurred mostly through the customary gathering and use of resources, including those found in the vicinity of the Proposal, and the exercise of kaitiakitanga in promoting the sustainable management of the environment.

EFFECTS OF THE PROPOSAL ON MATTERS OF CULTURAL IMPORTANCE

- 38 The Assessment of Cultural Effects was an exercise in Kaitiakitanga (guardianship) by Ngati Toa in relation to the area affected by the Proposal. The objective of Kaitiakitanga is to ensure environmental sustainability by protecting the 'mauri' or life force of the natural environment. The potential loss or degradation of 'mauri' as a result of the construction of the Proposal, particularly in relation to the streams and harbours, is of paramount concern to Ngati Toa.
- 39 Related to the protection of 'mauri' is the importance of preserving waahi tapu and other areas of cultural significance; as well as maintaining mahinga kai (food resources) and natural resources used for cultural purposes such as 'raranga' (weaving) and 'rongoa' (medicinal healing). The Assessment of Cultural Effects identified potential adverse effects on Ngati Toa's values from both the construction and operation of the Proposal, which I will now address.

Sediment Discharge

- 40 Construction of the Proposal will require the excavation of 6.3 million cubic metres of material and therefore has the potential to cause significant sediment discharge to the streams and marine environments in the vicinity of the Proposal. In terms of cultural effects, Ngati Toa are particularly concerned about:
- 40.1 The high risk of sediment contamination during construction when silt and soils from areas of open ground can be carried into waterways during rain events;

- 40.2 The potential for further contamination once the road is operational, as stormwater discharges can transfer contaminants (including sediments) from the road surface to the catchments, thus potentially affecting downstream water quality; and
- 40.3 The extensive earthworks required within streams where culverts, bridges and realignments are proposed, which will potentially generate significant adverse effects on stream environments and cause downstream effects on the Pauatahanui Inlet and Porirua Harbour.

Sediment discharge to streams

- 41 All the streams affected by the Proposal have cultural significance. They were all traditionally important mahinga kai or food resources for Ngati Toa and even today, in spite of the degradation of the catchments over the years, the streams continue to sustain important habitat for native fish populations. Ngati Toa still gather eels and inanga from the Horokiri and Pauatahanui streams and sometimes from the Waiohata (Duck Creek), although the relative scarcity of kaiawa means that it no longer forms a staple part of the Iwi's diet. Nevertheless these streams retain important cultural values which must be recognised and protected.
- 42 Ngati Toa considers that sediment discharge into freshwater systems, during both construction and operation, has the potential to cause the most significant impacts of the entire Proposal. Streams and waterways comprise the largest areas affected and they sustain the most sensitive habitats and species.
- 43 In total, seven streams are affected by the Proposal but the Te Puka, Horokiri and Waiohata (Duck Creek) appear to be the most at risk. The proposed roading alignment travels parallel to and within 100m of these three streams for at least 50% of their length. Therefore the likelihood of sediment discharge to streams and downstream effects on the marine environment is very high.
- 44 There is also the potential for significant sedimentation of Whareroa Stream if an extreme storm event was to coincide with peak construction in the vicinity of the stream. The risk of this occurring may be small but if it did happen significant sedimentation would be unavoidable, and important cultural values including the 'mauri' of the stream, would be severely compromised. Mitigation of these potential effects will require that every possible precaution is taken to avoid this scenario through careful planning and management of the construction works.

Sediment discharge to the marine environment

- 45 Although sediment will be entering the major streams initially, it is the marine environment, and particularly the Pauatahanui Inlet, that

will end up receiving most of the sediments leaving the construction site. Ngati Toa are very concerned about the effects of increased volumes of sediment on the 'mauri' of the Pauatahanui Inlet and Porirua Harbour, and particularly on the health of kaimoana (shellfish) stocks.

- 46 The potential effects on pipi are particularly concerning as they are the most sensitive species to sediment contamination. Since this is one of the few remaining shellfish species that can still be collected from the Inlet, Ngati Toa are very concerned about the need to protect pipi from the effects of sedimentation.
- 47 In assessing the cultural effects of sediment discharge to the marine environment, the information gathered from the detailed investigations undertaken in relation to sediment and erosion control for the AEE has been very helpful. The modelling of effects associated with discharge of sediment and stormwater to streams and the marine environment has been particularly useful in identifying sensitivities around construction staging.
- 48 The results of this investigation show that the impacts of sediment discharge (with treatment) to the Inlet and Porirua Harbour are negligible, except when extreme weather conditions combine with construction activities in the vicinity of Duck Creek (which would generate significant sediment discharge to Duck Creek and the Inlet). In this scenario, it would be difficult to mitigate the significant adverse effects, including the loss of 'mauri', and to a large extent these effects would be unavoidable. Although the risk of this situation occurring may be small, Ngati Toa is concerned to ensure that the risk is minimised as far as possible through careful planning and management of construction activities.

