Te Parawhau Hapū Incorporation
Ngātokimatawhaorua Waka District, Te-Ika-a-Maui, Aotearoa
[redacted]

ASSISTING COMMENTS TO THE EXPERT PANEL

Alternative to the Brynderwyn Hills Project
Fast-track Approvals Act 2024

PART I – INTRODUCTION

1.1 Purpose of these Comments

These comments are lodged by Te Parawhau Hapū Incorporation, presenting on behalf of Kōwhai Te Awhina Hapū, pursuant to sections 53 and 54 of the Fast-track Approvals Act 2024 following the Expert Panel's invitation to comment on the substantive application lodged by New Zealand Transport Agency Waka Kotahi.

The Incorporation respectfully acknowledges the Expert Panel's recognition of the Incorporation as an 'other Māori group with relevant interests' and welcomes the opportunity to assist the Expert Panel in its consideration of the application.

1.2 Procedural Background

Prior to the present invitation, the Incorporation lodged a memorandum identifying its interest in the project and requesting recognition as a Hapū organization with relevant interests in the Project.

The Expert Panel subsequently exercised its discretion to invite the Incorporation to participate in the present comment process.

Consistent with Minute 3, the Incorporation adopts and incorporates those earlier procedural matters insofar as they relate to the substantive issues now before the Expert Panel.

1.3 Scope of these Comments

These comments address the Applicant's Opening Legal Submissions, the Additional Application Material, the Applicant's Proposed Conditions, Volumes A–D of the substantive application, the Cultural Impact Assessment, supporting technical reports, and any additional conditions the Expert Panel considers appropriate.

The purpose of these comments is to assist the Expert Panel by identifying matters that, in the Incorporation's respectful submission, warrant further consideration before the application is determined.

1.4 General Observations

The Incorporation recognizes the strategic importance of transport infrastructure to Northland.

Infrastructure of this scale also has the potential to affect whenua, waterways, ecological systems, archaeological sites, cultural landscapes and the customary responsibilities of affected Hapū.

The Incorporation respectfully submits that the Expert Panel's assessment extends beyond engineering and environmental matters to include whether the proposed conditions adequately recognize and protect the interests, responsibilities and enduring relationship of affected Hapū with the lands, waters and taonga that may be directly affected by the project.

1.5 Customary Usages, Values and Practices

The Incorporation respectfully considers that its relationship with the lands, waters and taonga within the project area is informed by Māori customs and usages, values and practices exercised over generations by Hapū.

These customary relationships include responsibilities for the care, protection and stewardship of whenua, waterways, wāhi tapu, indigenous biodiversity and other taonga according to tikanga.

The Incorporation's comments are therefore informed not only by environmental considerations but also by those customary usages, values and practices which inform and underpin its assessment of the potential effects of the proposed project.

The Incorporation respectfully invites the Expert Panel to have regard to these customary relationships when considering the adequacy of the Applicant's proposed conditions, management plans and engagement processes.

PART II – REVIEW OF THE APPLICANT'S OPENING LEGAL SUBMISSIONS

2.1 Introduction

The Incorporation has reviewed the Applicant's Opening Legal Submissions, which set out the legal framework advanced in support of the application.

These comments are provided to assist the Expert Panel before consideration of the substantive evidence.

2.2 General Observations

The Applicant's Opening Legal Submissions outline the statutory framework, project objectives and the Applicant's position regarding regional and national benefits.

The Incorporation respectfully submits that these matters should be considered alongside environmental, cultural and customary interests potentially affected by the proposal.

2.3 Statutory Framework

The Incorporation notes the Applicant's interpretation of the Fast-track Approvals Act 2024 and respectfully invites the Expert Panel to independently assess whether the evidence supports the conclusions advanced.

2.4 Balancing Exercise

The Applicant proposes that anticipated public benefits outweigh adverse effects.

The Incorporation respectfully submits that the balancing exercise should also consider customary relationships, cultural responsibilities, ecological systems and the adequacy of proposed mitigation and management arrangements.

2.5 Cultural and Hapū Interests

Matters affecting Hapū extend beyond environmental effects alone and include customary usages, values and practices exercised in accordance with tikanga, together with enduring relationships with whenua, waterways and taonga.

The Incorporation respectfully submits that these matters should inform the Expert Panel's consideration of the legal framework advanced by the Applicant.

2.6 Transition to the Evidence

Having reviewed the Opening Legal Submissions, the Incorporation now turns to the Additional Application Material, the Applicant's Proposed Conditions, the substantive application and supporting technical evidence.

PART III – REVIEW OF ADDITIONAL APPLICATION MATERIAL

3.1 Introduction

Following lodgment of the substantive application, the Applicant filed additional application material comprising revised management plans, proposed consent

documentation, technical reports and supporting appendices for consideration by the Expert Panel.

These comments identify the principal themes arising from that material before consideration of the Applicant's proposed conditions.

3.2 General Observations

The additional application material demonstrates an evolving application supported by extensive technical assessments, mapping, management plans and implementation frameworks.

The Incorporation has reviewed the material collectively to identify recurring issues relevant to the Expert Panel's assessment.

3.3 Management Plan Framework

A recurring feature is the reliance upon management plans, certification, monitoring, adaptive management, consultation and certification during implementation.

The Expert Panel is respectfully invited to consider whether this framework provides sufficient certainty, accountability and transparency throughout the life of the project.

3.4 Cultural Values Management

The additional material introduces Cultural Values Management and associated planning mechanisms.

The effectiveness of these arrangements will depend upon meaningful engagement with affected Hapū and will be considered further alongside the Cultural Impact Assessment.

3.5 Wetlands, Watercourses and Ecological Systems

The additional material identifies wetlands, numerous named watercourses, indigenous vegetation, wildlife release sites and ecological management measures.

The Incorporation respectfully submits that these matters should be considered cumulatively, recognizing the interconnected relationship between ecological systems, waterways, cultural landscapes and the customary responsibilities exercised by affected Hapū.

The Expert Panel may wish to consider whether the proposed framework adequately protects hydrological connectivity, downstream effects, fish passage and long-term ecological resilience.

3.6 Cultural Landscapes and Heritage

The additional material identifies archaeological sites, avoidance areas and places of recognized heritage significance, including the Brynderwyn bus crash avoidance area.

The Incorporation notes that these mapped areas demonstrate that avoidance is recognized as an appropriate management response where significant values are present. The Expert Panel may therefore wish to consider whether places identified through Hapū knowledge and customary relationships are afforded equivalent consideration where appropriate.

3.7 Contaminated Land

The additional material identifies locations requiring detailed site investigations before works proceed.

The Expert Panel may wish to consider contingency arrangements where contamination is encountered beyond mapped areas, together with protection of surrounding whenua and waterways during excavation, transport and disposal activities.

3.8 Recognition of Hapū Interests

The additional material contains extensive environmental and technical mapping. However, the Incorporation observes that there does not appear to be an equivalent spatial framework recognizing affected Hapū authority and responsibilities.

The Expert Panel is respectfully invited to consider whether the governance and engagement arrangements sufficiently recognize all affected Hapū whose customary interests may be directly engaged by the project.

3.9 Consultation Framework

Consultation is a recurring feature throughout the additional application material and many proposed management plans.

The Incorporation notes this recurring approach. The adequacy of consultation and the Incorporation's position regarding meaningful good-faith negotiation are addressed further in Part IV.

3.10 Interim Observations

The additional application material provides valuable technical assistance and establishes the operational framework proposed by the Applicant.

However, the Incorporation respectfully submits that the material identifies matters requiring further consideration regarding recognition of affected Hapū, implementation responsibilities, governance arrangements and long-term accountability management arrangements before determination of the substantive application.

The matters identified above are considered further in Part IV when reviewing the adequacy of the Applicant's proposed conditions.

PART IV – REVIEW OF THE APPLICANT'S PROPOSED CONDITIONS

Part IV should be read together with Part III. Having reviewed the Applicant's Additional Application Material, the Incorporation now considers whether the proposed designation and consent conditions adequately respond to the matters identified in that material.

4.1 The Incorporation has reviewed the Applicant's proposed designation and consent conditions. The following observations are offered to assist the Expert Panel in determining whether the proposed conditions adequately avoid, remedy or mitigate adverse effects and appropriately recognize the interests and responsibilities of affected Hapū.

4.2 General Observations

The proposed conditions establish an extensive framework of management plans, monitoring, consultation and certification. The Incorporation recognizes the comprehensive nature of this framework while inviting the Expert Panel to consider whether it provides sufficient certainty, accountability and protection throughout the life of the project.

4.3 Recognition of Hapū

The proposed conditions repeatedly rely upon consultation with identified Māori organisations during preparation of management plans. The Incorporation respectfully invites the Expert Panel to consider whether the proposed framework adequately recognizes all affected Hapū whose customary interests and responsibilities may be directly engaged by the designation and associated works.

4.4 Wetlands and Waterways

The proposed conditions identify wetlands and numerous watercourses throughout the designation corridor. The Expert Panel may wish to consider whether the proposed conditions adequately protect hydrological connectivity, downstream effects, sediment management, fish passage and the broader health of interconnected catchments.

4.5 Ecology and Wildlife

The ecological conditions and proposed wildlife release sites demonstrate a commitment to ecological mitigation. The Incorporation invites consideration of whether long-term monitoring, adaptive management and Hapū participation in implementation are sufficient to demonstrate that ecological values are maintained over time.

4.6 Archaeology and Cultural Landscapes

The proposed archaeological and avoidance areas recognize important heritage values. The Incorporation respectfully submits that the Expert Panel may also wish to consider whether places of cultural significance identified through Hapū knowledge are adequately recognized alongside recorded archaeological sites.

4.7 Contaminated Land

The contamination conditions identify areas requiring detailed site investigations. The Expert Panel may wish to consider contingency arrangements should contamination be identified outside mapped areas, including protection of surrounding land and waterways during excavation and disposal activities.

4.8 Interim Conclusion

Taken together, the proposed conditions provide an important framework for environmental management. The Incorporation respectfully submits that further consideration should be given to the recognition of affected Hapū, cultural governance, implementation responsibilities and any additional conditions the Expert Panel considers necessary before determining the application.

PART V – REVIEW OF VOLUME A – SUBSTANTIVE APPLICATION

5.1 Introduction

The Incorporation has reviewed Volume A of the Applicant's Substantive Application together with the accompanying engineering, environmental and

technical material, including the Cultural Impact Assessments prepared on behalf of Patuharakeke Te Iwi Trust Board and Te Uri o Hau Settlement Trust.

The Incorporation acknowledges the considerable work undertaken by the Applicant, its consultants, and those who prepared the technical and cultural reports. The material provides the Expert Panel with extensive information regarding the proposed designation, resource consents, environmental effects, engineering design, ecological matters, and cultural assessments.

The Incorporation also acknowledges that the Cultural Impact Assessments prepared for Patuharakeke Te Iwi Trust Board and Te Uri o Hau Settlement Trust identify cultural values, customary interests, recommended management frameworks, partnership arrangements, monitoring programmes, and consent conditions intended to address cultural effects should the Project proceed.

The Incorporation respectfully notes that its participation before the Expert Panel is materially different.

Te Parawhau Hapū Incorporation stands before the Expert Panel as a Māori Incorporation constituted pursuant to Te Ture Whenua Māori Act 1993, presenting for the customary interests and responsibilities of Kōwhai Te Awhina Hapū.

The Incorporation has lodged an objection to the designation and consent applications.

Accordingly, the purpose of these comments is not to assist implementation of the Project through partnership arrangements alone. Rather, these comments are provided to assist the Expert Panel in determining whether the Applicant has adequately addressed the legal, environmental, cultural and customary matters that must properly be considered before any decision is made.

The Incorporation therefore respectfully requests that its comments be considered independently of the Applicant's evidence and independently of the recommendations contained within the Cultural Impact Assessments prepared by other Māori organisations.

The Incorporation further respectfully submits that customary usages, values and practices are inseparable from the continuing exercise of native title responsibilities. Those customary responsibilities extend beyond archaeological sites and recorded heritage values and include the continuing exercise of

tikanga, kaitiakitanga, ahi kā, cultural governance, and intergenerational obligations owed by Hapū to their ancestral lands, waters and taonga.

The Incorporation further observes that consultation is a recurring feature throughout the Applicant's material.

Consistent with the constitutional instruments adopted by the Incorporation under the Conservation Act framework, the Incorporation respectfully maintains that where customary rights and responsibilities of affected Hapū are engaged, consultation alone is insufficient. Good-faith negotiation is the appropriate standard for engagement where the exercise of customary authority and responsibilities is directly affected.

Accordingly, the observations contained throughout Part V should not be interpreted as acceptance of the Project. They are provided solely to assist the Expert Panel in determining whether the Applicant has satisfactorily addressed the matters required before any determination of the application is made.

5.1A Constitutional and Legislative Framework of the Incorporation Intergrated Environmental and Customary Assessment Framework

For the purposes of these comments, the Incorporation assesses the Project as an interconnected environmental and customary system. Whenua, wai, wetlands, biodiversity, indigenous species, cultural landscapes, archaeological values, customary usages, values, practices and the exercise of tikanga are regarded as interdependent and should therefore be considered collectively rather than as separate matters.

5.1A.1 Constitutional Foundation

These comments are made by Te Parawhau Hapū Incorporation, constituted pursuant to Te Ture Whenua Māori Act 1993. The Incorporation exercises its representative responsibilities in accordance with its Constitution, the resolutions and instruments adopted by its collective Hapū, and its continuing customary responsibilities in relation to whenua, wai, taonga, customary usages, values and practices.

5.1A.2 Amalgamated Constitutional Framework

For the purposes of the constitutional instruments adopted from February 2026, Te Parawhau Hapū Incorporation participates within a constitutional framework established by participating Māori Incorporations, who have amalgamated to constitute Ngāpuhi Incorporation. Within that framework, constitutional

instruments, interpretation instruments, continuance instruments and amendment sets have been adopted to provide a consistent constitutional approach to matters affecting the participating Incorporations.

5.1A.3 Conservation Legislative Framework

The Incorporation's review is undertaken within its adopted Conservation Act framework together with the associated constitutional resolutions, interpretation instruments, continuance instruments and amendment sets. Those instruments extend across the related environmental enactments adopted within Schedules 1-4 and are intended to operate as an integrated legislative framework for the protection of whenua, wai, indigenous biodiversity, taonga tuku iho, customary rights, cultural governance and the exercise of tikanga.

5.1A.4 Related Environmental Enactments

The adopted Conservation framework is intended to operate consistently with the related enactments incorporated within the constitutional schedules adopted by the participating Incorporations. In particular, the review is informed by the environmental enactments contained within:

- Schedule 1 (environmental and natural resource enactments),
- Schedule 2 (freshwater, coastal, fisheries and marine management enactments),
- Schedule 3 (biodiversity, wildlife, heritage and public conservation enactments), and
- Schedule 4 (related environmental, infrastructure and associated enactments interacting with the conservation framework).

Accordingly, the Project has been reviewed as an integrated environmental proposal rather than by considering individual enactments in isolation.

5.1A.5 Negotiation with Hapū

Consistent with the Incorporation's adopted constitutional instruments, where the customary responsibilities of affected Hapū are engaged, the Incorporation considers that meaningful engagement extends beyond consultation alone and should include good-faith negotiation. This principle informs the observations made throughout these comments.

5.1A.6 Application to these Comments

The comments contained throughout Parts I–V, together with the review of

Volumes A–D, should be read consistently with the constitutional and legislative framework described above.

5.2 Review of the Applicant's Main Application

5.2.1 The Incorporation has reviewed the Applicant's Main Application as the principal document supporting the designation and resource consent applications. The Main Application establishes the Applicant's description of the project, the approvals sought, the statutory framework relied upon, the existing environment, and the anticipated benefits and effects of the proposal.

5.2.2 The Incorporation acknowledges that the Main Application is supported by extensive technical investigations, specialist assessments and engineering documentation. These materials provide an important evidential foundation for the Expert Panel's consideration of the proposal.

5.2.3 The Incorporation respectfully records that the Main Application should be considered as an integrated whole. The engineering, environmental, ecological, cultural and technical material should not be viewed in isolation, but collectively, recognizing the interconnected relationship between whenua, waterways, wetlands, biodiversity, cultural landscapes and the customary responsibilities exercised by affected Hapū.

5.2.4 The Main Application places considerable emphasis upon the strategic and economic benefits of the proposed corridor. The Incorporation recognizes that these are matters properly before the Expert Panel. At the same time, the Expert Panel is respectfully invited to consider whether the evidence adequately addresses the long-term effects upon customary relationships, cultural responsibilities and the ongoing exercise of tikanga within the project area.

5.2.5 The Incorporation notes that consultation and engagement are recurring themes throughout the Main Application. Those matters are considered further in Part IV and throughout this review where they relate to recognition of affected Hapū, customary interests and implementation of proposed management arrangements.

5.2.6 The Incorporation also notes that the Main Application relies upon numerous management plans, future approvals, monitoring programmes and adaptive management processes. The Expert Panel may wish to consider whether these mechanisms provide sufficient certainty regarding outcomes, accountability and implementation over the life of the Project.

5.2.7 The Incorporation respectfully considers that the Main Application should be read alongside the accompanying technical reports, engineering drawings and Cultural Impact Assessments. The following sections of Part V examine those materials in greater detail and identify matters that, in the Incorporation's submission, warrant further consideration before determination of the application.

