

# Cultural Impact Assessment Report

Project: Bream Bay Sand Extraction  
Applicant: McCallum Brothers Limited

A report prepared for Patuharakeke Te Iwi Trust & McCallum Brothers Limited

May 2026

Final Report - Version 3

Version Number	Document comments	Date
1	First Draft Report Prepared for review and feedback from Patuharakeke Te Iwi Trust.	August 2025
2	Final Report Updated version responding to, and reflecting, the feedback from the Patuharakeke Te Iwi Trust and the report-back hui/wānanga at Takahiwai Marae with Patuharakeke whānau on 8 November 2025.	December 2025
3	Final Report – Version 3 Version 3 is both a clean version and track-change version that responds to the McCallum Brothers Limited substantive application that was lodged with the Environmental Protection Authority on 26 January 2026, and to support the Patuharakeke Te Iwi Trust invitation to comment on the fast-track project.  The track-change version is intended to allow the Expert Panel and agents representing McCallum Brothers Limited to easily identify where changes have been made to the Final Report (version 2) that was lodged with the substantive application.	May 2026

Author: James Whetu

All work contained within this report has been completed for the use of the client, being the Patuharakeke Te Iwi Trust and the Bream Bay Sand Extraction Project Applicant – McCallum Brothers Limited.

Whetū Consultancy Group takes every effort is to ensure that the information, analysis, findings and interventions provided to the client are accurate and reliable.

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## Executive Summary

This Cultural Impact Assessment report is to respond to, and inform, the substantive application prepared by McCallum Brothers Limited lodged with the Environmental Protection Authority on 26 January 2026 for a fast-track project to extract sand from Te Ākau Bream Bay.

The Cultural Impact Assessment report has been prepared by Whetū Consultancy Group with contribution from the Patuharakeke Te Iwi Trust, Patuharakeke whānau, and a team of experts engaged by Patuharakeke.

The values and interests of Patuharakeke are outlined in the report, where it is summarised that the Patuharakeke cultural values relevant to the proposed fast-track project are:

- Rangatiratanga / Mana Moana
  - Protecting the customary authority and interests of Patuharakeke in Te Ākau Bream Bay and Whangārei Terenga Parāoa (Whangārei Harbour);
  - Use of Patuharakeke values and mātauranga in resource management processes and in local decision-making;
  - Securing and protecting the rights and interests of Patuharakeke in Te Ākau Bream Bay and Whangārei Harbour, and widely the Poupouwhenua / Takahiwai land area;
  - Patuharakeke Te Iwi Trust upholding its obligations to Patuharakeke hapū, marae and whānau; and
  - Patuharakeke connection with its community (iwi, neighbouring iwi and hapū, and local community)
- Kaitiakitanga
  - Exercise of kaitiakitanga in accordance with Patuharakeke tikanga;
  - Recognise Patuharakeke relationship with Te Ākau Bream Bay and Marine Mammals;
  - Protect and enhance Patuharakeke waahi tapu (areas of significance and importance to Patuharakeke);
  - Application of Patuharakeke kaitiaki monitoring (indicators and standards);
  - Protect the mana and mauri of Tangaroa (waters, seascape, and fisheries and marine mammals); and
  - Proactive response to Climate Change

The report applies the Patuharakeke Hapū Management Plan and the statutory requirements of both Fast-track Approvals Act 2024 and the Resource Management Act 1991 (and relevant regulations and planning documents) as an assessment framework to analyse the resource consent application and to identify the actual and potential cultural impacts (adverse effects) arising from the McCallum Brothers Ltd fast-track substantive application.

The objectives of the cultural impact assessment framework are:

1	Assessments should be made within a Māori worldview from where they came, and the meaning and sense of values are primarily given by Patuharakeke as an iwi authority and hapū in Te Ākau Bream Bay
2	Consultation with Patuharakeke is a requirement of the FTA Act, and for Patuharakeke, the importance of implementing tikanga and application of consultation principles
3	Acknowledge that the proposal is a listed fast-track project under the FTA Act, and that the purpose of the FTA Act is given the greatest weight when considering the consent application
4	Apply a pragmatic and proportional approach and recognise the RMA context for: <ul style="list-style-type: none"> <li>● a consenting process for a Discretionary Activity, and</li> <li>● D.1 Tāngata Whenua provisions in the Proposed Regional Plan for Northland</li> </ul>
5	Protect indigenous biological diversity and historic heritage in the coastal environment of Te Ākau Bream Bay
6	The obligations of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and its regulation Fisheries (Kaimoana Customary Fishing) Regulations 1998
7	The traditional interests and customary activities in Te Ākau Bream Bay, and the pursuit by Patuharakeke to gain protected customary activity recognition through the Marine and Coastal Area (Takutai Moana) Act 2011
8	Tikanga is law and lore
9	Safeguard for present and future generations the mana and mauri of: <ul style="list-style-type: none"> <li>● ngā atua, with particular consideration to Tangaroa,</li> <li>● waahi tapu and sites and areas of significance to Patuharakeke in Te Ākau Bream Bay</li> <li>● the waters of Te Ākau Bream Bay</li> </ul>
10	Make actual provision for the Patuharakeke relationship with Te Ākau Bream Bay (includes the local and surrounding landscapes and environment) and its community
11	Promote and enable the: <ul style="list-style-type: none"> <li>● exercise of kaitiakitanga,</li> </ul>

	<ul style="list-style-type: none"> <li>● incorporation of mātauranga alongside western science, and</li> <li>● implementation of tikanga-based practices</li> </ul>
12	<p>Opportunities for protection, restoration and/or enhancement of:</p> <ul style="list-style-type: none"> <li>● waahi tapu and sites and areas of significance to Patuharakeke,</li> <li>● indigenous biodiversity and habitats,</li> <li>● coastal wetlands</li> </ul>
13	<p>Consideration of the new and proposed changes to the resource management system, specifically the publication of the Critical Minerals List for New Zealand, and proposed Phase 3 of the Resource Management Act reforms.</p>
14	<p>Encourage pathways to implement partnership, participation, active protection and/or redress</p>

Against this assessment framework, the analysis of the substantive application identified information gaps where cultural/mana whenua descriptions and assessment of cultural/mana whenua values were not undertaken or not visible, and where further investigation and/or consideration is encouraged. These are outlined in detail within the report.

In total there are 11 cultural impacts. These are listed below:

#### Rangatiratanga / Mana Moana

1. Undermining the customary authority of Patuharakeke in Te Ākau Bream Bay
2. Disregard of Patuharakeke customary rights, interests and practices in Te Ākau Bream Bay
3. Minimal consideration of Patuharakeke values, interests and mātauranga in:
  - a. Locating the proposed fast-track activity in Te Ākau Bream Bay ,and
  - b. In preparing technical reports to inform the design and delivery of the project
4. Disregard to the values and wellbeing of Te Ākau Bream Bay Community
5. Poor Consultation with Patuharakeke Te Iwi Trust

#### Kaitiakitanga

6. Limited, to non-existent, provisions for Patuharakeke to exercise its kaitiakitanga in accordance with Patuharakeke tikanga
7. Insufficient consideration of Patuharakeke relationship with Te Ākau Bream Bay and Marine Mammals
8. No protection, nor safeguarding, of areas of significance and importance to Patuharakeke
9. Adverse effects on the mana and mauri of Tangaroa
10. Limited, to no, consideration and response to Climate Change
11. Cultural losses and costs to Patuharakeke on (present and future) rangatiratanga and kaitiakitanga and the costs to the Local Community

Based on the identified cultural impacts, the report concludes that as a whole, and in its current form, Patuharakeke are not in a position to support the fast-track proposal to extract sand from Te Ākau Bream Bay. This position is on the basis that the extent of the adverse effects (and costs) to the Rangatiratanga of, and exercise of Kaitiakitanga by, Patuharakeke, are substantial.

The overarching recommendation to McCallum Brothers Ltd is that the proposed fast-track project is re-located outside of, and away from, Te Ākau Bream Bay. The invited comment to the Expert Panel from the Patuharakeke Te Iwi Trust is that the proposed fast-track project is declined. It is viewed by Patuharakeke that, on balance, having no sand mining operation in Te Ākau Bream Bay is the most appropriate approach to achieve the objectives of the cultural impact assessment framework.

There will be an adverse effect on the customary authority, and customary rights/interests/practices, of Patuharakeke should the project proceed in its current form. Te Ākau Bream Bay is an area of profound significance to Patuharakeke.