Stormwater

- 49 There is potential for significant adverse effects from the discharge of contaminated stormwater from the road surface to streams and the Pauatahanui Inlet. Ngati Toa are concerned that heavy metals and other chemicals may adversely affect ecosystems and reduce habitat quality, and that over the long term toxicity and reduced habitat quality will have serious consequences for maintaining the 'mauri' of the streams and Inlet.
- 50 Ngati Toa are mindful of the fact that the anticipated change in road use associated with the Project might have the effect of mitigating the effects of stormwater discharge. It is expected that there will be significant reductions in traffic currently using Grays Road and SH58 once the Project is operational. Stormwater from these two roads currently discharges directly to the Inlet without treatment, so the movement of this traffic to the TGP route provides the opportunity for treatment prior to discharge. If these calculations are correct,

Ngati Toa considers that the impacts of stormwater discharge would be significantly reduced and may even be improved.

- 51 In any case, Ngati Toa's position is that all stormwater discharged from the TGP highway should be treated to the highest possible standards in order to minimise the effects of contaminants on water quality. Even with treatment, Ngati Toa accepts that there are still risks of the discharge of stormwater contributing in the long term to the accumulation of contaminants in marine sediments; and that to some extent these cumulative effects will be unavoidable. However it is imperative that these effects are minimised as far as possible through effective erosion and sediment control, and by ensuring that stormwater treatment devices are functioning efficiently and being properly maintained at all times.

Stream Ecology

Cultural Values

- 52 Despite the general degradation of streams and waterways throughout the catchment over the years, they still provide important habitat for a variety of native fish species and for watercress which is picked for iwi gatherings. Ngati Toa continue to gather kaiawa (freshwater species) from local streams, including the Horokiri, Pauatahanui and Waiohata (Duck creek) waterways. Tuna (eels) and inanga (whitebait) are the most common species harvested. The stream survey undertaken as part of the ecological assessment (Technical Report 11) confirms the presence of high fisheries values in the Horokiri Stream and Waiohata (Duck Creek), as well as the eastern tributaries of the Te Puka and Horokiri Streams. These survey results are consistent with Ngati Toa's knowledge of native fish stocks in the area.
- 53 These streams also provide important habitat for a variety of species of nationally threatened indigenous fish species, and the Horokiri and Waiohata (Duck Creek) are noted for their diversity of native fish. The Waiohata (Duck Creek), in particular, sustains one of the best native fisheries on the west coast of the Wellington Region.

Proposed stream works

- 54 The Project will require approximately 115 culverts, 13 bridges crossing streams and extensive diversions. The culverting and diversions will result in the permanent loss of 6,000 m of freshwater habitat, riparian margins and resident populations of freshwater flora and fauna. Modification to a further 5,300m of freshwater habitat and riparian margins through bridge construction and diversion will also be required.
- 55 In addition, a significant portion of the route lies within or very close to the major streams (Duck Creek, Pauatahanui Stream, Ration Creek, Horokiri Stream and Te Puka stream). Of these the upper

and middle portions of Duck Creek and middle and lower portions of Horokiri will be affected most by diversions leading to the loss of significant areas of stream habitat and the permanent loss of 'mauri' to these sections of stream.

- 56 Mitigation of cultural effects in relation to the loss of stream habitat will require extensive revegetation of riparian margins, as well as ecosystem restoration and enhancement. The loss of 'mauri' to some streams where diversion has been necessary and the reinstatement of 'mauri' to other areas proposed for restoration, will require Ngati Toa's assistance to ensure that appropriate karakia (spiritual incantation) and tikanga (cultural practices) are observed in the interests of promoting the overall health of the environment.

Impacts on native fish

- 57 Ngati Toa are concerned about the potential effects on native fish, given that they are resident in all streams affected by the Proposal. Local populations are likely to decline due to the loss of habitat through culverting and stream straightening. They will also be affected by habitat changes associated with diversion channels and stream reclamation. The movement of migratory fish could also be restricted by streambed modifications and culverts.
- 58 Mitigation of these cultural effects will require that any encroachment of construction activity into stream environments particularly where stream crossings are required, will need to provide for fish passage and natural debris flows in streams. Once Transmission Gully is operational, regular monitoring of fords and culverts will be required to ensure that fish passage does not become obstructed and that the stream habitat is continually protected.