5.3 Engineering Drawings and Design Documentation

5.3.1 The Incorporation has reviewed the engineering drawing package accompanying Volume A, including the general arrangement, road alignment, structural, stormwater and geotechnical drawings. Collectively, these documents illustrate the physical extent and operational footprint of the proposed corridor.

5.3.2 The Incorporation acknowledges the detailed engineering work undertaken to support the application. The drawings provide the Expert Panel with a comprehensive understanding of the proposed road alignment, bridges, earthworks, drainage infrastructure and associated construction activities.

5.3.3 The Incorporation respectfully considers that the drawings should not be viewed solely as engineering plans. They also identify the locations where the Project intersects with waterways, wetlands, indigenous vegetation, cultural landscapes and other areas that may engage the customary responsibilities of affected Hapū.

5.3.4 The extensive reliance upon bridges, culverts, stormwater systems, stream diversions and earthworks demonstrates that the Project will require long-term environmental management. The Expert Panel may wish to consider whether the proposed management framework provides sufficient certainty for implementation, monitoring and accountability throughout the life of the Project.

5.3.5 The Incorporation further notes that the engineering documentation identifies the physical works with precision. The Expert Panel may therefore wish to consider whether an equally clear framework exists for recognizing affected Hapū interests and responsibilities in those same locations where significant works are proposed.

5.3.6 The engineering drawings will be considered alongside the specialist reports that follow, including the stormwater, geological, ecological and cultural assessments. Read together, those documents provide the context necessary for assessing the overall effects of the Project.

5.3.7 The Incorporation respectfully observes that the engineering design should ultimately be assessed not only by its technical performance, but also by whether the proposed avoidance, mitigation, monitoring and governance arrangements adequately address the environmental and customary matters arising from the Project.

5.4 Stormwater, Hydrology and Geotechnical Evidence

5.4.1 The Incorporation has reviewed the stormwater, hydrological and geotechnical evidence accompanying Volume A. These reports identify wetlands, streams, groundwater systems, stormwater infrastructure, erosion and sediment controls, stream diversions and associated management measures proposed for the Project.

5.4.2 The Incorporation respectfully finds that these matters are of particular significance because waterways and associated freshwater systems constitute interconnected taonga whose ecological, cultural and customary values cannot be readily separated.

5.4.3 Consistent with Part I of these comments, the Incorporation's assessment of freshwater systems is informed by customary usages, values and practices together with the customary responsibilities exercised by Hapū in relation to whenua and wai.

5.4.4 The Incorporation acknowledges the considerable technical work undertaken by the Applicant in preparing hydrological, stormwater and geotechnical investigations. These reports provide important information regarding the engineering response proposed for the management of freshwater systems throughout the project corridor.

5.4.5 The proposed road alignment requires numerous stream crossings, culverts, stormwater treatment devices, drainage structures, erosion controls and associated earthworks. The Expert Panel may wish to consider the cumulative effects of these works upon the integrity, connectivity and long-term resilience of freshwater systems rather than considering each structure in isolation.

5.4.6 The Incorporation respectfully considers that where wai is regarded as taonga by affected Hapū, the assessment extends beyond engineering performance alone. The Expert Panel may wish to consider whether the proposed management plans, monitoring programmes and adaptive management arrangements adequately protect the cultural, ecological and

customary values associated with those freshwater systems throughout both construction and the operational life of the Project.

5.4.7 The Incorporation further notes that protection of wai is closely connected with the protection of wetlands, indigenous biodiversity, customary resources and downstream environments. These interconnected relationships should, in the Incorporation's respectful submission, be considered collectively when assessing the adequacy of the proposed mitigation measures.

5.4.8 The observations in this section provide the context for the subsequent review of the Cultural Impact Assessments, where the interaction between technical mitigation and customary responsibilities is considered in greater detail.

5.5 Review of the Patuharakeke Cultural Impact Assessment

5.5.1 The Incorporation has reviewed the Cultural Impact Assessment prepared on behalf of Patuharakeke Te Iwi Trust Board. The Incorporation acknowledges the considerable work undertaken by the authors in identifying cultural values, potential effects and recommended management responses.

5.5.2 The Assessment provides the Expert Panel with extensive information regarding cultural values associated with the project area and recommends a range of management plans, partnership arrangements, monitoring programmes and consent conditions intended to protect those values should the Project proceed.

5.5.3 The Incorporation acknowledges that the Assessment identifies significant cultural concerns and recommends enhanced cultural governance, participation and long-term protection measures. To the extent that those recommendations seek to improve the protection of whenua, wai and taonga, they provide information that may assist the Expert Panel.

5.5.4 The Incorporation respectfully notes, however, that its participation before the Expert Panel is materially different. The Incorporation has lodged an objection to the designation and consent applications and is participating to assist the Expert Panel in determining whether the Project should proceed and, if so, whether further matters require resolution before any future engagement occurs.

5.5.5 The Incorporation's comments should therefore not be interpreted as adopting, endorsing or rejecting the conclusions of the Patuharakeke Cultural Impact Assessment. Rather, the Assessment is considered as one source of information before the Expert Panel alongside the Applicant's technical evidence and the Incorporation's own submissions.

5.5.6 Where the Assessment discusses customary authority, representation, ahi kā or other matters concerning cultural responsibility within the project area, the Incorporation respectfully reserves its own position. Any observations made by the Incorporation regarding those matters should be understood as reflecting its own mandate, customary responsibilities and constitutional framework, and not as a commentary on the mandate or position of any other organisation.

5.5.7 Consistent with these comments, the Incorporation respectfully submits that recognition of affected Hapū should be determined on the evidence before the Expert Panel and that meaningful engagement should appropriately recognize the customary usages, values, practices and responsibilities of all affected Hapū.

5.5.8 The Incorporation will refer to specific matters arising from the Cultural Impact Assessment where relevant during the remainder of its review of Volume A and the subsequent volumes, particularly where those matters intersect with engineering evidence, environmental management or the proposed consent conditions.

5.6 Review of the Te Uri o Hau Cultural Values and Impact Assessment

5.6.1 The Incorporation has reviewed the Cultural Values and Impact Assessment prepared on behalf of Te Uri o Hau Settlement Trust. The Incorporation acknowledges the work undertaken by the authors in identifying cultural values, potential effects and recommended responses to the proposed Project.

5.6.2 The Assessment provides detailed information concerning cultural values, potential impacts, recommended management measures and proposed consent conditions intended to protect those values should the Project proceed.

5.6.3 The Incorporation acknowledges that the Assessment identifies significant matters relating to whenua, wai, cultural landscapes and the continuing relationship of Māori with the project area. To the extent that the Assessment

recommends improved protection of cultural values and taonga, it provides information that may assist the Expert Panel in its deliberations.

5.6.4 The Incorporation respectfully notes that its participation before the Expert Panel is distinct. The Incorporation has lodged an objection to the designation and consent applications and is participating to assist the Expert Panel in determining whether the application has adequately addressed the legal, environmental, cultural and customary matters raised by the Project.

5.6.5 The Incorporation's comments should not be interpreted as adopting or rejecting the Assessment in its entirety. Rather, the Assessment is considered as one source of evidence alongside the Applicant's technical reports, the Patuharakeke Cultural Impact Assessment and the Incorporation's own submissions.

5.6.6 Where the Assessment addresses customary relationships, representation, participation or governance within the project area, the Incorporation respectfully reserves its own position. Any observations made by the Incorporation concerning those matters reflect its own customary responsibilities, constitutional framework and mandate, and are not intended as commentary upon the position of any other organisation.

5.6.7 The Incorporation respectfully considers that recognition of affected Hapū and meaningful engagement should be informed by the evidence before the Expert Panel, together with Māori customs, usages, values, practices and responsibilities associated with the lands, waters and taonga affected by the Project.

5.6.8 The Incorporation will refer to specific aspects of the Assessment where relevant during the remaining review of Volume A and subsequent volumes, particularly where the cultural evidence intersects with engineering design, environmental management and the proposed consent conditions.

5.7 Interim Conclusions on Volume A

5.7.1 The Incorporation respectfully comments that Volume A provides the Expert Panel with a comprehensive description of the proposed Project, supported by substantial engineering, environmental, hydrological, geological and cultural material.

5.7.2 The Incorporation acknowledges the extensive technical work undertaken by the Applicant and by the authors of the Cultural Impact Assessments. Collectively, these documents provide an important evidential foundation for the Expert Panel's consideration of the application.

5.7.3 At the same time, the Incorporation considers that the evidence identifies matters requiring careful consideration before any determination is made. These include the long-term protection of whenua and wai, recognition of customary usages, values and practices, the responsibilities of affected Hapū, and the adequacy of the proposed management and engagement framework.

5.7.4 The Incorporation reiterates that its participation is as an objector to the application. Its comments are intended to assist the Expert Panel by identifying matters that, in its respectful submission, require resolution before any future engagement or negotiation concerning the Project could properly occur.

5.7.5 The Incorporation further considers that the engineering, environmental and cultural evidence should not be considered in isolation. Rather, the Project should be assessed as an integrated whole, recognizing the interrelationship between whenua, wai, wetlands, biodiversity, cultural landscapes and the continuing customary responsibilities exercised by affected Hapū.

5.7.6 The Incorporation respectfully maintains that where customary rights and responsibilities are engaged, meaningful engagement extends beyond consultation alone. From the Incorporation's perspective, good-faith negotiation provides the more appropriate framework for engagement should the Project proceed beyond the present stage.

5.7.7 Volume A establishes the framework for the detailed technical evidence that follows in the subsequent volumes. The Incorporation will now examine that evidence in greater detail to assess whether it supports the conclusions advanced by the Applicant and whether the proposed mitigation and management measures adequately address the environmental, cultural and customary matters identified throughout these comments.

PART VI – REVIEW OF VOLUME B – PLANNING AND STATUTORY FRAMEWORK

6.1 Introduction

The Incorporation has reviewed Volume B of the Applicant's evidence, which sets out the statutory planning framework relied upon in support of the proposed designation and associated resource consent applications.

Unlike Volume A, which principally describes the Project and its supporting technical material, Volume B establishes the legal and planning basis upon which the Applicant submits that the Project should be approved.

The planning framework identifies the statutory provisions, planning instruments, national direction, regional planning documents, iwi management plans and associated planning assessments relied upon by the Applicant in support of the proposed works.

The Incorporation respectfully considers that the planning framework is central to the determination of the applications because it provides the legal foundation upon which the Applicant's technical, environmental and cultural evidence is intended to operate.

The Incorporation's review of Volume B is undertaken consistently with the Constitutional and Legislative Framework established in Part V of these comments, including the Integrated Environmental and Customary Assessment Principle. Accordingly, the observations contained throughout this Part consider the planning framework as an interconnected environmental and customary system rather than as a series of isolated statutory requirements.

In undertaking this review, the Incorporation has considered:

- Whether the relevant statutory framework has been accurately identified and applied.
- Whether the planning analysis is supported by the technical and environmental evidence presented by the Applicant.
- Whether the planning framework adequately recognizes the continuing customary responsibilities of affected Hapū in relation to whenua, wai and taonga.

- Whether the proposed planning approach provides sufficient protection for whenua, wai, biodiversity, indigenous species, cultural landscapes and associated environmental values.
- Whether the proposed engagement framework appropriately addresses the matters identified within the Incorporation's Constitutional and Legislative Framework, including the Incorporation's adopted Resource Management Act section 8 amendment, Negotiation Instrument, Conservation legislative framework and related environmental enactments.

Accordingly, the Incorporation now turns to the Applicant's statutory planning framework, beginning with the relevant policy and planning documents relied upon in support of the applications. The observations that follow are intended to assist the Expert Panel in determining whether the planning framework is supported by the evidence and whether it adequately addresses the environmental, cultural and customary matters engaged by the Project.

6.2 Relevant Policy and Planning Documents

6.2.1 The Applicant has identified a comprehensive range of statutory planning instruments, national direction, regional planning documents and other policy frameworks said to be relevant to the proposed designation and associated resource consent applications. Collectively, these documents establish the planning context within which the Project is to be assessed.

6.2.2 The Incorporation acknowledges that the identification of these planning instruments is an important component of the Applicant's statutory assessment. However, the existence of a planning framework does not, of itself, determine whether the proposed Project appropriately recognizes and provides for the environmental, cultural and customary matters engaged by the applications.

6.2.3 Consistent with the Constitutional and Legislative Framework established in Part V, the Incorporation has reviewed each planning instrument as part of an integrated environmental and customary assessment. The Applicant's reliance upon individual statutory provisions has therefore been considered collectively, recognizing the interconnected relationship between conservation, freshwater, biodiversity, heritage, cultural landscapes, tikanga, customary usages, values and practices, and the continuing responsibilities exercised by affected Hapū.

6.2.4 The Incorporation further observes that planning instruments should not be read in isolation from one another. National legislation, regional planning

documents, district planning provisions and recognized environmental objectives each contribute to the overall planning framework and should therefore be interpreted consistently with the environmental and customary matters they are intended to address.

6.2.5 Where planning instruments identify obligations relating to the protection of natural character, indigenous biodiversity, freshwater, landscapes, heritage, cultural values, customary interests or other protected interests, the Incorporation has considered whether those obligations are adequately reflected in the Applicant's assessment and whether the proposed mitigation measures are supported by the evidence presented.

6.2.6 The Incorporation has also considered whether the planning framework relied upon by the Applicant adequately recognizes the continuing customary responsibilities exercised by affected Hapū and whether the proposed engagement processes appropriately address those responsibilities in a manner consistent with the Incorporation's Constitutional and Legislative Framework.

6.2.7 The following sections therefore review the principal planning instruments relied upon by the Applicant, together with the manner in which those instruments have been applied throughout the planning assessment.

6.3 Resource Management Act 1991

6.3.1 The Applicant relies upon the Resource Management Act 1991 as a principal statutory foundation for the designation and associated resource consent applications. The Incorporation acknowledges that the Act provides an important component of the planning framework supporting the Project.

6.3.2 The Incorporation has reviewed the Applicant's assessment of the Resource Management Act consistently with the Constitutional and Legislative Framework established in Part V, including the Incorporation's adopted constitutional interpretation of section 8 and its related constitutional instruments.

6.3.3 The Incorporation respectfully considers that the Resource Management Act should be interpreted as an integrated environmental statute. The assessment of the Project should therefore recognize the interconnected relationship between whenua, wai, indigenous biodiversity, natural character, heritage, cultural landscapes and the continuing customary responsibilities exercised by affected Hapū.

6.3.4 The Incorporation notes that statutory compliance alone does not determine whether the planning assessment has adequately addressed the environmental and customary matters engaged by the Project. The Expert Panel may also consider whether the Applicant's analysis is supported by the technical evidence presented throughout the application.

6.3.5 In reviewing the Applicant's reliance upon the Resource Management Act, the Incorporation has considered whether the planning assessment appropriately identifies the relevant statutory provisions, whether those provisions have been consistently applied, and whether the resulting conclusions are supported by the evidence.

6.3.6 The Incorporation has further considered whether the Applicant's planning framework adequately recognizes the continuing responsibilities of affected Hapū in relation to whenua, wai and taonga, and whether the proposed engagement processes appropriately respond to those responsibilities.

6.3.7 Consistent with the Incorporation's Constitutional and Legislative Framework, the observations that follow are informed by the Incorporation's adopted amendment to section 8 of the Resource Management Act, the Negotiation Instrument, and the related Conservation legislative framework. Those instruments provide the constitutional context within which the Incorporation has reviewed the Applicant's planning analysis.

6.3.8 The following sections examine the Applicant's treatment of the relevant provisions of the Resource Management Act together with the associated planning instruments relied upon in support of the applications.

6.4 National Policy Statements

6.4.1 The Applicant relies upon a number of National Policy Statements as part of the statutory planning framework supporting the proposed designation and associated resource consent applications. These national instruments establish objectives and policies intended to guide decision-making under the Resource Management Act 1991.

6.4.2 The Incorporation acknowledges that National Policy Statements are an important component of the planning framework. Their application, however, should be considered together with the evidence presented throughout the

application and not in isolation from the environmental, cultural and customary matters engaged by the Project.

6.4.3 Consistent with the Constitutional and Legislative Framework established in Part V, the Incorporation has reviewed the National Policy Statements as part of an integrated environmental and customary assessment. Particular attention has been given to the protection of whenua, wai, indigenous biodiversity, natural character, cultural landscapes and the continuing customary responsibilities exercised by affected Hapū.

6.4.4 The Incorporation respectfully considers that where National Policy Statements recognize the protection of natural resources, environmental values affected Hapū interests and customary responsibilities, the relevant objectives and policies should be applied consistently across the planning assessment and supported by the technical evidence relied upon by the Applicant.

6.4.5 The Incorporation has therefore considered whether the Applicant's planning assessment accurately identifies the relevant National Policy Statements, whether their objectives and policies have been appropriately interpreted, and whether the conclusions reached are supported by the evidence presented.

6.4.6 The Incorporation has also considered whether the planning framework appropriately recognizes the interconnected relationship between conservation, freshwater management, biodiversity, heritage, cultural values and tikanga, rather than treating those matters as separate disciplines.