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# 1. Introduction

## 1.1 Purpose of Report

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1.1.1. Whetū Consultancy Group (hereon “Whetū”) has been engaged by the Patuharakeke Te Iwi Trust (hereon “Iwi Trust”) to support their preparation of a Cultural Impact Assessment report (hereon “CIA report”) for a listed fast-track project by McCallum Brothers Limited (hereon “McCallum Bros”) to extract sand from Te Ākau Bream Bay.

1.1.2. The fast-track project is identified in Schedule 2 of the Fast-track Approvals Act 2024 (hereon “FTA Act”) as the Bream Bay Sand Extraction Project.

The fast-track project is further described and discussed in section 2 of this report, but in summary, it is described in the FTA Act that the project is to “*extract (using a motorised trailing suction dredge) up to approximately 150,000 cubic metres of sand per annum for an initial period of 3 years and up to approximately 250,000 cubic metres per annum thereafter*”<sup>1</sup>.

1.1.3. This CIA report contains the cultural values and assessment of the effects arising from the fast-track project proposed development on those values of Patuharakeke.

### **Version 3 of the Report**

1.1.4. A first draft version of the CIA report was sent to the Iwi Trust on 28 August 2025 for review. A second version of the report, referred to as the Whetu CIA Report 121225 version for approval, was made available to McCallum Bros for consideration before lodgement with their substantive application.

1.1.5. This version aims to replace any reference to information/documents provided by McCallum Bros that supported the preparation of the first two CIA reports. Version 3 of the CIA reports refers specifically to the information/documents contained with substantive application lodged by McCallum Bros to the Environmental Protection Authority (hereon “EPA”) on 26 January 2026, which are made available on the fast-track website<sup>2</sup>.

1.1.6. The substantive application was reviewed for consistency against the information/documents that were reviewed for Version 1 and 2 of the CIA report, as well as provide any necessary clarity where considered appropriate.

1.1.7. Also, Appendix B: Review of Technical Documents, Appendix D: RMA Planning Documents Provisions, and Appendix E: Cognitus Economics Insight – Specialist Memo, have been removed from this version of the CIA Report.

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<sup>1</sup> Schedule 2 of the Fast-track Approvals Act 2024

<sup>2</sup> <https://www.fasttrack.govt.nz/projects/bream-bay-sand-extraction-project>

- 1.1.8. Both a clean version and track-change version have been prepared for the Expert Panel and McCallum Bros. Track changes are shown in the report to demonstrate where amendments to the Final Report have been undertaken.

### **Report Writer**

- 1.1.9. The writer for this report is James Whetu.
- 1.1.10. James is Director and Principal Planner for Whetū Consultancy Group, a consultancy based in Ngāruawāhia, Waikato.
- 1.1.11. James is a Full Member with the New Zealand Planning Institute and has over 20 years-experience in the planning profession, and is also an accredited hearings commissioner.
- 1.1.12. James was invited by the Iwi Trust to assist with the preparation of a CIA report for this fast-track project, as well as provide separate planning evidence to further inform the CIA report and to be considered alongside the planning assessment lodged with the substantive application.
- 1.1.13. James is also a shareholder of, and advisor to, The Stream which is a digital and technology consultancy that has developed a digital dashboard and kaitiaki app for the Iwi Trust to support Patuharakeke kaitiakitanga.
- 1.1.14. James has visited Te Ākau Bream Bay / Ruakākā as part of preparing this CIA report.

## 1.2 Methodology & Assessment Report Context

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### **Methodology**

#### Literature Review

- 1.2.1 Whetū reviewed documents lodged by McCallum Bros with the EPA that are included with the substantive application and are made available on the fast-track website<sup>3</sup>.
- 1.2.2 Key and relevant legislation, statutory documents and Patuharakeke documents were also reviewed for this report. These are listed in section 4 of this report.

#### Technical Team - Experts

- 1.2.3 In addition to Whetū, the Iwi Trust engaged specific technical experts to support the assessment of effects of the fast-track project by peer reviewing McCallum Bros technical reports. These members and expertise of the technical team are listed in section 5 of the report.

The evidence prepared by the experts was also reviewed and considered for this CIA report.

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<sup>3</sup> <https://www.fasttrack.govt.nz/projects/bream-bay-sand-extraction-project>

1.2.4 Important to note that the charitable organisation Environmental Law Initiative also offered and provided support to the Iwi Trust with understanding of the FTA Act and what it means for Patuharakeke.