Native Vegetation

- 59 Ngati Toa are concerned about the substantial loss of native vegetation required for road construction and particularly the impacts on the Te Puka Valley where the majority of mature native forest resides. The Proposal will require the further removal of up to 20 ha of mature native forest and up to 47 ha of secondary native forest, as well as up to 50 ha of regenerating shrubland and scrub.
- 60 Although the majority of the Proposal's footprint lies in a highly modified pastoral landscape, there are several remnant pockets of native vegetation and areas of regenerating forest which have important ecological and landscape values. The survey undertaken as part of the ecological assessment (Technical Report 11) highlighted the importance of specific sites of native vegetation within the Ration and Te Puka catchments, and Porirua Park Bush as habitat for native bird species. It further noted that the forest remnants within the Te Puka catchment provide important nesting

and feeding habitat for a variety of native, threatened and at risk species, including the NZ bush falcon and North Island Kaka.

- 61 Around 70% of the indigenous forest that existed in the region in 1840 has been cleared for agriculture and urban development, and it continues to be lost to the region. Thus, Ngati Toa are supportive of the efforts made to date by the NZTA to avoid remnant pockets of indigenous forest and native vegetation. However, Ngati Toa maintain that during the detailed design phase of the Project, further consideration should be given to avoiding native vegetation wherever possible. In situations where this is unavoidable, the road design should seek to minimise vegetation removal through sensitive route alignment and careful construction.
- 62 Extensive revegetation will be required as mitigation to maintain biodiversity values and important habitat for native birds. To mitigate for the loss of 'mauri' in areas requiring the removal of indigenous forest, Ngati Toa will need to be involved to ensure that appropriate karakia are performed to minimise the effects of habitat loss and assist in promoting the recovery of the environment.

Waahi Tapu

- 63 The Project's alignment passes near several areas of significant cultural and historical value. However it does not directly impact on any known waahi tapu (sacred sites) or sites of cultural significance. This is consistent with the focus of Ngati Toa settlement along the coast, as opposed to inland forested areas which were generally favoured for gathering food and other resources.
- 64 Given the general use of the area for resource gathering rather than settlement, the possibility of uncovering waahi tapu or koiwi (human remains) during construction is unlikely. This does not rule out the possibility though of taonga or artefacts (such as weapons or tools used for resource gathering) being present in the area which could be unearthed during construction. Ngati Toa are aware that Taonga (particularly stone implements) have been discovered over the years in the adjacent Horokiri Valley, so it is not inconceivable that similar objects could be found along the proposed route.
- 65 In the event that waahi tapu or taonga are unearthed during construction, it will be necessary to have an accidental discovery protocol in place to ensure that all work ceases immediately and that Ngati Toa (and the Historic Places Trust) are contacted to complete all necessary rituals and cultural/archaeological assessments. Ngati Toa consider that this should be required as a condition of consent and that all subcontractors should be fully briefed as to the appropriate procedures to be followed in the event that cultural material is encountered.

Areas of Cultural Significance

- 66 There are several areas of cultural significance in close proximity to the Proposal area that could be adversely affected by the construction and operation of the TGP. These are important areas for cultural and historical reasons as they reinforce Ngati Toa's long history of settlement and customary use in the area. It is expected these areas will be included in redress for the settlement of Ngati Toa's historical Treaty claims with a view to enhancing opportunities for Ngati Toa's participation in their management under the RMA. Ngati Toa's traditional associations with these areas have continued over successive generations to the present time, and as such they affirm Ngati Toa's status as Tangata Whenua within the area affected by the Proposal.

Queen Elizabeth Park

- 67 Queen Elizabeth Park is located partly within the area of an historic "native reserve" set aside by the Crown for the perpetual benefit of Ngati Toa as part of the "purchase" of Porirua in 1847. The Park contains a number of waahi tapu (e.g. urupa, pa and kainga) that reflect the importance of the area for Maori settlement. The Park is also dissected by the Wainui and Whareroa streams, which were traditional sources of kaiawa and retain important cultural associations to this day.

- 68 Although the proposed route does not pass directly through the Park and is located some distance from known waahi tapu, the significant volume of earthworks associated with the construction of the Main Alignment will create potential for sediment and stormwater contamination of the Wainui Stream and downstream effects on the coastal environment. There is also potential for significant effects on the Whareroa Stream, which were discussed at paragraph 44. Mitigation of adverse effects to these streams and the marine environment will require the development and implementation of robust measures to control stormwater and sediment run-off.

Whareroa Farm

- 69 Whareroa Farm is located within an area of early Ngati Toa settlement and contains a number of waahi tapu, including urupa. It takes its name from the historical site Whareroa Pa, situated on a high dune close to the mouth of the Whareroa stream. Whareroa was originally included within the "native reserve" set aside for Ngati Toa in 1847. However, within 10 years the Crown had alienated most of the land from Ngati Toa, leaving only a small area of 17 acres as occupation reserve.
- 70 The construction of the Proposal through this northern section will be confined to the current alignment of State highway 1 and no further encroachment into Whareroa Farm is proposed. On this basis, Ngati Toa do not expect there to be any adverse effects on waahi tapu or cultural values associated with Whareroa. Concerns

in relation to the sedimentation of Whareroa Stream during construction have been discussed at paragraph 44.