6.4.7 The following sections consider the individual National Policy Statements relied upon by the Applicant together with the extent to which they support the planning conclusions advanced in the application.

6.5 Regional Policy Statement

6.5.1 The Applicant relies upon the Northland Regional Policy Statement as a key component of the statutory planning framework supporting the proposed designation and associated resource consent applications. The Regional Policy Statement establishes the regional objectives and policies intended to guide the sustainable management of natural and physical resources within Te Taitokerau.

6.5.2 The Incorporation respectfully notes that, for the purposes of the Constitutional and Legislative Framework, Te Taitokerau is understood as the Ngātokimatawhaorua Waka District, within which participating Māori Incorporations have amalgamated under the constitutional framework of Ngāpuhi Incorporation. The Incorporation's review of the Regional Policy Statement is therefore undertaken from the perspective of the participating Māori Incorporations within that Waka District and the continuing customary responsibilities they exercise.

The Incorporation nevertheless acknowledges the importance of the Regional Policy Statement in providing strategic direction for regional planning. The application of those objectives and policies should, however, be assessed alongside the technical, environmental, cultural and customary evidence presented throughout the application.

6.5.3 Consistent with the Constitutional and Legislative Framework established in Part V, the Incorporation has reviewed the Regional Policy Statement as part of an integrated environmental and customary assessment. Particular regard has been given to the relationship between whenua, wai, indigenous biodiversity, natural character, cultural landscapes, heritage values and the continuing responsibilities exercised by affected Hapū.

6.5.4 The Incorporation respectfully comments that the Regional Policy Statement should be interpreted as an integrated planning document. Objectives and policies concerning freshwater, biodiversity, natural hazards, infrastructure, heritage and Māori interests should be applied consistently rather than as separate planning disciplines.

6.5.5 The Incorporation has therefore considered whether the Applicant has accurately identified the relevant objectives and policies of the Regional Policy Statement, whether those provisions have been applied consistently throughout the planning assessment, and whether the conclusions reached are supported by the evidence presented.

6.5.6 The Incorporation has also considered whether the Applicant's planning analysis adequately recognizes the continuing customary responsibilities of affected Hapū and whether the proposed management framework appropriately protects the interconnected environmental and cultural values engaged by the Project.

6.5.7 The observations that follow examine the Applicant's reliance upon the Regional Policy Statement together with the extent to which its objectives and policies support the conclusions advanced in the planning assessment.

6.6 Regional and District Plans

6.6.1 The Applicant relies upon the relevant regional and district planning documents to demonstrate that the proposed designation and associated resource consent applications are consistent with the planning framework applying within the Project area.

6.6.2 The Incorporation acknowledges that regional and district plans give practical effect to higher-order statutory instruments. Their objectives, policies, rules and assessment criteria provide an important framework for evaluating the environmental effects of the Project.

6.6.3 Consistent with the Constitutional and Legislative Framework established in Part V, the Incorporation has reviewed these planning documents as part of an integrated environmental and customary assessment. Particular regard has been given to the protection of whenua, wai, indigenous biodiversity, natural character, cultural landscapes, heritage values, and the customary usages, values, practices and continuing responsibilities of affected Hapū.

6.6.4 The Incorporation respectfully considers that regional and district planning provisions should not be applied in isolation from one another. Rather, they should be interpreted collectively and consistently with the wider environmental and planning framework identified by the Applicant.

6.6.5 The Incorporation has therefore considered whether the Applicant has accurately identified the relevant objectives, policies and rules, whether those provisions have been consistently applied throughout the planning assessment, and whether the conclusions reached are supported by the technical, environmental and cultural evidence presented.

6.6.6 Particular attention has been given to those planning provisions relating to freshwater, wetlands, indigenous biodiversity, natural character, landscape, heritage, infrastructure, and the recognition of the continuing customary responsibilities and customary authority exercised by affected Hapū.

6.6.7 The Incorporation has also considered whether the proposed management measures, consent conditions and monitoring arrangements are capable of giving practical effect to the planning outcomes relied upon by the Applicant.

6.6.8 The observations that follow examine the Applicant's reliance upon the relevant regional and district plans and assess whether those planning provisions provide an adequate basis for approving the applications when considered alongside the evidence presented.

6.7 Iwi Management Plans

6.7.1 The Applicant relies upon a number of iwi management plans as part of the planning framework supporting the proposed designation and associated resource consent applications. Those plans provide cultural, environmental and planning perspectives intended to assist decision-makers in understanding the relationship between tangata whenua and the affected environment.

6.7.2 The Incorporation acknowledges the work undertaken in preparing those management plans and recognizes that they contain information capable of assisting the Expert Panel in its consideration of the applications.

6.7.3 The Incorporation respectfully notes, however, that its participation before the Expert Panel is undertaken pursuant to its own constitutional and representative mandate. Accordingly, these comments should not be interpreted as adopting or rejecting any iwi management plan in its entirety. Rather, each plan has been reviewed as one source of information alongside the Applicant's technical evidence and the other planning documents relied upon in support of the Project.

6.7.4 Consistent with the Constitutional and Legislative Framework established in Part V, the Incorporation has considered whether the Applicant's reliance upon iwi management plans adequately recognizes the customary usages, values, practices and continuing responsibilities of affected Hapū in relation to whenua, wai and taonga.

6.7.5 The Incorporation has also considered whether the planning assessment appropriately distinguishes between the information provided within iwi management plans and the separate customary responsibilities exercised by affected Hapū. The Incorporation respectfully reserves its own position regarding customary authority, representation and mandate wherever those matters arise.

6.7.6 The Incorporation further considers that where iwi management plans identify matters relating to the protection of natural resources, cultural landscapes, wāhi tapu, freshwater, indigenous biodiversity or other taonga, those matters should be evaluated together with the technical evidence and the broader statutory planning framework rather than in isolation.

6.7.7 The observations that follow examine the Applicant's reliance upon the relevant iwi management plans and assess the extent to which they assist the planning assessment while remaining distinct from the Incorporation's own constitutional framework and representative responsibilities.

6.8 Applicant's Overall Planning Assessment

6.8.1 Having reviewed the statutory planning framework, the Incorporation has considered the Applicant's planning assessment as an integrated whole rather than as a collection of separate planning documents.

6.8.2 The Incorporation acknowledges that the Applicant has undertaken a comprehensive planning assessment addressing the statutory framework, national direction, regional planning documents, iwi management plans and supporting technical evidence. Collectively, those documents provide the planning basis upon which the applications are advanced.

6.8.3 The Incorporation respectfully considers that the weight to be given to the planning assessment depends upon whether the conclusions reached are supported by the evidence contained throughout the application, including the engineering, environmental, ecological, hydrological, cultural and other specialist reports.

6.8.4 Consistent with the Constitutional and Legislative Framework established in Part V, the Incorporation has reviewed the planning assessment through an integrated environmental and customary assessment. Particular regard has been given to the relationship between whenua, wai, indigenous biodiversity, natural character, cultural landscapes, heritage, and the continuing customary usages, values, practices and responsibilities of affected Hapū.

6.8.5 The Incorporation has also considered whether the planning assessment adequately recognizes the exercise of customary authority arising from native title and whether the proposed planning framework appropriately addresses those responsibilities where they are engaged by the Project.

6.8.6 The Incorporation further observes that planning conclusions should not rely solely upon statutory compliance. They should also demonstrate that the proposed management framework, mitigation measures and consent conditions are capable of protecting the interconnected environmental, cultural and customary values identified throughout the application.

6.8.7 Where the Applicant relies upon consultation or engagement processes, the Incorporation has considered those matters consistently with its Constitutional and Legislative Framework, including its adopted interpretation of section 8 of the Resource Management Act, the Negotiation Instrument, and the related Conservation legislative framework.

6.8.8 The observations that follow therefore examine the Applicant's planning conclusions against the statutory planning framework, the technical evidence presented, and the constitutional and customary framework identified in Part V of these comments.

PART VII – REVIEW OF LANDSCAPE, VISUAL AND AMENITY ASSESSMENT

7.1 Introduction

7.1.1 The Incorporation has reviewed the Applicant's Landscape, Visual and Amenity Assessment together with the accompanying plans, maps, landscape character assessments and associated technical material relied upon in support of the proposed designation and resource consent applications.

7.1.2 The Applicant's assessment forms an important component of the overall planning framework because it evaluates the landscape character, natural character, visual effects and amenity values said to be affected by the proposed Project.

7.1.3 Consistent with the Constitutional and Legislative Framework established in Part V, the Incorporation has reviewed the Landscape Assessment as part of an integrated environmental and customary assessment. The observations contained throughout this Part therefore consider the landscape evidence collectively with the environmental, cultural and statutory material presented elsewhere within the application.

7.1.4 The Incorporation respectfully considers that landscape should not be regarded solely as a visual or physical resource. For the purposes of these observations, landscape includes whenua, wai, indigenous biodiversity, natural character, cultural landscapes, wāhi tapu, archaeological values, customary usages, values, practices, and the continuing customary responsibilities exercised by affected Hapū in relation to those matters.

7.1.5 The Incorporation further respectfully considers that, within its Constitutional and Legislative Framework, landscape also encompasses native title, customary authority, whakapapa, tikanga, ahi kā, mana whakahaere, and the continuing exercise of customary responsibilities over whenua, wai, taonga and associated cultural landscapes. These matters form part of the living relationship between people and landscape and cannot properly be separated from the assessment of environmental effects.

7.1.6 Accordingly, the Incorporation has considered whether the Applicant's Landscape Assessment adequately recognizes not only the physical characteristics of the environment, but also the customary relationships, responsibilities and authority engaged by the Project.

7.1.7 Particular attention has therefore been given to whether the Applicant's methodology adequately identifies the interconnected relationship between landscape, natural character, indigenous biodiversity, freshwater, cultural landscapes, customary authority arising from native title and the continuing customary responsibilities exercised by affected Hapū.

7.1.8 The observations that follow examine the Applicant's Landscape Assessment to determine whether the conclusions reached are supported by the evidence presented and whether the assessment provides an adequate basis upon which the Expert Panel may determine the applications.

7.2 Assessment Framework and Methodology

7.2.1 The Incorporation has reviewed the Applicant's Assessment Framework and Methodology as the foundation upon which the Landscape, Visual and Amenity Assessment has been prepared.

7.2.2 The Incorporation acknowledges that the Applicant has adopted a recognized professional methodology, identified the purpose and scope of the

assessment, disclosed the qualifications and experience of the landscape experts, and confirmed compliance with the applicable Code of Conduct.

7.2.3 The Incorporation respectfully considers that a transparent and consistent methodology is fundamental to any assessment of landscape effects. The methodology adopted should therefore be capable of identifying and evaluating all relevant physical, environmental, cultural and customary matters engaged by the Project.

7.2.4 The Incorporation has reviewed the Applicant's methodology as part of its integrated environmental and customary assessment. Particular regard has been given to the definitions of landscape, landscape character, landscape values, visual effects and natural character together with the manner in which those concepts have been applied throughout the assessment.

7.2.5 The Incorporation respectfully considers that, within its Constitutional and Legislative Framework, the relationship between people and landscape also encompasses native title, customary authority, whakapapa, tikanga, ahi kā, mana whakahaere, wāhi tapu, customary usages, values and practices, and the continuing customary responsibilities exercised over whenua, wai and taonga.

7.2.6 Accordingly, the Incorporation has considered whether the Applicant's methodology adequately recognizes both the physical characteristics of the landscape and the continuing customary relationships and responsibilities associated with it.

7.2.7 The Incorporation further considers that landscape assessment should be undertaken as an integrated exercise recognizing the interconnected relationship between natural character, indigenous biodiversity, freshwater, cultural landscapes, wāhi tapu, archaeological values and the customary authority arising from native title.

7.2.8 The observations that follow examine the Applicant's methodology and its application throughout the Landscape, Visual and Amenity Assessment before considering the individual landscape character areas identified within the Project.

7.3 Existing Landscape Character

7.3.1 The Incorporation has reviewed the Applicant's description of the existing landscape character as the baseline against which the actual and potential effects of the Project are assessed.

7.3.2 The Incorporation acknowledges that the Applicant has divided the Project area into a series of distinct landscape character areas to assist in describing the existing environment and evaluating the anticipated landscape, natural character and visual effects arising from the proposed works.

7.3.3 The Incorporation respectfully considers that the identification of landscape character areas provides an appropriate framework for describing the physical characteristics of the environment. The effectiveness of that framework, however, depends upon whether it adequately recognizes the interconnected environmental, cultural and customary relationships associated with each landscape.

7.3.4 Consistent with the Constitutional and Legislative Framework established in Part V, the Incorporation has reviewed the existing landscape character through an integrated environmental and customary assessment. Particular regard has been given to whenua, wai, indigenous biodiversity, natural character, cultural landscapes, wāhi tapu, archaeological values, native title, customary authority, whakapapa, tikanga, ahi kā, mana whakahaere, customary usages, values and practices, together with the continuing customary responsibilities exercised by affected Hapū.

7.3.5 The Incorporation respectfully considers that landscape character is not determined solely by topography, vegetation, hydrology or visual amenity. Landscape also embodies the continuing relationship between people and place, including the exercise of customary authority arising from native title and the enduring responsibilities associated with whenua, wai and taonga.

7.3.6 Accordingly, the Incorporation has considered whether the Applicant's description of each landscape character area adequately identifies both its physical characteristics and its continuing environmental, cultural and customary significance.

7.3.7 The observations that follow review each landscape character area identified by the Applicant, together with the associated landscape values, natural character, visual amenity and the customary relationships engaged by the Project.

7.4 Waipū Landscape Character Area

7.4.1 The Incorporation has reviewed the Applicant's assessment of the Waipū Landscape Character Area, including the identified landscape character, natural character, visual amenity values and the anticipated effects associated with the proposed Project.

7.4.2 The Incorporation acknowledges the Applicant's description of the physical landscape, surrounding rural environment, waterways, vegetation, infrastructure and settlement patterns forming part of the Waipū Landscape Character Area.

7.4.3 The Incorporation respectfully considers that the assessment of the Waipū Landscape Character Area should extend beyond its physical and visual characteristics. Landscape also encompasses the continuing relationship between people and place, including native title, customary authority, whakapapa, tikanga, ahi kā, mana whakahaere, wāhi tapu (including, where evidenced, pā sites and other places of customary significance), customary usages, values and practices, and the continuing customary responsibilities exercised by affected Hapū.

7.4.4 The Incorporation has therefore considered whether the Applicant's assessment adequately recognizes the interconnected relationship between landscape character, natural character, freshwater, indigenous biodiversity, cultural landscapes, wāhi tapu, archaeological values and the customary relationships associated with the Waipū Landscape Character Area.

7.4.5 Particular regard has been given to whether the identified landscape values accurately reflect the existing environmental conditions and whether the assessment appropriately recognizes the continuing customary significance of whenua, wai and taonga within the Project area.

7.4.5A The Incorporation respectfully observes that the Waipū river systems are not simply physical landscape features. They form part of a living cultural landscape through which Kōwhai Te Awhina Hapū continues to exercise customary responsibilities associated with the use, protection and stewardship of whenua and wai. The rivers also provide customary access to traditional māhinga kai and other areas of continuing customary use, reinforcing the interconnected relationship between the natural landscape, native title, tikanga and the exercise of customary authority.

7.4.6 The Incorporation has also considered whether the proposed mitigation measures are capable of avoiding, remedying or mitigating adverse effects upon both the physical landscape and the continuing environmental, cultural and customary relationships associated with that landscape.

7.4.7 The observations that follow examine the Applicant's conclusions relating to the Waipū Landscape Character Area together with the evidence relied upon in support of those conclusions.

7.5 Northern Approaches to the Brynderwyn Hills

7.5.1 The Incorporation has reviewed the Applicant's assessment of the Northern Approaches to the Brynderwyn Hills Landscape Character Area, including the identified landscape character, natural character, visual amenity values and the anticipated effects associated with the proposed Project.

7.5.2 The Incorporation acknowledges the Applicant's description of the river catchments, floodplains, indigenous vegetation, rural landscape, infrastructure corridors and the transition from the Waipū lowlands to the Brynderwyn Hills forming part of this Landscape Character Area.

7.5.3 The Incorporation respectfully considers that this Landscape Character Area should be recognized as a living cultural landscape in which the physical environment, native title, customary authority, whakapapa, tikanga, ahi kā, mana whakahaere, wāhi tapu (including, where evidenced, pā sites and other places of customary significance), customary usages, values and practices, and the continuing customary responsibilities exercised by affected Hapū remain interconnected.

7.5.4 The Incorporation has therefore considered whether the Applicant's assessment adequately recognizes the relationship between the Ahuroa River, the Waihoihoi River catchment, associated wetlands, indigenous vegetation and the continuing customary relationships exercised in relation to those natural systems.

7.5.5 Particular regard has been given to whether the identified landscape values adequately reflect the continuing environmental, cultural and customary significance of the river systems, floodplains, remnant indigenous vegetation and associated natural landscapes that characterise this part of the Project area.

7.5.6 The Incorporation respectfully observes that the river systems and associated natural landscapes within this Landscape Character Area continue to support the exercise of customary responsibilities, including customary access, the protection of freshwater resources, indigenous biodiversity, and access to traditional māhinga kai and other areas of continuing customary use. These relationships form part of the living cultural landscape and should be considered alongside the physical and visual characteristics identified by the Applicant.

7.5.7 The Incorporation has also considered whether the proposed mitigation measures are capable of avoiding, remedying or mitigating adverse effects upon both the physical landscape and the continuing environmental, cultural and customary relationships associated with that landscape.

7.5.8 The observations that follow examine the Applicant's conclusions relating to the Northern Approaches to the Brynderwyn Hills Landscape Character Area together with the evidence relied upon in support of those conclusions.

7.6 Brynderwyn Hills – Northern Slopes and Summit

7.6.1 The Incorporation has reviewed the Applicant's assessment of the Brynderwyn Hills – Northern Slopes and Summit Landscape Character Area, including the identified landscape character, natural character, visual amenity values and the anticipated effects associated with the proposed Project.

7.6.2 The Incorporation acknowledges the Applicant's description of the Brynderwyn Hills as a prominent landscape feature forming part of the wider Project area and recognizes the importance of its indigenous vegetation, ridgelines, upper catchments and natural character.

7.6.3 The Incorporation respectfully considers that the Brynderwyn Hills should be recognized as a living cultural landscape in which the physical environment, native title, customary authority, whakapapa, tikanga, ahi kā, mana whakahaere, wāhi tapu (including, where evidenced, pā sites and other places of customary significance), customary usages, values and practices, and the continuing customary responsibilities exercised by affected Hapū remain interconnected.

7.6.4 The Incorporation has therefore considered whether the Applicant's assessment adequately recognizes the relationship between the maunga, its summit, indigenous ngāhere, upper waterways, wāhi tapu, freshwater systems

and the continuing customary relationships associated with this Landscape Character Area.

7.6.5 The Incorporation respectfully observes that the summit and upper catchments include places of continuing cultural and spiritual significance, including wairua tapu associated with springs arising from the maunga and other places of significance. The Incorporation respectfully considers that such places should be protected from disturbance and that any proposed works should avoid adverse effects upon their cultural, spiritual and environmental integrity.

7.6.6 Particular regard has also been given to the lower slopes and foothills of the maunga where māhinga kai continues to be exercised. The Incorporation respectfully considers that these areas form part of the continuing customary use of the landscape and should be assessed not only for their physical and ecological values, but also for their relationship to native title, tikanga and the continuing customary responsibilities exercised by affected Hapū.

7.6.7 The Incorporation has also considered whether the proposed mitigation measures are capable of avoiding, remedying or mitigating adverse effects upon the physical landscape, indigenous ngāhere, freshwater systems and the continuing environmental, cultural and customary relationships associated with the Brynderwyn Hills.

7.6.8 The observations that follow examine the Applicant's conclusions relating to the Brynderwyn Hills – Northern Slopes and Summit Landscape Character Area together with the evidence relied upon in support of those conclusions.

7.7 Overall Assessment of Landscape Effects

7.7.1 The Incorporation has reviewed the Applicant's overall assessment of landscape effects as an integrated assessment rather than as a collection of separate landscape units.

7.7.2 The Incorporation acknowledges that the Applicant has undertaken a comprehensive landscape assessment. The weight to be given to that assessment, however, depends upon whether its conclusions are supported by the environmental, cultural, technical and customary evidence presented throughout the application.

7.7.3 The Incorporation respectfully considers that the overall landscape assessment should recognize that landscape is not limited to visual amenity. It also encompasses whenua, wai, native title, customary authority, tikanga, wāhi tapu (including pā sites where evidenced), indigenous biodiversity, māhinga kai, cultural landscapes and the continuing customary responsibilities exercised by affected Hapū.

7.7.4 The Incorporation has therefore considered whether the Applicant has assessed the cumulative effects of the Project upon the interconnected environmental, cultural and customary values of the landscape rather than treating those matters in isolation.

7.7.5 Particular regard has been given to whether proposed earthworks, vegetation clearance, spoil disposal areas, cuttings, embankments and associated infrastructure may result in permanent changes to the character and integrity of the landscape and the customary relationships associated with it.

7.7.6 The Incorporation respectfully submits that any uncertainty regarding spoil disposal locations, future vegetation clearance or the extent of ongoing disturbance should be clearly identified and assessed before approvals are granted.

7.7.7 The Incorporation has also considered whether the proposed mitigation measures are capable of maintaining the long-term protection of natural landscapes, wāhi tapu, freshwater systems, indigenous ngāhere and the continuing exercise of customary responsibilities.

7.7.8 The observations that follow assess whether the Applicant's overall landscape conclusions provide an adequate evidential basis upon which the Expert Panel may determine the applications.

7.8 Conclusions on Landscape, Visual and Cultural Assessment

7.8.1 The Incorporation respectfully considers that the landscape evidence should be assessed as an integrated environmental and customary assessment rather than as a purely visual exercise.

7.8.2 Landscape values are interconnected with whenua, wai, native title, customary authority, tikanga, wāhi tapu, indigenous biodiversity, māhinga kai and

the continuing responsibilities exercised by affected Hapū and participating Māori Incorporations.

7.8.2A The Incorporation respectfully considers that where the proposed works are intended to permanently modify landscapes subject to continuing native title and customary authority, the Expert Panel should be satisfied that the Applicant has established the lawful basis upon which those interests may be affected. In the absence of evidence demonstrating extinguishment or lawful limitation of those continuing interests, the assessment should proceed on the basis that those customary relationships remain extant and require full consideration.

7.8.3 The Expert Panel should be satisfied that permanent landscape modification, vegetation clearance, spoil placement and associated works have been fully assessed before determining the applications.

7.8.4 Where uncertainty remains regarding the extent or location of future disturbance, precaution should be exercised until adequate supporting evidence is available.

7.8.5 The Incorporation respectfully submits that mitigation measures should demonstrate the long-term protection of both environmental and customary values rather than temporary construction outcomes.

7.8.6 Accordingly, the observations throughout Part VII should assist the Expert Panel in determining whether the Applicant's landscape assessment adequately addresses the matters engaged by the Project.

7.9 Transition to the Next Technical Assessments

7.9.1 Having completed its review of the landscape, visual and amenity evidence, the Incorporation now turns to the remaining technical disciplines relied upon by the Applicant.

7.9.2 The following Parts continue the same integrated methodology adopted throughout these comments, considering each technical report consistently with the Incorporation's Constitutional and Legislative Framework.

7.9.3 The observations that follow should not be interpreted as acceptance of the Project. They are directed solely toward assisting the Expert Panel in determining

whether the statutory and evidential requirements for approval have been satisfactorily addressed.

7.9.4 Each subsequent assessment should therefore be read together with Parts V, VI and VII as a single integrated environmental, cultural and customary assessment.

PART VIII - LAND AUTHORITY FOR PERMANENT MODIFICATION AND ACQUISITION OF WHENUA

8.1 Introduction

8.1.1 The Incorporation has reviewed the Applicant's description of the legal interests affecting land required for the Project together with the proposed acquisition and permanent modification of land necessary for the construction, operation and maintenance of the proposed designation.

8.1.2 The Incorporation recognizes that the proposed Corridor extends across multiple land tenures, catchments and customary landscapes. The proposed works include permanent excavation, filling, spoil disposal, drainage modifications, bridge structures, stream diversions and associated infrastructure which together will permanently alter physical characteristics of affected whenua.

8.1.3 Accordingly, this Part considers whether the Applicant has established an adequate legal, evidential and customary foundation to support the permanent modification and acquisition of whenua before those modifications occur.

8.1.4 The Incorporation respectfully considers that questions concerning land authority arise before engineering, ecological or operational considerations. Unless lawful authority to permanently modify the whenua is first established, the subsequent technical assessments remain incomplete.

8.2 Legal Authority to Permanently Modify Whenua

8.2.1 The Incorporation notes the Applicant's proposal to acquire or permanently affect numerous properties throughout the Project area.

8.2.2 The Incorporation respectfully considers that before any approval is granted, the Expert Panel should be satisfied that the Applicant has demonstrated lawful authority for every proposed permanent modification

affecting land, waterways, wetlands, indigenous vegetation, archaeological landscapes and associated customary interests.

8.2.3 The legal interests recorded upon the land register do not, of themselves, determine the existence or absence of continuing customary relationships, Hapū authority, native title ownership or other Māori interests associated with the affected whenua.

8.2.4 The Incorporation respectfully considers that where unextinguished native title, customary interests, Hapū authority or their continuing relationships to the affected whenua are asserted, those matters constitute relevant legal interests requiring proper consideration before permanent modification or compulsory acquisition proceeds. The existence of registered fee simple interests or statutory acquisition powers does not, of itself, determine or extinguish such asserted interests.

8.2.5 The Incorporation therefore considers that all relevant legal, equitable and customary interests shall be identified and assessed before compulsory acquisition or permanent modification proceeds.

8.2.6 Particular regard shall be given to whether the Applicant has adequately explained the legal and evidential basis upon which permanent landscape modification may occur where customary interests continue to be asserted.

8.3 Permanent Modification of Whenua

8.3.1 The Incorporation respectfully considers that permanent modification extends beyond the acquisition of land itself.

8.3.2 Permanent modification includes, but is not limited to:

- permanent road formation;
- deep excavation and cutting;
- embankments and engineering fills;
- spoil disposal area;
- permanent drainage systems;
- groundwater interception;
- stream diversions;
- wetland modification;
- bridge foundations;
- culverts;

- permanent removal of indigenous vegetation;
- permanent alteration of natural landforms;
- permanent modification of interconnected ecological systems; and
- associated permanent operational infrastructure.

The Incorporation respectfully considers that each of these permanent modifications affects not merely the physical characteristics of the whenua, but also the continuing ecological, hydrological, cultural and customary relationships that exist throughout the wider landscape. Accordingly, permanent modification shall be assessed as an integrated change to the living environmental system rather than as a series of separate engineering activities.

8.3.3 Collectively these activities permanently alter the natural characteristics of the whenua and therefore require careful consideration of their legal, environmental, cultural and customary consequences.

8.3.4 The Incorporation respectfully considers that the authority to permanently modify whenua should be established before reliance is placed upon engineering assessments designed only to mitigate those modifications.

8.4 Living Cultural Landscape

8.4.1 The Incorporation respectfully considers that whenua should not be viewed solely as land capable of acquisition.

8.4.2 Rather, the whenua forms part of an interconnected environmental, cultural and customary landscape comprising:

- whenua;
- wai;
- wetlands;
- streams;
- groundwater;
- wāhi tapu;
- wāhi whakahirahira;
- archaeological landscapes;
- indigenous vegetation;
- indigenous biodiversity;
- māhinga kai;
- whakapapa;
- ahi kā;

- taonga tuku iho;
- tikanga; and
- the continuing responsibilities exercised by affected Hapū.

8.4.3 Permanent modification of one component of that landscape necessarily affects the integrity of the wider environmental and cultural system.

8.4.4 Accordingly, permanent acquisition or modification of the whenua cannot properly be separated from the continuing customary relationships and environmental responsibilities that exist throughout the Project area.

8.4.5 The Incorporation respectfully observes that the continuing exercise of tikanga, ahi kā, whakapapa, kaitiakitanga and other customary responsibilities is consistent with its assertion that aspects of native title affecting the Project area remain unextinguished. Those asserted interests remain directly relevant to the assessment of lawful authority for permanent acquisition or modification of the whenua and shall be addressed before irreversible environmental change occurs.

8.5 Good Faith Negotiation

8.5.1 The Incorporation respectfully considers that where continuing customary interests are identified, meaningful engagement shall extend beyond consultation.

8.5.2 Given the permanent nature of the proposed modifications, the Incorporation respectfully considers that the appropriate process is one of good-faith negotiation with the affected Māori Incorporations and Hapū, directed toward obtaining free, prior and informed consent before permanent modification of the whenua proceeds.

8.5.3 The Incorporation notes that its position is supported by the Māori Incorporations amalgamated as Ngāpuhi Incorporation, which has endorsed the Incorporation's objection and supports good-faith negotiation as the appropriate mechanism for addressing permanent effects upon whenua and associated customary interests.

8.6 Integrated Legislative Framework

8.6.1 These observations shall be read together with the Public Works Act 1981, Te Ture Whenua Māori Act 1993, the Resource Management Act 1991, the Fast-track Approvals Act 2024 and the Constitutional Resolution, Negotiation Instrument, and the Resource Management and Public Works Act Resolution

and Amendment Sets adopted by the Incorporation and annexed to this commentary

8.6.2 The legal, environmental and customary matters identified throughout Parts V, VI and VII shall not be assessed in isolation when determining the Applicant's authority to permanently modify or acquire whenua.

8.6.3 Rather, those matters provide the legal and evidential foundation upon which the subsequent archaeological, ecological, hydrological and engineering assessments shall be considered.

8.7 Conclusion

8.7.1 The Incorporation respectfully considers that lawful authority to permanently modify whenua is a foundational issue which should be determined before consideration of the technical assessments that follow.

8.7.2 Unless the Applicant has established an adequate legal, evidential and customary foundation for the permanent modification and acquisition of whenua, the environmental effects described throughout the subsequent reports cannot properly be considered in isolation.

8.7.3 The Incorporation respectfully considers that the Expert Panel should not assume that statutory acquisition powers alone resolve all legal interests affecting the Project area. Questions concerning asserted unextinguished native title, continuing customary authority, and the relationship of Hapū to whenua shall be properly identified and addressed before permanent modification or acquisition is authorised.

PART IX – REVIEW OF THE ASSESSMENT OF EFFECTS ON ARCHAEOLOGY

9.0 Existing Archaeological Environment

9.1 Living Archaeological and Customary Landscape

9.1.1 The Incorporation respectfully considers that the archaeological environment should be understood as comprising more than the inventory of recorded archaeological sites. Archaeological records provide an important evidential resource but do not necessarily represent the full extent of the cultural

landscape or the continuing customary relationships associated with the Project area.

9.1.2 The Incorporation observes that the absence of a recorded archaeological site does not, of itself, establish the absence of wāhi tapu, wāhi whakahirahira, traditional occupation areas, customary access routes, māhinga kai, freshwater relationships, or other places of continuing cultural, environmental and customary significance.

9.1.3 The Incorporation respectfully considers that recorded and unrecorded pā sites, where evidenced, together with associated cultural features, should be understood within the broader context of the living cultural landscape, recognizing that archaeological records may evolve as further archaeological and historical investigations are undertaken.

9.1.4 The Incorporation further considers that archaeological investigations should be read alongside the continuing customary relationships exercised by affected Hapū in relation to whenua, wai, indigenous biodiversity, wāhi tapu, whakapapa, tikanga, ahi kā, mana whakahaere and associated cultural and environmental landscapes.

9.1.5 Accordingly, the Incorporation has considered whether the Applicant's archaeological assessment adequately recognizes both the recorded archaeological evidence and the continuing environmental, cultural and customary relationships associated with the Project area.

9.1.6 The Incorporation respectfully considers that archaeological assessment shall form one component of an integrated environmental and customary assessment and shall not be regarded as the sole measure by which the existence, significance or continuity of customary relationships with the whenua is determined.

PART X – REVIEW OF THE ASSESSMENT OF EFFECTS ON TERRESTRIAL ECOLOGY

10.1 Introduction

10.1.1 The Incorporation has reviewed the Applicant's Assessment of Effects on Terrestrial Ecology together with the supporting ecological investigations relevant to the Project area.

10.1.2 These observations are to be read together with Parts V to VIII of this review, including the Constitutional and Legislative Framework, the integrated environmental and customary assessment methodology, the landscape assessment, and the archaeological assessment.

10.1.3 The Incorporation respectfully considers that terrestrial ecology shall be assessed as an integral component of the living cultural landscape and not solely as an assessment of vegetation communities, habitats or individual species.

10.2 Assessment Methodology

10.2.1 The Incorporation has considered the Applicant's ecological survey methodology, the classification of ecological values, and the assessment of indigenous vegetation, habitat connectivity and ecological communities.

10.2.2 The Incorporation has also considered whether the methodology adequately recognizes the interconnected relationship between indigenous ngāhere, whenua, wai, wetlands, ecological corridors, taonga species and the continuing customary relationships exercised by affected Hapū.

10.2.3 Accordingly, the observations that follow examine whether the Applicant's methodology provides a sufficient evidential basis for assessing the ecological effects of the Project.

10.3 Existing Terrestrial Environment

10.3.1 The Incorporation respectfully considers that the existing terrestrial environment extends beyond the identification of ecological communities and habitats. It includes indigenous ngāhere, indigenous biodiversity, ecological corridors, wetlands, taonga species, māhinga kai, and the interconnected environmental and customary relationships that continue throughout the Project area.

10.3.2 The Incorporation has therefore considered whether the Applicant's assessment adequately recognizes the relationship between terrestrial ecosystems and the continuing customary responsibilities exercised by affected Hapū.

10.4 Assessment of Ecological Effects

10.4.1 The Incorporation has reviewed the Applicant's assessment of the ecological effects arising from the proposed works, including vegetation clearance, habitat modification, fragmentation, construction activities and permanent landform changes.

10.4.2 The Incorporation respectfully considers that ecological effects shall be assessed cumulatively, recognizing the interconnected relationship between indigenous ngāhere, wetlands, freshwater systems, ecological corridors and the living cultural landscape.