Battle Hill Farm Forest Park

- 71 This is the site of the final battle between Ngati Toa and the Crown in 1846, which occurred as a result of Ngati Toa's resistance to Crown demands for land in the Hutt Valley and Porirua (as discussed at paragraph 36). The grave sites of those who died during the conflict and the site of the battle itself, on the ridge leading up to Battle Hill summit, are regarded as waahi tapu. As a consequence of the battle, Te Rangihaeata, one of Ngati Toa's leading chiefs, was forced into exile and this (along with Te Rauparaha's capture at Plimmerton) created the opportunity for Governor Grey to forcibly acquire Ngati Toa's land. This is how the land within the Proposal area was alienated from Ngati Toa.
- 72 Of all the culturally significant areas identified by Ngati Toa, Battle Hill will be most impacted by the construction of the Proposal. The intention for the Main Alignment to pass directly through the valley floor at the rear of the Park, creates the potential for significant cultural effects. However, as noted elsewhere, the grave sites and the battle site are located well away from the proposed route and Ngati Toa does not anticipate any adverse effects on waahi tapu or their traditional relationship with Battle Hill.
- 73 In terms of environmental effects, these will be substantially reduced by the preferred route which requires less earthworks than the designated alignment and crosses the Park on flatter land on the valley floor. This will provide more room for stormwater control and reduce the risk of sediment entering the Horokiri Stream and affecting the Pauatahanui Inlet. However sediment discharge remains a significant risk and will require extensive mitigation through effective erosion and sediment controls, as well as stormwater treatment. Assuming mitigation of stormwater and sediment effects can be achieved, Ngati Toa consider that important cultural values associated with Battle Hill will not be compromised by the Proposal.

Pauatahanui Wildlife Reserve

- 74 The Pauatahanui Wildlife Reserve is located in the eastern half of the Pauatahanui Inlet. It is the largest of the four areas managed by the Department of Conservation within the Inlet to protect wildlife. Even in its degraded state the Inlet is still regarded as a Taonga (a highly prized treasure) by Ngati Toa. Urbanisation and roading development in the catchment over the years have undermined the health of the Inlet to the point that it can now no longer sustain traditionally abundant species of fish and shellfish (particularly pipi

and cockles), however the Inlet continues to hold important cultural values. Ngati Toa is involved in efforts to revitalise the Inlet.⁴

- 75 Although the proposed road alignment does not encroach directly into the Reserve, the downstream effects of sediment and stormwater run-off have the potential to contaminate the Reserve and thereby Pauatahanui Inlet. The Horokiri Stream flows along the valley floor in close proximity to the proposed route for a considerable distance and it discharges to the Inlet in the vicinity of the Reserve. Ngati Toa are concerned that the health of the Inlet is not further compromised by the construction of the Proposal. As has been mentioned elsewhere in this evidence, mitigation of sediment and stormwater effects will require the design and implementation of measures that afford the highest possible levels of protection to receiving environments.

Horokiri Wildlife Management Reserve

- 76 The location of this Reserve, near the Horokiri Stream, is in the vicinity of Motukaraka Point which was an important Ngati Ira settlement prior to Ngati Toa's arrival in the 1820s. Ngati Toa established extensive cultivations throughout the area and a pa was erected on this site because of the elevated nature of the site and its commanding views of the Harbour. When tensions between Ngati Toa and the Crown escalated in 1846, Te Rangihaeata moved from Mana Island to Motukaraka for a brief period before establishing his palisaded Pa at Mataitaua (where St Albans church is now located).
- 77 The Horokiri Wildlife Reserve is located well away from the proposed route however it is still vulnerable to the downstream effects of sediment and stormwater run-off. Once again, the importance of designing and implementing appropriate measures to mitigate the adverse effects of sediment and stormwater run-off is imperative from Ngati Toa's perspective.

Porirua Harbour

- 78 From the time Ngati Toa first settled in the Porirua area in the early 1820s, the Porirua Harbour has occupied a central place in Ngati Toa's livelihood and identity as an Iwi. Important settlements were established at Whitireia and Paremata, at the entrance to Porirua Harbour, as well as at strategic points around the Harbour. Takapuwahia on the western side of Porirua Harbour became the most important Ngati Toa settlement following Te Rauparaha's capture by the Crown in 1846, and it has been Ngati Toa's primary settlement ever since.

⁴ Ngati Toa is a signatory (along with PCC, GWRC, WCC and NZTA) to an MOU, signed in 2010, which formalises support for the preparation of the Porirua Harbour and Catchment Strategy.