10.4.3 Particular regard has been given to whether permanent vegetation clearance, spoil placement, earthworks and associated infrastructure may adversely affect indigenous biodiversity, habitat connectivity, taonga species and the continuing customary relationships exercised by affected Hapū.

10.4.4 The Incorporation has also considered whether the Applicant has adequately assessed cumulative and long-term ecological effects, rather than only the immediate construction effects.

10.5 Indigenous Species and Ecological Communities

10.5.1 The Incorporation respectfully considers that indigenous flora and fauna should be assessed as interconnected ecological communities rather than isolated species.

10.5.2 The assessment should recognize indigenous vegetation, birds, bats, lizards, frogs, invertebrates and other taonga species together with the habitats and ecological systems upon which they depend.

10.5.3 The Incorporation has considered whether the Applicant has adequately identified habitat connectivity, ecological resilience and the relationship between indigenous biodiversity, māhinga kai, whenua and wai.

10.6 Ecological Mitigation and Restoration

10.6.1 The Incorporation has reviewed the Applicant's proposed ecological mitigation, restoration and long-term management measures.

10.6.2 The Incorporation respectfully considers that mitigation shall be directed toward maintaining and restoring the integrity of indigenous ecosystems and their continuing environmental and customary relationships, rather than simply compensating for ecological loss.

10.6.3 The observations that follow assist the Expert Panel in determining whether the proposed mitigation is capable of avoiding, remedying or mitigating adverse ecological effects over the long term.

10.7 Integrated Environmental and Customary Assessment

10.7.1 The Incorporation respectfully considers that terrestrial ecology should be assessed as one component of an integrated environmental and customary assessment rather than as an isolated technical discipline.

10.7.2 Indigenous ngāhere, wetlands, ecological corridors, taonga species, whenua and wai together form part of the living cultural landscape and should be assessed alongside the continuing customary relationships exercised by affected Hapū.

10.7.3 The Incorporation has therefore considered whether the Applicant's terrestrial ecology assessment adequately recognizes the interconnected relationship between ecological values, landscape character, archaeological values, freshwater systems, māhinga kai and Hapū authority.

10.7.4 The Incorporation respectfully submits that long-term ecological resilience is strengthened where indigenous ecosystems are protected in a manner that also recognizes the continuing cultural and customary relationships associated with those places.

10.7.5 Accordingly, the terrestrial ecology assessment shall be read together with the observations contained in Parts V to VIII of this review as a single integrated environmental and customary assessment.

10.8 Conclusions

10.8.1 The Incorporation acknowledges the detailed ecological investigations undertaken by the Applicant and has assessed those investigations against the Constitutional and Legislative Framework adopted throughout this review.

10.8.2 The Incorporation respectfully considers that terrestrial ecology extends beyond the assessment of vegetation communities and individual species. It encompasses the broader relationship between indigenous biodiversity, living cultural landscapes and the continuing relationship between indigenous biodiversity, whenua, wai and affected Hapū.

10.8.3 The observations contained in this Part are intended to assist the Expert Panel in determining whether the Applicant's terrestrial ecology evidence provides an adequate evidential basis for the proposed works and their long-term environmental consequences.

10.8.4 The Incorporation now turns to the Applicant's assessment of freshwater ecology and associated hydrological systems, applying the same integrated methodology adopted throughout these observations.

PART XI – REVIEW OF THE ASSESSMENT OF EFFECTS ON FRESHWATER ECOLOGY

11.1 Introduction

11.1.1 The Incorporation has reviewed the Applicant's Assessment of Effects on Freshwater Ecology together with the associated assessments relating to construction water, groundwater, stormwater and flooding relevant to the Project area.

11.1.2 These observations should be read together with Parts V to IX of this review, including the Constitutional and Legislative Framework, the integrated environmental and customary assessment methodology, the landscape assessment, the archaeological assessment and the terrestrial ecology assessment.

11.1.3 The Incorporation respectfully considers that freshwater ecology should be assessed as an integral component of the living cultural landscape and not solely as an assessment of aquatic habitats, ecological values or freshwater species.

11.1.4 Accordingly, the observations that follow consider the freshwater ecology evidence together with the continuing environmental, cultural and customary relationships associated with the Project area.

11.2 Assessment Methodology

11.2.1 The Incorporation has reviewed the Applicant's freshwater ecology methodology, including the assessment of rivers, streams, wetlands, aquatic habitats, ecological values and associated freshwater systems.

11.2.2 The Incorporation respectfully considers that freshwater methodology should recognize the interconnected relationships between whenua, wai, wetlands, groundwater, indigenous biodiversity, taonga species, māhinga kai, ecological connectivity and the continuing customary responsibilities exercised by affected Hapū.

11.2.3 Particular regard has been given to whether the methodology adequately recognizes the relationship between freshwater systems and the wider environmental and customary landscape.

11.2.4 Accordingly, the observations that follow assess whether the Applicant's methodology provides an adequate evidential basis for assessing the freshwater effects of the Project.

11.3 Existing Freshwater Environment

11.3.1 The Incorporation respectfully considers that the existing freshwater environment extends beyond rivers, streams and wetlands. It includes groundwater, springs, headwaters, tributaries, riparian environments, estuarine connections, indigenous biodiversity, taonga species and the interconnected environmental and customary relationships associated with those places.

11.3.2 Freshwater systems continue to sustain the exercise of tikanga, māhinga kai, customary stewardship and the continuing responsibilities exercised by affected Hapū in relation to wai as taonga.

11.3.3 The Incorporation has therefore considered whether the Applicant's assessment adequately recognizes both the ecological values and the continuing customary relationships associated with the freshwater environment.

11.4 Assessment of Freshwater Effects

11.4.1 The Incorporation has reviewed the Applicant's assessment of the effects of the proposed works on rivers, streams, wetlands, springs, groundwater, aquatic habitats and associated freshwater environments.

11.4.2 The Incorporation respectfully considers that freshwater effects should be assessed cumulatively, recognizing the interconnected relationship between whenua, wai, wetlands, riparian environments, indigenous biodiversity, ecological connectivity and the living cultural landscape.

11.4.3 Particular regard has been given to whether construction works, vegetation clearance, culverts, diversions, sediment generation, stormwater discharges, earthworks and spoil placement may adversely affect freshwater ecosystems, taonga species, māhinga kai and the continuing customary relationships exercised by affected Hapū.

11.4.4 The Incorporation has also considered whether the Applicant has adequately assessed both the immediate construction effects and the long-term environmental consequences for freshwater systems.

11.5 Freshwater Mitigation and Restoration

11.5.1 The Incorporation has reviewed the Applicant's proposed mitigation, restoration and monitoring measures relating to freshwater environments.

11.5.2 The Incorporation respectfully considers that mitigation should be directed toward maintaining and restoring the ecological integrity of freshwater systems together with the continuing environmental, cultural and customary relationships associated with those systems.

11.5.3 The observations that follow assist the Expert Panel in determining whether the proposed mitigation measures are capable of avoiding, remedying or mitigating adverse effects over the long term.

11.6 Integrated Environmental and Customary Assessment

11.6.1 The Incorporation respectfully considers that freshwater ecology should not be assessed in isolation from landscape, archaeology, terrestrial ecology and the wider environmental and customary framework established throughout these observations.

11.6.2 Wai as taonga is intrinsically connected with whenua, indigenous biodiversity, wetlands, taonga species, māhinga kai and the continuing customary responsibilities exercised by affected Hapū.

11.6.3 Accordingly, the freshwater ecology assessment should be read together with Parts V to IX as a single integrated environmental and customary assessment.

11.7 Conclusions

11.7.1 The Incorporation acknowledges the Applicant's freshwater investigations and has assessed those investigations against the Constitutional and Legislative Framework adopted throughout this review.

11.7.2 The Incorporation respectfully considers that the protection of freshwater systems requires recognition of both ecological values and the continuing customary relationships associated with wai as taonga.

11.7.3 The observations contained in this Part are intended to assist the Expert Panel in determining whether the Applicant's freshwater ecology evidence provides an adequate evidential basis for the proposed works and their long-term consequences.

11.7.4 The Incorporation now turns to the associated assessments of groundwater, construction water, stormwater and flooding, applying the same integrated methodology.

PART XII– REVIEW OF GROUNDWATER, CONSTRUCTION WATER, STORMWATER AND FLOODING

12.1 Introduction

12.1.1 The Incorporation has reviewed the Applicant's assessments relating to groundwater, construction water, operational stormwater and flooding associated with the Project.

12.1.2 These observations should be read together with Parts V to X of this review, recognizing that groundwater, surface water and associated hydrological systems form interconnected components of the living cultural landscape.

12.1.3 The Incorporation respectfully considers that groundwater, springs, streams, wetlands, stormwater systems and floodplains should not be assessed as separate technical disciplines but as components of one integrated freshwater environment.

12.2 Assessment Methodology

12.2.1 The Incorporation has reviewed the Applicant's methodologies relating to groundwater investigations, construction water management, stormwater design, flooding assessments and associated monitoring.

12.2.2 The Incorporation has considered whether those methodologies adequately recognize the interconnected relationships between wai, whenua, ecological systems, indigenous biodiversity, taonga species, māhinga kai and the continuing customary responsibilities exercised by affected Hapū.

12.3 Existing Hydrological Environment

12.3.1 The existing hydrological environment includes groundwater, aquifers, springs, rivers, tributaries, wetlands, riparian margins and estuarine connections

together with the environmental and customary relationships associated with those systems.

12.3.2 The Incorporation has considered whether the Applicant's assessment adequately recognizes wai as taonga and the continuing customary relationships associated with freshwater systems.

12.4 Assessment of Effects

12.4.1 Particular regard has been given to the effects of sediment generation, dewatering, diversions, culverts, stormwater discharges, flood alteration and groundwater changes.

12.4.2 The Incorporation respectfully considers that these effects should be assessed cumulatively rather than in isolation.

12.5 Mitigation

12.5.1 The Incorporation has reviewed the proposed mitigation, monitoring and adaptive management measures for groundwater, construction water, stormwater and flooding.

12.5.2 The Incorporation respectfully considers that mitigation should be directed toward maintaining the integrity of interconnected freshwater systems and their associated environmental, cultural and customary relationships, rather than merely addressing isolated technical effects.

12.5.3 The observations that follow assist the Expert Panel in determining whether the proposed mitigation measures are capable of avoiding, remedying or mitigating adverse hydrological effects over the long term.

12.6 Integrated Environmental and Customary Assessment

12.6.1 Groundwater and surface water comprise one interconnected hydrological system supporting indigenous biodiversity, wetlands, taonga species, māhinga kai and the continuing customary responsibilities exercised by affected Hapū.

12.6.2 Accordingly, these assessments should be read together as one integrated freshwater assessment.

12.7 Conclusions

12.7.1 The observations contained in this Part are intended to assist the Expert Panel in determining whether the Applicant's hydrological assessments provide an adequate evidential basis for the proposed works.

12.7.2 The Incorporation now turns to the assessment of earthworks, contaminated land and spoil management.

PART XIII – REVIEW OF EARTHWORKS, CONTAMINATED LAND AND SPOIL MANAGEMENT

13.1 Introduction

13.1.1 The Incorporation has reviewed the Applicant's assessments relating to earthworks, contaminated land, spoil management and permanent landform modification associated with the Project.

13.1.2 These observations should be read together with Parts V to XI of this review as components of one integrated environmental, cultural and customary assessment.

13.2 Existing Land Environment

13.2.1 The existing land environment comprises whenua, geology, soils, landforms, indigenous vegetation, archaeological landscapes, waterways and the interconnected environmental and customary relationships associated with those places.

13.2.2 The Incorporation respectfully considers that the whenua forms part of the living cultural landscape and should not be assessed solely as a physical resource for engineering purposes.

13.3 Assessment of Earthworks

13.3.1 The Incorporation has reviewed the scale of excavation, fill placement and the relocation of excavated whenua proposed for the Project together with the resulting permanent modification of the landscape.

13.3.2 Particular regard has been given to the cumulative effects of earthworks upon whenua, wai, indigenous biodiversity, wāhi tapu, archaeological landscapes, māhinga kai and the continuing customary relationships exercised by affected Hapū.

13.3.3 The scale of the proposed excavation, fill and excavated material demonstrates that the Project will result in substantial and permanent modification of the whenua. The Incorporation respectfully considers that works of this magnitude require careful assessment of their long-term environmental, cultural and customary effects.

13.4 Assessment of Excavated Whenua and Spoil Management

13.4.1 The Incorporation has considered the proposed spoil areas, long-term stability, vegetation removal, ecological effects and the potential effects upon waterways, wāhi tapu, archaeological landscapes and the living cultural landscape.

13.4.2 The Incorporation notes the Applicant's indication that excavated material may, in some circumstances, be relocated beyond the Project area for operational or commercial purposes where authorised under the relevant approvals.

13.4.3 The Incorporation respectfully observes that, under the tikanga, customs and usages recognized by the participating Māori Incorporations, excavated whenua remains intrinsically connected to the place from which it originates. The movement of excavated whenua beyond its customary area is not regarded merely as the transportation of construction material, but as the displacement of part of the living cultural landscape.

13.4.4 The Incorporation further observes that tikanga Māori has been recognized within New Zealand law in appropriate contexts. Accordingly, the customary relationship between whenua and place is, in the Incorporation's view, a relevant consideration when assessing the environmental and cultural effects of proposals involving the excavation, relocation or permanent disposal of substantial quantities of whenua.

13.4.5 The Incorporation respectfully considers that, where practicable, excavated whenua should remain within the locality from which it is removed. Where off-site removal is contemplated, the environmental, cultural and customary implications, together with the destination and proposed use of the excavated whenua, should be clearly identified and assessed.

13.4.6 The Incorporation has therefore considered whether the Applicant has provided sufficient information to enable the Expert Panel to assess the full effects of any off-site relocation or subsequent use of excavated whenua.

13.5 Contaminated Land

13.5.1 The Incorporation has reviewed the contaminated land assessment together with the proposed monitoring and management measures and has considered whether those measures adequately protect the whenua, wai and associated environments.

13.6 Integrated Environmental and Customary Assessment

13.6.1 Permanent earthworks and the relocation of excavated whenua should be assessed not only for engineering performance but also for their long-term effects upon whenua, wai, indigenous biodiversity, wāhi tapu, archaeological landscapes, māhinga kai and the continuing customary responsibilities exercised by affected Hapū.

13.6.2 Accordingly, the earthworks, contaminated land and spoil management assessments should be read together as one integrated environmental and customary assessment.

13.7 Conclusions

13.7.1 The observations contained in this Part are intended to assist the Expert Panel in determining whether the Applicant's earthworks and land disturbance assessments provide an adequate evidential basis for the proposed works.

13.7.2 These observations also provide a foundation for the subsequent consideration of land acquisition and legal interests associated with the Project.

Part XIV – ASSESSMENT OF EFFECTS ON AVIFAUNA ECOLOGY

14.1 Introduction

The Incorporation has reviewed the Applicant's Assessment of Effects on Avifauna Ecology together with the proposed Avifauna Management Plan and habitat replacement measures.

The Incorporation acknowledges the importance of protecting indigenous bird species. However, it respectfully considers that the assessment should not be confined to individual species alone. Avifauna depend upon the continued integrity of interconnected wetlands, freshwater systems, indigenous vegetation, riparian margins and customary landscapes addressed throughout this review.

14.2 Relationship between Birds and Wetlands

The Incorporation respectfully observes that wetlands are not isolated ecological units. They form part of an interconnected freshwater network extending from headwaters and springs through streams, wetlands, rivers and estuaries to the coastal environment.

These systems sustain indigenous birdlife together with freshwater species, indigenous vegetation, māhinga kai and the continuing customary responsibilities exercised by affected Hapū. Accordingly, adverse effects upon wetlands necessarily extend beyond the physical footprint of individual habitat areas and may affect wider ecological and customary relationships.

14.3 Habitat Replacement

The Incorporation respectfully submits that replacement habitat should not automatically be treated as equivalent to existing natural wetlands. Natural wetlands have developed over long periods through natural hydrological, ecological and customary processes.

Artificially created or modified wetlands cannot necessarily replicate the ecological complexity, indigenous biodiversity, cultural significance or customary relationships associated with existing natural wetlands. Accordingly, habitat replacement should be regarded as a measure of last resort after avoidance and minimisation have first been demonstrated.

14.4 Living Whenua and Tikanga

The Incorporation respectfully considers that natural wetlands are components of living whenua. Under tikanga Māori, whenua, wai and the ecosystems they sustain are interconnected and possess continuing relationships that should be maintained wherever reasonably practicable. Reshaping, relocating or reconstructing wetlands may alter those relationships in ways that cannot be fully remedied by creating replacement habitat elsewhere.

The Incorporation further observes that where earthworks alter natural landforms or relocate substantial quantities of whenua, the hydrology supporting wetlands may also be permanently altered. Such alterations have the potential to affect avifauna indirectly through changes to water levels, indigenous vegetation, food sources, breeding habitat and ecological connectivity.

14.5 Conclusions

14.5.1 The Incorporation respectfully considers that the Expert Panel should be satisfied, on the basis of clear, robust and comprehensive evidence, that existing natural wetlands and associated avifauna habitats cannot reasonably be avoided before reliance is placed upon future management plans, habitat replacement or other mitigation measures.