- 79 The Harbour was also the primary source of food for the settlements located around its fringes. The now extinct tuangi (pipi endemic to Porirua Harbour) could be gathered in abundance from the uncovered mud flats and was the most highly prized of all shellfish in the area. A sand bank located in the eastern arm of the Harbour (named "Nga Whatu o Topeora" after Te Rauparaha's niece), was an important mahinga kai and storehouse. Koura, paua, and kina were all in abundance around the coastal fringes, and cockles, mussels, and a wide variety of fish were all found in the Harbour.
- 80 Although the health of the Harbour has become severely degraded over the years, and fish and shellfish species have become depleted as a result, Ngati Toa continue to view the Harbour as a Taonga and to value the cultural and historical relationships that have been maintained over many generations to the present time.
- 81 Therefore, Ngati Toa are concerned about the potential effects of sediment on the Harbour as a result of the development of the southern section of the TGP. The proposed Kenepuru interchange and the Porirua Link Roads are located in the vicinity of Porirua Stream which feeds into the southern end of Porirua Harbour. There is potential for significant volumes of sediment to enter the stream and to ultimately end up in the Harbour. Mitigation of these effects will be necessary through the design and implementation of effective erosion and sediment controls, and robust stormwater treatment.

MITIGATION MEASURES AND CONDITIONS PROPOSED

Sediment Discharge

- 82 The development of an erosion and sediment control plan by the NZTA and PCC (which will be required to be approved by the Greater Wellington Regional Council)⁵ will be necessary to identify specific measures to be imposed and how the effectiveness of those measures will be monitored on an ongoing basis. Ngati Toa consider that effective monitoring will be just as important as the measures themselves in achieving successful sediment control.

Construction Site Management

- 83 Mitigation of the downstream impacts of sediment from earthworks on streams and estuaries will require a range of measures to manage erosion and treat sediment during construction. The complete list of mitigation measures (including site specific mitigation) for construction effects is included in the Ecological Impact Assessment (Technical Report 11). Some of the proposed measures include:

⁵ This is required by NZTA resource consent condition E.4 and PCC resource consent condition E.41.

- 83.1 Staging of works and establishment of maximum open earth works to reduce risk of sediment discharge;
 - 83.2 Stream and marine water quality and aquatic habitat monitoring during construction, with a focus on adaptive management;
 - 83.3 Storm event disaster plan during construction;
 - 83.4 Temporary culverts, which will be in place for up to two years, will need to follow correct protocols to ensure fish passage is maintained; and
 - 83.5 Site Specific Environmental Management Plans have also been developed for several sites, including Te Puka and Horokiri Streams, which describe how environmental management should be carried out, including the identification of fill deposit sites and native fish protection.
- 84 The NZTA and PCC are proposing to significantly exceed regional guidelines for erosion management and sediment control, and restrictions will apply to maximum areas of open (unstablisd) earthworks within Porirua Harbour catchments in order to minimise risk during a storm event.

Sediment deposition in the Inlet and Porirua Harbour

- 85 Ngati Toa acknowledge that it will be very difficult to mitigate entirely the deposition of sediment in the Pauatahanui Inlet and Porirua Harbour. Therefore it will be important that every possible effort is made to avoid sediment discharge to the marine environment in the first place. This has been the general approach taken throughout the Proposal's development, however some sedimentation will inevitably still occur.
- 86 Ngati Toa consider that the mitigation of these effects can be achieved by the range of measures proposed for the management of erosion, and the capture and treatment of sediment during construction.
- 87 However the risk remains that in a large rainfall event, where sediment deposition occurs at a depth and duration that is likely to cause adverse effects, the options for remedial action are very limited. The inability to remedy these adverse effects once they have occurred is of concern to Ngati Toa. However, Ngati Toa believes these effects are largely mitigated by the low risk of such an event occurring and the positive effects of other mitigation intended to reduce erosion and sediment discharge over the medium to long term.

- 88 In particular, the extensive areas of land (450 hectares) proposed for retirement and revegetation in the Te Puka, Horokiri, Kenepuru and Duck catchments will undoubtedly reduce sediment discharge to freshwater and marine environments over the longer term. Other long term benefits include the creation of corridors of riparian communities and stream habitat of increased value, particularly in relation to the Horokiri Stream. The anticipated reduction of traffic on SH58 due to the construction of the Project will also have a positive effect on the Inlet by reducing contaminant loading to the Inlet in the medium term.
- 89 Ngati Toa considers that there will also be benefits from the range of ecological investigations undertaken as part of this Proposal which will provide valuable knowledge and science for local communities, Ngati Toa and other agencies with an interest in the streams and harbours. In Ngati Toa's view, this will provide opportunities to improve our understanding of these environments and enhance our ability to manage them more sustainably in the future.

Stream Ecology

Stream enhancement and protection

- 90 The mitigation proposed for habitat loss (outlined in Technical Report 11) includes significant stream restoration and enhancement proposals. More than twice the length of stream adversely affected by the Proposal will end up being restored as a result. The upper Horokiri and Te Puka catchments are the main focus areas for mitigation, as substantial land retirement and stream enhancement is possible in these locations.
- 91 Ngati Toa supports these mitigation proposals and the rationale for selecting these particular sites, as they have the highest ecological value and the most potential for quick recovery and long term benefit. Ngati Toa is also supportive of the approach taken in selecting key ecological areas for mitigation as opposed to creating small isolated sites along the route within each affected catchment. This is consistent with a more holistic approach to environmental management which underpins the ethic of Kaitiakitanga.
- 92 There are also a number of riparian areas associated with the Duck and Ration streams that have already been re-planted by the NZTA. Ngati Toa considers that this re-planting will have positive effects and should be considered as an existing benefit for the loss of habitat and riparian vegetation elsewhere within the Proposal area.

Aquatic habitat

- 93 The mitigation package proposes a number of treatments for the loss or modification of aquatic habitat. These include ensuring that culvert design will allow fish passage and that stream diversions are designed and constructed so as to be consistent with the

morphology of the streams. Ngati Toa support these measures and believe they will provide significant benefits for native fish.

- 94 Additional mitigation is proposed to repair malfunctioning culverts in Duck Creek which are currently limiting fish movements within this catchment. The replacement of these culverts is expected to open up approximately 10 km of stream to fish access. Ngati Toa supports this mitigation which will provide significant benefits for native fish within this catchment.
- 95 With regard to the protection of native fish during construction and following the completion of on stream works, Ngati Toa recommend that specific conditions are imposed to address this issue. Ngati Toa are aware of intentions for special attention to be paid to the protection of native fish during the construction period, this is clearly stated in the SSEMPs for both the Upper Horokiri and Te Puka Streams. Ngati Toa consider that consent conditions should be imposed requiring fish passage to be maintained at all times, including during seasonal migration while the construction of stream diversions is underway. This may require capture and translocation of native fish as part of the diversion works, for example as part of works in the Te Puka Stream. I consider the consent conditions proposed adequately address these matters.⁶

Cultural Issues

- 96 The loss of 'mauri' as a result of stream diversions and reclamation will need to be mitigated through appropriate cultural ritual/protocol to be conducted by Ngati Toa. The Memorandum of Understanding (MOU) (discussed below) contains specific procedures for diversion of streams and waterways and for reclamation which ensure that Ngati Toa is consulted about the locations of diversion prior to construction, and that diversions and reclamations will not occur until Ngati Toa representatives have inspected the diversion works. The opportunity is also provided for Ngati Toa to undertake any cultural ceremony at the site of the construction activity should this be deemed necessary.

Stormwater

Stormwater treatment

- 97 Ngati Toa consider that all stormwater discharged from the Transmission Gully highway should be treated to minimise the effect of contaminants on water quality of the freshwater and coastal environments.
- 98 The range of mitigation proposed for stormwater treatment (outlined in the Assessment of Hydrology and Stormwater Effects -

⁶ A number of resource consent conditions address these matters. See, for example, NZTA S.9, S.10.

Technical report 14) includes the use of swales and wetlands, where possible, and proprietary devices in other areas.

- 99 Ngati Toa are particularly supportive of the “treatment train” approach and use of wetlands which are proven to be effective in removing road contaminants. Wetlands also have important ecological values and can provide benefits for native flora and fauna. Given these benefits, Ngati Toa would encourage the use of wetlands over proprietary devices, wherever possible.
- 100 In combination, these devices are expected to perform to a standard that prevents any increase in the levels of contaminants in stormwater discharging to streams and estuaries. However, I acknowledge that this will partly depend on whether the anticipated traffic volumes transfer to the TGP from Grays Road and SH58, where currently vehicle and road contaminants flush, untreated, into the Harbour.
- 101 Based on the comprehensive mitigation proposed to manage the effects of stormwater, Ngati Toa consider that contaminant discharge can be managed to produce the highest quality discharge possible resulting in very low effects to the receiving environment.

Native Vegetation

- 102 Ngati Toa’s preference is for all areas of native forest/vegetation to be avoided, wherever possible. Although substantial modifications to the road alignment have already been made to reduce adverse effects, Ngati Toa believes that further consideration should be given to investigating opportunities to avoid sites of native vegetation during the Proposal’s detailed design stage.
- 103 Where adverse effects cannot be avoided, it will be necessary for extensive revegetation and habitat restoration to be undertaken to mitigate these effects. The loss of ‘mauri’ in areas where native forest has to be removed will also need to be mitigated through the appropriate use of karakia and tikanga. Ngati Toa’s involvement in the Project for ceremonial/ritualistic purposes is specifically provided for in the MOU discussed below.
- 104 To this end Ngati Toa are supportive of the revegetation proposals as part of the mitigation for terrestrial habitat loss, and the selection of sites intended to maximise ecological benefits. In addition, the retirement of 450 ha of land is proposed to offset the loss of 120 ha of native vegetation. This is considerably more than the 250 ha estimated to mitigate the loss of native vegetation which Ngati Toa considers will result in positive ecological effects over the long term.
- 105 This mitigation includes land in the Te Puka and upper Horokiri, combined with early retirement planting (carried out by NZTA as part of the existing Transmission Gully designation requirements),