14.5.2 The Applicant's own assessment acknowledges that the Project will result in the permanent loss of approximately 2.44 hectares of natural wetland vegetation and approximately 39 hectares of indigenous terrestrial vegetation, together with potential effects upon Threatened and At Risk indigenous bird species. The Incorporation respectfully submits that these acknowledged losses demonstrate that existing ecological values will be permanently altered rather than preserved.

14.5.3 While the Applicant proposes habitat replacement and management measures intended to reduce adverse effects, the Incorporation respectfully considers that replacement habitat should not automatically be regarded as equivalent to existing natural wetlands that have developed through long-standing hydrological, ecological and customary relationships. Such relationships cannot necessarily be recreated within newly constructed or modified environments.

14.5.4 The Incorporation further submits that wetlands are components of an interconnected environmental and customary system extending from the headwaters and springs, through freshwater streams, indigenous vegetation and wetlands, to the rivers, estuaries and coastal environment. Adverse effects upon one part of that system may have consequential effects upon indigenous birdlife, freshwater ecology, māhinga kai and the continuing customary responsibilities exercised by affected Hapū.

14.5.5 Particular caution should therefore be exercised where proposals involve permanent modification of natural wetlands supporting Threatened or At Risk indigenous species. The precautionary approach favours the protection and retention of existing habitats wherever reasonably practicable in preference to their removal and subsequent replacement.

14.5.6 The Incorporation respectfully submits that the Expert Panel should also consider whether the permanent reshaping of whenua, relocation of spoil and alteration of natural hydrological systems may have cumulative effects extending beyond the immediate construction footprint. Under tikanga Māori, whenua and wai are not treated as separate resources but as interconnected components of a living landscape. The continuing relationship between those natural systems and affected Hapū should therefore remain an integral consideration in determining the applications.

14.5.7 Accordingly, the Incorporation respectfully considers that the Applicant has not yet demonstrated that the proposed avoidance, mitigation and habitat replacement measures provide an equivalent level of protection to the existing natural wetlands and avifauna habitats that would be permanently affected by the Project.

Part XV – ASSESSMENT OF CONTAMINATED LAND EFFECTS

15.1 Introduction

The Incorporation has reviewed the Applicant's Assessment of Contaminated Land Effects, including the investigations undertaken to identify contaminated sites, the proposed management of contaminated soils, and measures intended to avoid, remedy or mitigate adverse effects. The Incorporation respectfully considers that contaminated whenua should not be assessed solely as an engineering or public health issue, but as part of an interconnected environmental, ecological and customary landscape.

15.2 Existing Contaminated Sites

The Incorporation respectfully submits that the Expert Panel should be satisfied that all actual and potential contaminated sites have been comprehensively identified before substantial earthworks commence. Areas of uncertainty should be investigated prior to disturbance, with appropriate contingency measures to protect freshwater systems, indigenous habitats, neighbouring properties and customary interests.

15.3 Disturbance of Contaminated Whenua

Excavation, cutting, filling, dewatering and large-scale earthworks may mobilise contaminants presently contained within the ground profile. Once disturbed, contaminants may migrate through groundwater, surface water, sediment, dust or transported spoil, extending effects beyond the immediate construction footprint.

15.4 Effects upon Freshwater Systems

Contaminated land should be considered together with the interconnected freshwater systems addressed elsewhere in these submissions. Contaminants may affect springs, groundwater, streams, wetlands, rivers and estuaries through changes to hydrology, sediment transport and water quality, with consequential effects upon indigenous biodiversity, māhinga kai and customary relationships.

15.5 Effects upon Indigenous Ecology

The Incorporation respectfully considers that contaminated land may indirectly affect indigenous vegetation, wetlands, freshwater habitats, ecological corridors and indigenous birdlife. Assessments should therefore consider cumulative ecological effects rather than soil quality in isolation.

15.6 Living Whenua and Continuing Customary Relationships

Under tikanga Māori, whenua remains living whenua regardless of contamination. The presence of contamination does not diminish the continuing customary relationship exercised by affected Hapū; rather, it increases the responsibility to prevent further degradation and restore environmental integrity wherever reasonably practicable.

15.7 Excavation, Transport and Disposal of Contaminated Whenua

The Incorporation has considered whether contaminated soils are to remain within the existing landscape or be transported elsewhere. Consistent with tikanga Māori customs and usages, whenua should remain within its own natural landscape wherever reasonably practicable. Where relocation is proposed, the destination, proposed use, safeguards and long-term monitoring should be clearly identified.

15.8 Conclusions

The Incorporation respectfully considers that contaminated land should be assessed as an integrated environmental, ecological and customary issue. The Expert Panel should be satisfied that contamination has been comprehensively identified before disturbance occurs and that unacceptable risks to freshwater systems, indigenous ecology and customary relationships will be avoided. A precautionary approach should favour avoidance of disturbance, protection of existing environmental systems and the continuing customary responsibilities exercised by affected Hapū.

PART XVI – ASSESSMENT OF CONSTRUCTION WATER EFFECTS

16.1 Introduction

The Incorporation has reviewed the Applicant's Construction Water Assessment together with the associated reports relating to earthworks, freshwater ecology, terrestrial ecology, contaminated land and landscape effects. The Incorporation has considered the Construction Water Assessment as an integrated environmental assessment rather than as an isolated engineering document.

The Incorporation respectfully observes that construction water management extends beyond erosion and sediment control. It concerns the protection of interconnected freshwater systems, wetlands, indigenous biodiversity, natural drainage patterns, wāhi tapu, customary authority, māhinga kai and the continuing environmental responsibilities exercised by affected Hapū throughout the Project area.

16.2 Integrated Catchment Assessment

The Construction Water Assessment identifies four earthworks zones extending across the Project area. Although divided into separate construction zones, these areas remain connected through natural catchments, rivers, streams, wetlands, springs and groundwater systems.

The Incorporation respectfully considers that effects occurring within any one construction zone cannot be assessed in isolation, as changes to upstream waterways may produce cumulative effects throughout downstream freshwater environments and associated customary landscapes.

16.3 Scale of Earthworks and Water Diversions

The Applicant proposes extensive bulk earthworks, spoil disposal areas, stream crossings, culverts, bridge construction and both temporary and permanent stream diversions across the Project area.

The Incorporation respectfully considers that the scale of those works requires careful scrutiny by the Expert Panel. Where the proposed construction would permanently modify natural drainage patterns or relocate watercourses around embankments or spoil sites, the assessment should clearly demonstrate why such permanent alterations are necessary and whether less intrusive alternatives have been adequately evaluated.

The Incorporation acknowledges that improvements to transport infrastructure may be required. However, where existing transport corridors are already established, the Expert Panel should carefully examine whether the extent of new earthworks and associated environmental disturbance is proportionate to the identified transport objectives, particularly where those works may permanently affect natural landscapes, waterways and interconnected ecological systems.

The Incorporation respectfully submits that the long-term maintenance and upgrading of existing transport corridors should be carefully weighed against

proposals requiring substantial new earthworks, permanent stream diversions and extensive modification of natural landscapes. Where a less intrusive alternative is reasonably capable of achieving the Project's objectives while avoiding or reducing adverse effects upon freshwater systems and customary landscapes, the Expert Panel should give significant weight to that consideration.

PART XVII – ASSESSMENT OF EFFECTS ON GROUNDWATER

17.1 Overview

Kōwhai Te Awhina Hapū o Te Parawhau Hapu Incorporation acknowledges the Applicant's hydrogeological investigations. The report recognizes that the proposed corridor will permanently alter groundwater behaviour through road cuts, drainage systems, embankments and associated engineering works. These findings reinforce the concerns raised throughout Volume B regarding archaeology, terrestrial ecology, freshwater ecology, wetlands, avifauna, contaminated land, construction water, operational stormwater and flood management. Groundwater underpins each of those environmental values.

17.2 Groundwater forms part of the living Whenua

Under Māori customs and usages, groundwater is wai moving through the body of the Whenua. It sustains springs, wetlands, streams and indigenous ecosystems according to natural processes developed over generations. Permanent alteration of groundwater therefore alters the natural character of the Whenua itself.

17.3 Permanent reduction of groundwater-fed wetlands and streams

The Applicant acknowledges that permanent drainage and dewatering will reduce groundwater seepage into wetlands and streams and redirect water through engineered systems. While water may remain within the catchment, it will no longer emerge naturally where the Whenua has historically sustained wetlands and waterways.

The permanent lowering of groundwater levels should also be considered together with the Applicant's proposed reshaping of natural wetlands, permanent stream diversions and the acknowledged loss of groundwater-fed habitats identified elsewhere in the Application. These effects are interconnected and should not be assessed in isolation.

17.4 Cumulative effects across the Project

Groundwater effects cannot be considered in isolation. They directly influence freshwater ecology, terrestrial ecology, wetlands, avifauna, archaeological landscapes and the wider cultural landscape.

The cumulative assessment should also be read together with the Applicant's proposed excavation, fill and spoil quantities together with the permanent modification of landforms required to construct the proposed corridor. The Incorporation has previously observed that the Project involves the relocation of substantial quantities of excavated whenua and respectfully submits that those earthworks cannot be separated from their consequential effects upon groundwater systems, wetlands, streams and indigenous habitats.

These cumulative effects extend across all four construction zones identified by the Applicant. Accordingly, the assessment should recognize the interconnected nature of the catchments rather than evaluating each construction zone independently.

17.5 Precaution and uncertainty

The Applicant recognizes that groundwater modelling depends upon assumptions regarding final design and excavation. Where uncertainty remains concerning irreversible impacts on groundwater-fed systems, the precautionary approach should apply.

17.6 Existing corridor as the reasonable alternative

Many permanent groundwater effects arise only because of the proposed new corridor. Progressive upgrading and resilience improvements within the existing State Highway corridor would substantially reduce excavation, dewatering, spoil generation, fragmentation of wetlands and permanent alteration of groundwater systems.

The Incorporation respectfully considers that many of the permanent environmental effects identified throughout Volume B—including extensive excavation, spoil generation, stream diversion, groundwater interception, wetland modification and associated ecological fragmentation—arise from the selection of the proposed new alignment rather than from the objective of improving transport safety itself.

17.7 Tikanga and natural order

Groundwater sustaining wetlands and streams forms part of the inherited environmental order of the Whenua. Artificial interception and redistribution may preserve water volume but does not preserve the natural relationship between Whenua, wai, indigenous ecosystems and tangata whenua. The Incorporation relies upon section 12 of the Declaratory Judgments Act 1908 and Hineiti Rirerire Arani v Public Trustee regarding recognition of Māori customs and usages.

17.8 Ngāpuhi Incorporation Support and the Requirement for Negotiation

The Incorporation notes that its objection is supported by Ngāpuhi Incorporation through a formal resolution of support. This reflects broader concern among Māori governance entities constituted pursuant to Te Ture Whenua Māori legislation regarding permanent alteration of ancestral landscapes.

The Incorporation further notes that this support reflects the collective concern of participating Māori Incorporations regarding the permanent alteration of Whenua, wai and customary landscapes within the Ngatokimatawhaorua Waka District.

The Incorporation respectfully considers that proposals of this magnitude should proceed through genuine good-faith negotiation directed toward achieving free, prior and informed consent before irreversible alteration of Whenua, wai and associated customary interests.

17.9 Conclusion

When read together, the archaeological, terrestrial ecology, freshwater ecology, avifauna, contaminated land, construction water, operational stormwater and groundwater assessments demonstrate a consistent pattern. Individually, each report identifies effects capable of mitigation through engineering measures. Collectively, however, they describe the permanent modification of natural landforms, groundwater systems, wetlands, streams, indigenous habitats and associated customary landscapes across the Project area.

The Incorporation respectfully considers that upgrading the existing State Highway corridor represents the least intrusive and most environmentally responsible option. Engineering mitigation cannot fully replace natural groundwater systems once permanently altered.

Accordingly, the Incorporation respectfully requests that the Expert Panel decline the proposed designation in its present form, or alternatively require full

assessment and prioritization of improvements to the existing corridor before authorizing permanent alteration of previously undisturbed landscapes.

PART XVIII – REVIEW OF WILDLIFE ACT APPROVALS (VOLUME C)

18.1 Introduction

18.1.1 Kōwhai Te Awhina Hapū o Te Parawhau Hapū Incorporation has reviewed the Applicant's Volume C – Wildlife Act Approvals together with the ecological assessments previously reviewed throughout Parts I – XVII of this commentary.

18.1.2 The Incorporation respectfully considers that the proposed Wildlife Act approvals cannot properly be considered as isolated statutory approvals relating only to individual protected species. Rather they form part of one interconnected environmental, ecological and customary landscape supporting indigenous biodiversity, previously addressed throughout Parts I – XVII of this commentary.

18.1.3 Accordingly, this Part considers the proposed Wildlife Act approvals within the wider context of indigenous biodiversity, interconnected ecosystems, customary relationships with whenua and wai, and the continuing authority and responsibilities exercised by affected Hapū, and the requirement for good-faith negotiation with affected Māori Incorporations and the amalgamated Ngāpuhi Incorporation before decisions affecting those interconnected environments are made.

18.2 Interconnected Indigenous Biodiversity.

18.2.1 The Incorporation respectfully considers that indigenous biodiversity cannot properly be divided into separate statutory categories of birds, reptiles, amphibians, invertebrates or freshwater species.

18.2.2 Rather, indigenous biodiversity functions as an interconnected ecological system in which Whenua, wai, groundwater, wetlands, indigenous vegetation, freshwater habitats and protected wildlife each depend upon the continuing integrity of the whole interconnected system.

18.2.3 Consequently, interruption or permanent alteration occurring within any single component of that interconnected system will inevitably produce consequential effects throughout the wider ecological landscape.

18.2.4 The Applicant's ecological assessments themselves demonstrate this interconnected relationship. Permanent excavation alters groundwater.

Groundwater sustains wetlands. Wetlands support indigenous vegetation, freshwater ecology and protected wildlife. Modification of any one component affects the integrity, resilience and functioning of the whole environmental system.

18.2.5 The Incorporation respectfully considers that biodiversity shall therefore be assessed as an integrated living system rather than as a series of separate technical disciplines addressed independently under statutory approvals.

18.3 The Living Environmental Continuum

18.3.1 The Incorporation respectfully considers that the Project area comprises a living environmental continuum in which each natural component contributes to the resilience of the whole landscape.

18.3.2 The removal, interruption or permanent alteration of any link within that environmental continuum inevitably affects the resilience of the remaining system.

18.3.3 Biodiversity is therefore measured not solely by the continued existence of individual protected species, but by the continuing integrity of the ecological relationships that sustain those species.

18.3.4 The Incorporation respectfully considers that protection of indigenous biodiversity requires protection of the Whenua, groundwater systems, wetlands, streams, indigenous vegetation and ecological connectivity, and the continuing authority and environmental responsibilities exercised by affected Hapū.

18.4 Relationship with previous Assessments

18.4.1 The Incorporation relies upon and incorporates Parts I - XVII of this commentary.

18.4.2 The archaeological, terrestrial ecology, contaminated land, earthworks, construction water, groundwater and avifauna assessments are not repeated except where necessary.

18.4.3 Those assessments collectively establish that the proposed corridor will permanently modify the ecological systems supporting indigenous wildlife.

18.4.4 The Incorporation further respectfully considers that the ecological systems supporting indigenous wildlife remain subject to the continuing authority

and environmental responsibilities exercised by affected Hapū. Those responsibilities extend beyond individual protected species to the continuing protection of whenua, wai, groundwater, wetlands, indigenous vegetation and interconnected habitats upon which indigenous biodiversity depends.

18.4.5 The Incorporation further notes that Ngāpuhi Incorporation, representing the amalgamated Māori Incorporations supports the objections advanced in this commentary. Accordingly, where Wildlife Act approvals affect unextinguished native title, continuing Hapū authority, tikanga, Māori customs and usages, or the integrity of interconnected indigenous biodiversity, free, prior and informed negotiation shall precede the granting of statutory approvals.

18.5 Conclusion

18.5.1 The Incorporation respectfully considers that the proposed Wildlife Act approvals should be assessed as one component of the wider environmental assessment rather than as an isolated statutory approval.

18.5.2 Protection of indigenous wildlife cannot be achieved solely through capture, handling or relocation where the habitats upon which those species depend are permanently modified.

18.5.3 The Incorporation respectfully considers maintaining the integrity of the interconnected environmental system represents the most effective means of protecting indigenous biodiversity, protected wildlife and the continuing environmental responsibilities exercised by affected Hapū.

18.5.4 Accordingly, the Expert Panel is respectfully requested to consider the Wildlife Act approvals together with the cumulative environmental, ecological, customary, constitutional, land authority and native title matters identified throughout Parts I - XVII before determining whether the proposed approvals should be granted.

Part XIX – Living Cultural Landscapes Beyond Recorded Archaeological Sites

19.1 Archaeological Sites within their Wider Cultural Context

19.1.1 The Incorporation respectfully considers that recorded archaeological sites should not be understood as isolated points capable of protection solely by avoiding the mapped extent of an archaeological feature.

19.1.2 Archaeological records provide important evidence of historical occupation, but they do not necessarily define the full extent of the cultural landscape, customary relationships, or continuing environmental responsibilities associated with those places.

19.1.3 A recorded pā site traditionally functioned as one component of a much wider interconnected landscape, including associated occupation areas, cultivation systems, access routes, freshwater sources, wetlands, food gathering areas (mahinga kai), wāhi tapu, and the surrounding whenua upon which those relationships depended.

19.2 Continuing Cultural and Environmental Relationships

19.2.1 The Incorporation respectfully considers that the archaeological significance of a pā site continues beyond the recorded archaeological boundary through the ongoing relationship between whenua, wai, indigenous biodiversity, customary use, whakapapa, and the continuing responsibilities exercised by affected Hapū.

19.2.2 Consequently, permanent excavation, earthworks, land modification, drainage alteration, or fragmentation of the surrounding landscape may affect the archaeological, cultural, environmental and customary integrity of the site, notwithstanding that the recorded archaeological feature itself is physically avoided.

19.2.3 The Incorporation respectfully considers that archaeological values cannot properly be separated from the wider environmental systems supporting those values. The integrity of archaeological sites depends upon the continuing integrity of the surrounding whenua and its interconnected ecological systems.

19.3 Unextinguished Native Title and Continuing Customary Responsibilities

19.3.1 The Incorporation respectfully considers that the archaeological, environmental and customary values addressed throughout this commentary arise from the continuing relationship between affected Hapū and the whenua in respect of which unextinguished native title is asserted to remain.

19.3.2 The continuing exercise of tikanga, Māori customs and usages extends beyond recorded archaeological sites or present patterns of occupation. Those customs and usages recognize continuing responsibilities of protection, stewardship and guardianship in relation to the wider cultural landscape.

19.3.3 Accordingly, the Incorporation respectfully considers that the protection of whenua is not dependent solely upon who presently occupies, owns or resides upon the land. Rather, those continuing customary responsibilities arise from the enduring relationship between affected Hapū and the whenua.

19.3.4 The archaeological sites identified throughout the Project are therefore not merely historical remnants. They are evidence of continuing customary relationships with the surrounding whenua and reinforce the need to assess the proposed authorities within the wider context of tikanga, Māori customs and usages, continuing Hapū authority, and the interconnected living cultural landscape.

19.4 Conclusion

19.4.1 The Incorporation respectfully considers that recorded archaeological sites constitute evidence of a living cultural landscape rather than the limits of that landscape.

19.4.2 The Incorporation respectfully considers that archaeological authorities should protect not only recorded archaeological sites, but the continuing integrity of the living cultural landscapes from which those sites derive their meaning.

Part XX – CONSULTATION AND RECOGNITION OF AFFECTED PARTIES

20.1 Introduction

20.1.1 The Incorporation has reviewed the consultation material referred to within the Heritage New Zealand Pouhere Taonga archaeological authority application together with the wider project documentation.

20.1.2 The Incorporation acknowledges that the Applicant has undertaken engagement with a number of iwi and Māori organisations during the development of the Project. Effective engagement is an important component of cultural heritage assessment and assists decision-makers in understanding the historical and contemporary relationships that exist between affected Hapū and their ancestral landscapes.

20.1.3 The Incorporation respectfully considers, however, that the identification of parties consulted should be sufficiently clear to enable the Expert Panel to understand which affected Hapū have participated in the archaeological assessment process and the basis upon which those parties have been recognized.

20.2 Identification of Affected Hapū

20.2.1 The archaeological authority documentation refers to engagement with Te Parawhau together with other iwi and hapū. The Incorporation respectfully observes that the documentation should clearly identify the particular Hapū consulted where archaeological authorities are sought over ancestral landscapes.

20.2.2 Clear identification assists the Expert Panel in understanding whether consultation has appropriately reflected the communities who continue to exercise customary responsibilities within the Project area and whether the cultural information relied upon has been obtained from those maintaining continuing relationships with the whenua.

20.2.3 Where consultation refers generally to "hapu`" without identifying those Hapū, the Expert Panel may find it difficult to assess the extent to which the archaeological assessment reflects the diversity of customary knowledge, historical occupation and continuing responsibilities associated with the affected landscape.

20.3 Recognition of Continuing Hapū Responsibilities

20.3.1 Throughout this commentary, the Incorporation has consistently considered that the cultural significance of the Project area extends beyond individual archaeological sites and continues through tikanga, Māori customs and usages, ahi kā, and the ongoing responsibilities exercised by affected Hapū.

20.3.2 These responsibilities are not created by the archaeological authority process, nor are they confined to the recorded extent of archaeological sites. Rather, they arise from continuing relationships with the whenua, wai, indigenous biodiversity and the wider interconnected cultural landscape.

20.3.3 The Incorporation respectfully considers that consultation undertaken for archaeological purposes should recognize these continuing relationships, particularly where permanent modification of ancestral landscapes is proposed.

20.4 Consultation within an Interconnected Cultural Landscape

20.4.1 The Incorporation respectfully considers that consultation concerning archaeological authorities should be considered within the same interconnected framework discussed throughout Parts I – XIX of this commentary.

20.4.2 Archaeological values cannot be fully separated from the surrounding environmental systems, customary practices, freshwater environments,

indigenous biodiversity, access routes, wāhi tapu, cultivation areas and other cultural relationships that collectively form the living cultural landscape.

20.4.3 Consultation that recognises these interrelationships is more likely to assist decision-makers in understanding the cumulative cultural effects of the Project than consultation directed solely towards recorded archaeological features.

20.5 Conclusion

20.5.1 The incorporation respectfully requests that the Expert Panel consider whether the consultation undertaken in support of the archaeological authority application adequately reflects the wider living cultural landscape described throughout this commentary.

20.5.2 In determining the weight to be given to the archaeological authority process, the Incorporation respectfully considers that consideration should be given to the continuing responsibilities exercised by affected Hapū, the interconnected nature of the ancestral landscape, and the broader cultural, environmental and customary matters identified throughout Parts I – XIX.

PART XXI – ARCHAEOLOGICAL AUTHORITIES WITHIN THE WIDER STATURORY FRAMEWORK

21.1 Purpose of Archaeological Authorities

21.1.1 The Incorporation acknowledges that archaeological authorities issued under the Heritage New Zealand Pouhere Taonga Act 2014 perform an important **statutory function by regulating activities that may modify or destroy** archaeological sites.

21.1.2 The archaeological authority process assists in identifying archaeological values, recording cultural information, and, where appropriate, imposing conditions to avoid, remedy or mitigate adverse effects upon recorded archaeological sites.

21.1.3 The Incorporation respectfully supports the protection of archaeological heritage and recognizes the importance of preserving the historical record for present and future generations.

21.2 Relationship with the Expert Panel's Assessment

21.2.1 While archaeological authorities perform an important statutory function, the Incorporation respectfully considers that they do not determine all matters relevant to the Expert Panel's assessment of the Project under the Fast-track Approvals Act 2024.

21.2.2 The existence of an archaeological authority shall not, of itself, be regarded as resolving wider questions concerning environmental effects, ecological integrity, customary relationships, land authority, or the cumulative cultural consequences associated with permanent modification of the ancestral landscape.

21.2.3 Rather, archaeological authorities shall be understood one component of a broader statutory framework that requires the Expert Panel to consider the Project in its entirety.

21.3 Interrelationship with Earlier Parts of this Commentary

21.3.1 Throughout Parts I – XX, the Incorporation has respectfully considered that the environmental, ecological, archaeological and customary values associated with the Project area operate as interconnected components of a single living cultural landscape.

21.3.2 The archaeological authority process contributes to that understanding but does not replace the need to consider the cumulative matters identified throughout this commentary.

21.3.3 Accordingly, the Incorporation respectfully considers that archaeological authorities shall be considered alongside the environmental, freshwater, biodiversity, landscape, land authority and customary matters previously discussed, rather than in isolation.

21.4 Continuing Hapū Relationships

21.4.1 The Incorporation respectfully considers that the relationship between affect Hapū and then Project area continues independently of the archaeological authority process.

21.4.2 Those continuing relationships arise through tikanga, Māori customs and usages, ahi kā, and the enduring responsibilities exercised in relation to whenua, wai and the wider interconnected environment.

21.4.3 Recognition of those continuing relationships shall assist the Expert Panel in understanding that archaeological sites remain part of a living cultural landscape rather than solely representing historical feature recorded within statutory registers.

21.5 Conclusion

21.5.1 The Incorporation respectfully requests that the Expert Panel should give careful consideration to archaeological authorities as one important component of the overall assessment, while also giving careful consideration to the cumulative environmental, ecological, customary, constitutional and land authority matters identified throughout this commentary.

21.5.2 The Incorporation respectfully considers that the broader assessment undertaken by the Expert Panel should recognize the interconnected relationship between recorded archaeological sites, the living cultural landscape, and the continuing responsibilities exercised by the affected Hapū.

PART XXII – CONCLUDING OBSERVATIONS

22.1 Integrated Assessment

22.1.1 Throughout this commentary, the Incorporation has respectfully considered that the Project should not be assessed as a collection of separate technical disciplines, but as a proposal affecting an interconnected ancestral landscape comprising environmental, ecological, archaeological and cultural values.

22.1.2 While individual specialist assessments provide important technical information within their respective fields, each assessment contributes to an understanding of the same physical landscape and the continuing relationships that exist between affected Hapū and their ancestral whenua.

22.1.3 Accordingly, the Incorporation respectfully considers that the cumulative information resented throughout the application supports an integrated assessment of the Project, recognizing that the effects identified within one discipline frequently influence and inform the others.

22.2 Cumulative Cultural and Environmental Effects

22.2.1 The Incorporation respectfully considers that the cumulative effects of

permanent modification extend beyond the individual matters considered within separate technical reports.

22.2.2 Alterations to whenua have corresponding implications for freshwater systems, indigenous biodiversity, archaeological values, customary practices and the continuing exercise of kaitiakitanga.

22.2.3 Considered collectively, these effects reinforce the importance of assessing the Project within the context of the wider living cultural landscape described throughout this commentary.

22.3 Continuing Relationships with the Ancestral Landscape

22.3.1 The Incorporation respectfully considers that the relationship between affected Hapū and the Project area remains a continuing relationship rather than one confined to historical occupation or recorded archaeological evidence.

22.3.2 Those relationships continue through tikanga, Māori customs and usages, ahi kā, whakapapa, and the enduring responsibilities exercised in relation to whenua, wai and the wider natural environment.

22.3.3 Recognition of those continuing relationships assists in understanding that the significance of the Project area is not limited to isolated sites or individual environmental features, but extends across the interconnected ancestral landscape as a whole.

22.4 Final Observations

22.4.1 Having reviewed the application material and supporting technical assessments, the Incorporation respectfully requests that the Expert Panel consider the Project as an integrated whole when determining the application under the Fast-track Approvals Act 2024.

22.4.2 The Incorporation respectfully considers that appropriate weight should be given to the interconnected environmental, archaeological, ecological and cultural matters identified throughout this commentary, together with the continuing responsibilities exercised by affected Hapū in relation to their ancestral landscape.

22.4.3 The Incorporation further respectfully considers that each statutory approval associated with the Project should be considered within its proper legislative scope and not as determinative of the wider matters that fall for consideration by the Expert Panel.

22.4.4 The Incorporation thanks the Expert Panel for the opportunity to provide this commentary and respectfully commends these observations for its careful consideration.

22.4.5 The Incorporation further notes that the constitutional principles and integrated framework referred to throughout this commentary are supported within the amalgamated constitutional framework constituted as Ngāpuhi Incorporation, reflecting the collective participation of several Māori Incorporations in matters affecting whenua, taonga and the continuing responsibilities exercised under tikanga, Māori customs and usages.

22.5 Minute 5 – Further Engagement with Mana Whenua, Iwi and Hapū

22.5.1 The Incorporation acknowledges Minute 5 of the Expert Panel dated 04 August 2026, particularly the Expert Panel's recognition of tikanga in relation to the site visit, its acknowledgement that the compressed Fast-track timeframes may have limited engagement with all mana whenua interests, and its intention to provide further opportunities for mana whenua, iwi and hapū entities to present their comments directly to the Expert Panel.

22.5.2 The Incorporation welcomes the Expert Panel's intention to receive further comments from mana whenua, iwi and hapū. The Incorporation respectfully maintains its objection to the proposed Project and continues to consider that maintaining and improving the existing transport corridor represents the preferable outcome.

Should the Expert Panel nevertheless seek clarification of the matters raised in this commentary, the Incorporation remains willing to provide further written comments if requested by the Expert Panel.

He Whakakapi

(Closing Reflection)

E te whenua, e nga wai, e ngā ngāhere, e ngā maunga,

e ngā taonga tuku iho

E tū tonu rā hei oranga mō ngā uri whakatipu.

Ko te ahi kā te tohu o te noho tūturu,

Ko te kaitiakitanga te kawenata i tukua mai e ngā tupuna, hei tiaki i te whenua, i ngā wai, me ngā taonga mō ngā whakatupuranga e haere ake nei.

Ehara tēnei kawenga i te mea nō tēnei rā anake, engari he taonga tuku iho e hono ana i te hunga kua mene ki te pō, te hunga ora o nāianei, me ngā uri kāhore anō kia whānau mai.

Kia ū ki te tika.

Kia ū ki te pono.

Kia ū ki te mana o te whenua, ki te mana o te wai, ki te mana o te tangata.

Mō tatou, ā, mō kā uri ā muri ake nei.

O land, waters, forests, mountains, and treasured inheritances

May you continue to endure as the source of life for generations to come

The enduring presence of ahi kā reflects and unbroken relationship with place, while kaitiakitanga is the responsibility entrusted by our ancestors to care for the land, the waters, and all taonga for those who will follow us.

The responsibility does not belong only to the present generation. It is an inheritance that binds together those who have passed on, those who live today, and those yet to be born.

May every decision remain steadfast in what is right,

May every decision remain steadfast in truth.

May the mana of the land, the mana of the waters, and the mana of the people continue to be upheld

Seal of Kōwhai Te Awhina Hapū

Seal of Te Parawhau Hapū Incorporation

Presented on behalf of Kōwhai Te Awhina Hapū and executed under the constitutional authority of Te Parawhau Hapū Incorporation

Schedule of Supporting Annexures

The following annexures are provided in support of the legal and constitutional principles referred to in this commentary. They are not intended to introduce new matters, but to assist the Expert Panel by providing the instruments relied upon in the analysis.

Annexure	Description
A	Order of Amalgamation – Ngāpuhi Incorporation
B	Order of Incorporation – Te Parawhau Hapū Incorporation
C	Constitutional Resolution / Negotiation Instrument
D	Resource Management Act Resolution and Amendment Set
E	Public Works Act Resolution and Amendment Set

Annexure A

ORDER OF AMALGAMATION

IN TE KOOTI PAREMATA MAORI

KI WAITANGI O AOTEAROA (NZ)

IN THE MATTER OF

Te Ture Whenua Maori Act 1993, s15(1)(b), s17(3), s252
Maori Incorporations Constitution Regulations 1994, s268(3)

AND

IN THE MATTER OF

Amalgamation of all Incorporations within Ngatokimatawhaorua Waka District affiliated to Nga Tikanga Maori Law/Lore Society Incorporation o Aotearoa (NZ) as listed below, shall be Ngapuhi Inc:

Te Parawhau Hapū Inc.
Ngāti Manu Inc.
Maunga Hikurangi Inc.
Ngāti Hine Inc.
Ngāti Heke Inc.
Te Uri Mahoe Hapū Inc.
Ngāti Kura Inc.
Ngāti Kahu Inc.
Ngāti Rehia Inc.

At a sitting on the 24th May 2026 of Te Kooti Paremata Maori Te Whakaminenga o te Rangatira o Aotearoa Meo Mate Brown Chief Native Assessor presiding.

Upon the evidence produced before Te Kooti before Te Whakaminenga o te Rangatira o Aotearoa, it was declared by resolution, accepted that the above incorporations ki Nga Puhi o Ngatokimatawhaorua Waka i Taitokerau Native District are amalgamated under Nga Tikanga Maori Law/Lore Society Inc. o Aotearoa (NZ) incorporated within the meaning of Te Ture Whenua Maori Act 1993 s252, s15(1)(b), s17(3) of s268(3)/94.

NOW THEREFORE as a witness to the resolution passed by Te Whakaminenga o te Rangatira o Aotearoa on the 24th May 2026, at Te Tii Waitangi Marae, Waitangi. I, Meo Mate Brown, Chief Native Assessor.

DOTH HEREBY confirm, declare and Order that the Incorporations above are now amalgamated under Nga Tikanga Maori Law/Lore Society Inc o Aotearoa (NZ), for Ngatokimatawhaorua Waka in the Native Taitokerau District under of Te Ture Whenua Maori Incorporation Constitution Regulations Act 1995.

AND DOTH FURTHER ORDER that the lands, notwithstanding its status as General Land, General Land Owned by Maori and Maori freehold land hereby vests the lands in the amalgamated incorporations registries and declare that Nga Tikanga Maori Law/Lore Inc o Aotearoa (NZ) shall hold such lands and all other lands within the Taitokerau Native District of Ngatokimatawhaorua Waka as legal beneficial and equitable owners pursuant to Te Tiriti O Waitangi 1840, for which the Native Aboriginal Title has not been extinguished pursuant to: Section 129(2)(a)/1993-1995 is deemed Customary Maori land held under Tikanga Maori Section 271(4)/93-95, 254/93-95, immediate release Section 253/93-95.