and revegetation above Porirua Park Bush. Ngati Toa anticipate positive benefits in the longer term through the restoration and natural regeneration following stock removal. Improvements to water quality and aquatic habitat are also likely through the removal of stock grazing and revegetation in the upper catchments.

- 106 In the long term, retirement and revegetation of land in the Te Puka, Horokiri, Ration, Pauatahanui, Duck and Kenepuru catchments will expand a range of plant communities along the road corridor, providing both more habitat and "green corridor" along the route. Ngati Toa consider this to be an important long term benefit of the mitigation as it will provide landscape and amenity benefits, as well as essential habitat for native birds.

Waahi Tapu

- 107 Ngati Toa are not aware of any waahi tapu within the proposed designation boundaries, however, this does not rule out the possibility of unearthing a site or cultural material during construction. Therefore it is important that a precautionary approach is taken, as there may be a possibility of unknown sites being present and adversely affected. Measures will need to be in place to ensure correct protocol is followed in the event of an accidental discovery of culturally significant material. Procedures for the Accidental Discovery Protocol are clearly outlined in the MOU.
- 108 It will be important for contractors engaged to carry out the earthworks to be fully briefed on the accidental discovery protocol. This is to ensure that the right procedures are followed i.e. that work ceases immediately in the event of encountering a cultural site/material and that Ngati Toa is contacted (and the Historic Places Trust) so that the appropriate site investigations and cultural ceremonies can be carried out before recommencing work.
- 109 The role of contractors will be critical to the effectiveness of the accidental discovery protocol and ultimately to the protection of any cultural sites/material discovered during the works. Therefore Ngati Toa consider it important that the protocol is an essential part of any arrangements with the contractors.
- 110 The protocol is required by resource consent conditions NZTA.G.17 and PCC.G.37, and by proposed designation conditions NZTA.10 and PCC.9. In addition, proposed designation condition NZTA.9 requires Ngati Toa to be consulted in the preparation of a Heritage Management Plan.⁷

⁷ I understand that Mr Bowman has recommended that this plan be now called a Heritage Management Plan, rather than an Archaeological Management Plan, as previously proposed.

- 111 An accidental discovery protocol is also proposed to be developed between Ngati Toa and Transpower (for the Transpower Project). Proposed conditions TL14 and TL15A provide for this.

Monitoring

- 112 Monitoring of effects throughout the construction and operational phases of the Proposal will be critical to achieving the sustainable outcomes anticipated from the mitigation.
- 113 Ngati Toa consider that the mitigation of cultural effects will require robust monitoring of the following effects and treatments to ensure that they are working effectively:
- 113.1 Post construction monitoring of fish passage is required to ensure the designs are effective and that the diversion, culverts and fish ladders continue to operate to their design standards.
- 113.2 Pre and post construction monitoring of earthworks is crucial and should include assessment of the downstream changes in environmental factors including water quality, sediment deposition and ecology;
- 113.3 Ongoing monitoring and maintenance of stormwater treatment devices is necessary to ensure that they continue to operate according to the identified efficiencies.
- 114 The monitoring recommended as part of the AEE addresses most of the cultural effects identified by Ngati Toa.
- 115 In addition, I also recommend including monitoring in direct response to Ngati Toa's concerns regarding the potential reduction or loss of fishery for eels, shellfish, freshwater mussels and other species as a result of construction effects (in particular, sediment discharge from earthworks). This monitoring should be based on key performance indicators as specified by Ngati Toa, which are to be included in a monitoring plan to be developed in consultation with Ngati Toa. The development of a monitoring plan is recommended as a consent condition in relation to the land use consent for earthworks and associated discharge permits. I understand that the NZTA and PCC are comfortable with my recommendation.
- 116 Opportunities for Ngati Toa's involvement in the monitoring of environmental effects resulting from the Project has also been identified by Ngati Toa as an important "Issue for Future Discussion" with the NZTA in the MOU.

Memorandum of Understanding

- 117 As part of the mitigation of cultural effects for the Transmission Gully Project and other projects related to the Wellington Northern Corridor, Ngati Toa and the NZTA have entered into a MoU. The purpose of the MOU is to establish an effective relationship through open and frank dialogue in relation to the design, construction and completion of the Wellington Northern Corridor projects.
- 118 The MOU recognises the Runanga as the mandated iwi authority for Ngati Toa in respect of all resource management and environmental issues, including road construction projects. It also recognises Ngati Toa's status as Tangata Whenua throughout the Project area and the Kaitiakitanga role exercised by Ngati Toa in relation to the natural environment.
- 119 The MOU outlines a series of protocols for construction of the Wellington Northern Corridor Roads of National Significance. These set out general procedures following the accidental discovery of possible archaeological sites, koiwi or taonga; further procedures in the event that koiwi are discovered; and procedures for the custody of taonga or cultural material found at an archeological site.
- 120 Provision is also made in the MOU for the on-site participation of Ngati Toa representatives in construction activity involving the diversion of streams and waterways and reclamation. This also provides Ngati Toa with the opportunity to undertake any cultural ceremony at the site of the construction works.
- 121 Specific provision is also made for Ngati Toa to undertake agreed cultural ceremonies for any highway construction works. This may involve an initial blessing before commencement of highway construction, the removal of tapu at an appropriate time following the completion of highway construction works, and other sites blessings as appropriate.
- 122 Appendix B of the MOU sets out a range of "Issues for Future Discussion". The main concerns identified by Ngati Toa in the Assessment of Cultural Effects have also been included as issues for ongoing discussion between Ngati Toa and NZTA. These include sediment and erosion control and particularly the monitoring of mitigation measures to ensure they are providing adequate protection for streams and marine environments. The effectiveness of stormwater management is also included, along with the need for monitoring the effects of in-stream structures to ensure that fish passage does not become obstructed and that stream habitat is being appropriately protected.

ASSESSMENT OF PART 2 MATTERS

- 123 Part 2 of the RMA sets out the matters which must be taken into account by decision makers in considering resource consent applications and notices of requirement. In promoting the sustainable management of natural and physical resources (Section 5), Part 2 also provides further direction on matters of national importance (Section 6), other matters (Section 7) and the principles of the Treaty of Waitangi (Section 8) which should be addressed by the Proposal.
- 124 In Ngati Toa's assessment, the Proposal does recognise and provide for the matters listed within Section 6(e) of the RMA. In particular, the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga has been provided for through a range of measures, including:
- 124.1 The avoidance of known waahi tapu and other sites of cultural significance along the Main Alignment through sensitive route design;
- 124.2 The inclusion of an Accidental Discovery Protocol given the traditional use of the area for the customary gathering of food and resources and therefore the potential for the discovery of waahi tapu in the vicinity;
- 124.3 The proposed mitigation and consent conditions that specifically address Ngati Toa's values in relation to protecting the sustainability of the environment, and particularly the streams and Porirua Harbour, from both the construction and operational effects of the Proposal;
- 124.4 The anticipated benefits of the Proposal, particularly in terms of enhancement of ecological values over the longer term; and
- 124.5 The implementation of protocols for engagement with Ngati Toa through the MOU.
- 125 The Proposal has also had particular regard to Kaitiakitanga, as required by Section 7(a). The exercise of Kaitiakitanga by Ngati Toa has been recognised primarily through the engagement of the Runanga to provide specific cultural impact statements on behalf of Ngati Toa in relation to the Proposal area (Technical Report 18). Ngati Toa's role as Kaitiaki has also been recognised in the MOU which provides opportunities for Ngati Toa's involvement in stream diversion activities and the conduct of cultural ceremonies/rituals as appropriate.

- 126 Finally, the Proposal has responded appropriately to Section 8 of the RMA. The principles of the Treaty of Waitangi have been taken into account by the MOU which recognises the partnership between Ngati Toa and the NZTA (as a Crown agency), and the retention by Ngati Toa of rangatiratanga over their resources and Taonga. Further to this, the principle of active protection of Maori in the use of their lands and waters has been satisfied through the mitigation measures and conditions proposed as part of the Project.
- 127 In conclusion, Ngati Toa consider that the benefits of the Proposal alongside the proposed measures to avoid, remedy and mitigate the adverse effects of the Proposal, leads to the conclusion that the Proposal is consistent with Sections 6(e), 7(a) and 8 of the RMA and it therefore satisfies statutory requirements in relation to matters of Maori resource management.

CONCLUSIONS

- 128 The Assessment of Cultural Effects identified potential adverse cultural effects arising from both the construction and operation of the Proposal, particularly in relation to the discharge of sediment to freshwater and marine environments. However, Ngati Toa consider that the proposed measures to avoid, remedy and mitigate the effects of the Proposal will appropriately address these cultural effects. The road alignment has been refined considerably over the course of the Project's development which has helped to avoid or minimise adverse effects, reducing the overall impact of the Proposal. Over time, Ngati Toa consider that the mitigation will reduce the scale of any residual effects to the point where there will be a range of positive effects on the environment.



Miria Louise Woodbine Pomare
17 November 2011