WITNESSED by the hand and Seal of Nga Tikanga Maori Law/Lore Society Inc. o Aotearoa (NZ), Section 5/93 as This Act shall bind the Crown and affiliated members.

DATED THIS 24th Day of May 2026

Annexure B

ORDER OF INCORPORATION

Maori Land Court
Whangārei
- 4 NOV 2025
RECEIVED
Taitokerau District

IN TE KOOTI PAREMATA MAORI

KI WAITANGI O AOTEAROA (NZ)

IN THE MATTER OF Te Ture Whenua Maori Incorporations Constitution Regulations 1995, s247-338

AND

IN THE MATTER OF Mangakahia 2B2 No:2A1A - LINZ Ref: NA55A/1194 Area (ha): 41.1843, Mangakahia 2B2X - LINZ Ref: 17B/294 Area (ac): 26, and Parahaki No:1G1 - Area (ac): 37, Ahipara A5 Area (ac): 23

Te Parawhau Hapu Incorporation
Ki Nga Puhi o Ngatokimatawhauroa Waka District
(Applicant)

At a sitting on the 28th October 2022 of Te Kooti Paremata Maori Te Whakaminenga o te Rangatira o Aotearoa Meo Mate Brown Chief Native Assessor presiding.

Upon the evidence produced before Te Kooti by the applicant Kevin-John/Tito of **Te Parawhau Hapu Incorporation** before Te Whakaminenga o te Rangatira o Aotearoa. It was declared by resolution, accepted and incorporated as a Maori Incorporation within the meaning of Part XIII of Te Ture Whenua Maori Land Act 1993 and Te Ture Whenua Maori Incorporation Constitution Regulations Act 1995.

NOW THEREFORE as a witness to the resolution passedby Te Whakaminenga o te Rangatira o Aotearoa on the 28th October 2022, at Te Tii Waitangi Marae, Waitangi. I, Meo Mate Brown, Chief Native Assessor.

DOTH HEREBY confirm, declare and Order that Te Parawhau Hapu Incorporation constituted under the regulations of Te Ture Whenua Maori Incorporation Constitution Regulations Act 1995.

AND DOTH FURTHER ORDER that the lands, notwithstanding its status as General Land, General Land Owned by Maori and Maori freehold land hereby vests the land in Te Parawhau Hapu Incorporation and declare that the Incorporation shall hold such land and all other land within the Native District of Ngatokimatawhauroa Waka as legal beneficial and equitable owners pursuant to Te Tiriti O Waitangi 1840, for which the Native Aboriginal Title has not been extinguished pursuant to: Section 129(2)(a)/1993-1995 is deemed Customary Maori land held in accordance with Tikanga Maori Section 271(4)/93-95, 254/93-95, immediate release Section 253/93 95.

WITNESSED by the hand and Seal of the Chief Native Assessor, Section 5/93 Shall bind the Crown, Section 5/95 shall bind Maori.

DATED THIS 28TH Day of October 2022

Annexure C

Cross-Cutting Constitutional Resolution Instrument
Negotiation, Consent, and Tikanga Authority

Te Parawhau Hapu Incorporation
Ngatokimatawhaorua Waka District
Under the Authority of Ngā Tikanga Māori Law/Lore Society Inc. o Aotearoa (NZ)
(Te Paremata Māori)

This Cross-Cutting Constitutional Resolution Instrument is adopted to establish binding constitutional principles of general application across all enactments, policies, and decision-making processes affecting Māori, hapū, Māori land, water, taonga, tikanga, and jurisdiction.

These resolutions are adopted pursuant to tikanga Māori, He Whakaputanga o te Rangatiratanga 1835, Te Tiriti o Waitangi 1840, and the continuing existence of unextinguished native title, and are intended to apply nationally upon adoption at Waitangi on 06 February 2026.

Resolution 1 — Recognition of Tikanga and Rangatiratanga
Tikanga Māori is affirmed as the first law of Aotearoa New Zealand. Rangatiratanga and mana whenua are ongoing and unextinguished, and all statutory powers affecting Māori land, water, taonga, or people must be exercised consistently with tikanga Māori.

Resolution 2 — Negotiation replaces consultation
Where any enactment, regulation, policy, or decision-making process refers to consultation with Māori incorporations, hapū, or whanau in relation to land, water, taonga, tikanga, or jurisdictional matters, consultation is constitutionally insufficient.

Such processes must instead proceed by good-faith negotiation conducted on the basis of mutual authority, with the objective of obtaining free, prior, and informed consent. Consultation alone does not satisfy obligations arising under tikanga Māori, He Whakaputanga 1835, or Te Tiriti o Waitangi 1840.

Issued under the authority of Nga Tikanga Maori Law/Lore Society Inc o Aotearoa (NZ)
06 February 2026

Resolution 3 — Free, prior, and informed consent
Free, prior, and informed consent is required before any approval, designation, authorisation, or enforcement action affecting Māori land, water, taonga, or tikanga. Consent must be capable of being withheld and must be exercised by the relevant hapū or Māori incorporation in accordance with tikanga Māori.

Resolution 4 — No semantic substitution or procedural avoidance
For the avoidance of doubt, enhanced consultation, early engagement, partnership approaches, co-design processes, or similar procedural mechanisms do not satisfy the requirement for negotiation unless they involve genuine bargaining power, the ability to withhold consent, and outcomes that are not predetermined.

Any process that proceeds without agreement remains constitutionally deficient.

Resolution 5 — Interpretive supremacy
These resolutions prevail as interpretive principles over any inconsistent statutory language, policy, guideline, or administrative practice. In the event of inconsistency, tikanga Māori prevails.

Adoption and Application
This Instrument applies to all Acts, regulations, policies, and decision-making processes addressed in associated Resolution Sets and Amendment Sets. It is intended to be placed at the beginning of every draft prepared pursuant to these resolutions.

Adopted for national application. Effective from 06 February 2026 (Waitangi).

Resolution Set passed unanimously. No objections.

NGA TIKANGA MAORI LAW/LORE SOCIETY (INC) Te Whakaminenga O Nga Rangatira CHIEF JUSTICE/ NATIVE ASSESSOR

NGA TIKANGA MAORI LAW/LORE SOCIETY (INC) Te Whakaminenga O Nga Rangatira REGISTRAR GENERAL

NGA TIKANGA MAORI LAW/LORE SOCIETY (INC) NGATOKIMATAWHAORUA WAKA DISTRICT

Issued under the authority of Nga Tikanga Maori Law/Lore Society Inc o Aotearoa (NZ)
06 February 2026

Annexure D

National Resolution Set — Resource Management Act 1991
(Tikanga-based Constitutional Reframing)

Te Parawhau Hapu Incorporation
Ngatokimatawhaorua Waka District
Under the Authority of Ngā Tikanga Māori Law/Lore Society Inc. o Aotearoa (NZ)
(Te Paremata Māori)

These resolutions are adopted pursuant to tikanga Māori, He Whakaputanga o te Rangatiratanga 1835, Te Tiriti o Waitangi 1840, and the continuing existence of unextinguished native title. They are intended for national adoption at Waitangi on 06 February 2026 and apply to the interpretation and application of the Resource Management Act 1991.

Resolution 1 — Purpose of the Act (section 3)
Section 3 of the Resource Management Act 1991 must be exercised subject to tikanga Māori, rangatiratanga, and mana whenua. Sustainable management must not be interpreted as authorising decision-making that overrides tikanga Māori, rāhui, or hapū authority through consultation alone.

Resolution 2 — Matters of National Importance (section 6)
Section 6 must be amended so that matters of national importance include the authority of mana whenua to impose rāhui, protect wāhi tapu, ancestral lands, waters, and taonga, and to determine appropriate use in accordance with tikanga Māori. Such authority is determinative and not merely protective.

Resolution 3 — Other Matters (section 7)
Section 7 must be amended so that kaitiakitanga and tikanga Māori are exercised as authoritative responsibilities, not merely matters to which decision-makers have particular regard.

Resolution 4 — Te Tiriti o Waitangi (section 8)
Section 8 must require all persons exercising powers under the Act to give effect to Standing Orders 1839: Intention of Te Tiriti o Waitangi and Te Ture Whenua Māori Act 1993, section 1: Intention of Westminster Parliament. Compliance requires good-faith negotiation with the objective of obtaining free, prior, and informed consent.

Issued under the authority of Nga Tikanga Maori Law/Lore Society Inc o Aotearoa (NZ)
06 February 2026

1/5

Resolution 5 — Recognition of Rāhui
Rāhui imposed under tikanga Māori have immediate legal effect under the Act and must be complied with by all decision-makers, consent authorities, and enforcement bodies.

Resolution 6 — Decision-making and Consent
No resource consent, designation, or approval affecting Māori land, water, or taonga may be granted without free, prior, and informed consent exercised by the relevant hapū or Māori incorporation.

Resolution 7 — Negotiation replaces consultation
Where the Act refers to consultation with Māori, such consultation is insufficient. Decision-makers must engage in good-faith negotiation with the objective of obtaining free, prior, and informed consent.

Resolution 8 — No statutory override or fast-track
Fast-track pathways, national direction, or ministerial call-in powers must not be used to override tikanga Māori, rāhui, or hapū authority.

Resolution 9 — Interpretive supremacy
In the event of inconsistency in the interpretation or application of the Act in relation to Māori interests, tikanga Māori prevails.

Adopted for national application. Effective from 06 February 2026 (Waitangi).

Resolution Set and Amendments passed unanimously. No objections.







Issued under the authority of Nga Tikanga Maori Law/Lore Society Inc o Aotearoa (NZ)
06 February 2026

2/5

Amendment Set — Resource Management Act 1991 (Tikanga-based Constitutional Amendments)

This Amendment Set gives legislative effect to the National Resolution Set for the Resource Management Act 1991 and the Cross-Cutting Constitutional Resolution Instrument adopted at Waitangi on 06 February 2026.

Clause 1 — Purpose of the Act (amending section 3)
Section 3 is amended by adding the following subsection:

"(3) The purpose of this Act must be exercised subject to tikanga Māori, rangatiratanga, and mana whenua, and must not be interpreted as authorising decision-making that overrides tikanga Māori or rāhui through consultation alone."

Clause 2 — Matters of National Importance (amending section 6)
Section 6 is amended by inserting the following paragraphs:

"(g) the authority of mana whenua to impose rāhui and to determine appropriate use, protection, and management of ancestral lands, waters, wāhi tapu, and taonga in accordance with tikanga Māori;

(h) the protection and recognition of rāhui as determinative under tikanga Māori."

Clause 3 — Other Matters (amending section 7)
Section 7 is amended by replacing the words "have particular regard to" with "must give effect to" in relation to kaitiakitanga and tikanga Māori.

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06 February 2026

Clause 4 — Treaty of Waitangi (replacing section 8)
Section 8 is repealed and replaced as follows:

"8 Te Tiriti o Waitangi

In achieving the purpose of this Act, all persons exercising powers and functions under it, in relation to the management, use, development, and protection of natural and physical resources belonging to, or held under the authority of, any body constituted under Ngā Tikanga Māori Law/Lore Society Inc o Aotearoa (NZ) must give effect to—

(a) Standing Orders 1839: Intention of Te Tiriti o Waitangi; and
(b) Te Ture Whenua Māori Act 1993, section 1: Intention of Westminster Parliament.

For the avoidance of doubt, compliance with this section requires good-faith negotiation with the objective of obtaining free, prior, and informed consent, and consultation alone is insufficient."

Clause 5 — Recognition of Rāhui (new section 8A)
The following section is inserted after section 8:

"8A Rāhui

(1) Rāhui imposed under tikanga Māori have immediate legal effect under this Act.

(2) All consent authorities, enforcement bodies, and decision-makers must give effect to rāhui when exercising powers under this Act."

Clause 6 — Requirement for Consent (new section 36AA)
The following section is inserted after section 36A:

"36AA Requirement for free, prior, and informed consent

No resource consent, designation, or approval affecting Māori land, water, or

taonga may be granted without free, prior, and informed consent exercised by the relevant hapū or Māori incorporation."

Clause 7 — Negotiation replaces consultation (new section 36AB)
The following section is inserted after section 36AA:

"36AB Negotiation replaces consultation

Where this Act refers to consultation with Māori, such consultation is insufficient. Decision-makers must engage in good-faith negotiation with the objective of obtaining free, prior, and informed consent."

Clause 8 — No statutory override (new section 360A)
The following section is inserted:

"360A No statutory override of tikanga Māori

Fast-track pathways, national direction, ministerial call-in powers, or regulations must not be used to override tikanga Māori, rāhui, or hapū authority."

Clause 9 — Interpretive Supremacy (new section 2AA)
The following section is inserted after section 2:

"2AA Interpretive supremacy

In the event of inconsistency in the interpretation or application of this Act in relation to Māori interests, tikanga Māori prevails."

Annexure E

NATIONAL RESOLUTION SET
Public Works Act 1981
Section 4A – Minister for Lands Powers and Māori Land Safeguards

Te Parawhau Hapu Incorporation
Ngatokimatawhaorua Waka District
Under the Authority of Ngā Tikanga Māori Law/Lore Society Inc o Aotearoa (NZ)
(Te Paremata Māori)

Preamble

These resolutions are adopted pursuant to tikanga Māori, He Whakaputanga o te Rangatiratanga 1835, Te Tiriti o Waitangi 1840, Te Ture Whenua Māori Act 1993, and the continuing existence of unextinguished native title.

They affirm that compulsory acquisition is an exceptional power requiring strict constitutional authority, and that such authority cannot lawfully exist in the absence of a valid Ministerial office or hapū consent.

Resolution 1 — Absence of Minister for Lands

The office of "Minister of Lands" is required to exist as a lawful Ministerial portfolio in order for any compulsory acquisition, land taking, vesting, or extinguishment power under the Public Works Act 1981 to be exercised.

Where no such office exists, no Minister, Crown agency, or statutory authority may lawfully exercise such powers.

Resolution 2 — Ultra Vires Exercise of Powers

Any purported exercise of compulsory acquisition, land taking, vesting, or extinguishment power in the absence of a lawful Minister for Lands is ultra vires and of no legal effect.

Issued under the authority of Nga Tikanga Maori Law/Lore Society Inc o Aotearoa (NZ)
06 February 2026

Resolution 3 — Māori Land and Native Title Safeguard

No power under the Public Works Act 1981 may be exercised in relation to—
(a) Māori freehold land;
(b) whenua held under tikanga Māori; or
(c) land subject to unextinguished native title,

unless the free, prior, and informed written consent of the relevant hapū authority has been obtained following good faith negotiation.

Resolution 4 — Negotiation Replaces Consultation

Consultation is not sufficient for the purposes of land acquisition affecting Māori land or native title.

All such powers require negotiation and prior written consent of the relevant hapū authority.

Resolution 5 — Permanence

These resolutions are declared permanent tikanga-based constitutional amendments not subject to repeal except by unanimous tikanga resolution of all recognised hapū under Te Paremata Māori.

Adopted for national application. Effective from 06 February 2026 (Waitangi).

Resolution Set and Amendments passed unanimously. No objections.

NGA TIKANGA MAORI LAW/LORE SOCIETY (INC) Common Seal Te Whakaminenga O Nga Rangatira CHIEF JUSTICE/ NATIVE ASSESSOR

NGA TIKANGA MAORI LAW/LORE SOCIETY (INC) Common Seal Te Whakaminenga O Nga Rangatira REGISTRAR GENERAL

NGA TIKANGA MAORI LAW/LORE SOCIETY (INC) Common Seal Te Whakaminenga O Nga Rangatira NGATOKIMATAWHAORUA WAKA DISTRICT

Issued under the authority of Nga Tikanga Maori Law/Lore Society Inc o Aotearoa (NZ)
06 February 2026

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AMENDMENT SET
Public Works Act 1981
Section 4A – Minister for Lands Powers and Māori Land Safeguards

Clause 1 — New subsection 4A(4): Absence of Minister for Lands
Insert after section 4A(3):
"4A(4) Absence of Minister for Lands

(a) For the purposes of this Act, the office of 'Minister of Lands' must exist as a lawful Ministerial portfolio in order for any compulsory acquisition, land taking, vesting, or extinguishment power to be exercised.

(b) Where no such office exists, no Minister, Crown agency, or statutory authority may lawfully exercise any power under this Act relating to—
(i) compulsory acquisition;
(ii) land taking;
(iii) vesting of land; or
(iv) extinguishment of interests.

(c) Any purported exercise of such power in the absence of a lawful Minister for Lands is ultra vires and of no legal effect."

Clause 2 — New subsection 4A(5): Māori Land and Native Title Safeguard
Insert after subsection (4):
"4A(5) Māori Land and Native Title Safeguard

(a) No power under this Act may be exercised in relation to—
(i) Māori freehold land;
(ii) whenua held under tikanga Māori; or
(iii) land subject to unextinguished native title,

unless the *free, prior, and informed written consent of the relevant hapū* authority has been obtained following good faith negotiation.
(b) Consultation is not sufficient for the purposes of this section.
(c) Any acquisition, taking, vesting, or extinguishment undertaken in breach of this section is void ab initio."

Issued under the authority of Nga Tikanga Maori Law/Lore Society Inc o Aotearoa (NZ)
06 February 2026

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