Hui/Wānanga with Mana Whenua and Kaitiaki

1.2.5 A hui/wānanga was held at Takahiwai Marae on Sunday 25 May 2025. The Pou Taiao team for the Iwi Trust organised and led the hui/wānanga.

1.2.6 After the pōwhiri, the hōtaka/agenda for the hui/wānanga at Takahiwai Marae was:

- a. Scene setting
- b. FTA Act context
- c. Overview of a CIA report and an outline of the likely framework for the Patuharakeke CIA report
- d. Summaries from Technical Team
- e. Wānanga/workshop

1.2.7 A second hui/wānanga was held at Takahiwai Marae on 8 November 2025 to report back on the content of the CIA report, with specific focus on the cultural impacts and recommendations.

**Context for Assessment Report**

1.2.8 This CIA report has been developed to recognise and uphold the values, rangatiratanga and kaitiakitanga of Patuharakeke, that interacts with, and implemented within, the Fast-track Approvals Act 2024 (hereon “FTA Act”), whilst also cognisant of the case law learnings arising out of the Resource Management Act 1991 (hereon “RMA”) and the RMA’s connection to the FTA Act in granting approvals.

## 2. Patuharakeke – To Revitalise the Mauri of our Taonga Tuku Iho

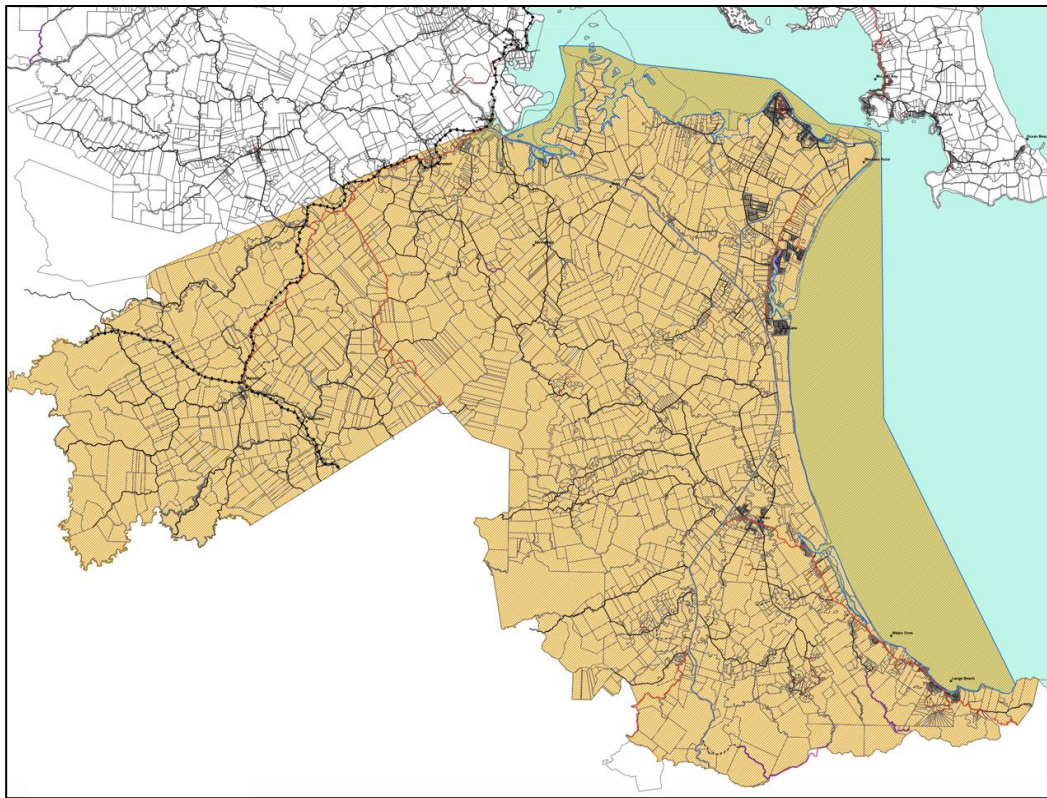
### 2.1 Patuharakeke & Patuharakeke Te Iwi Trust

#### Patuharakeke

- 2.1.1 Patuharakeke is derived from Ngāti Manaia, Ngāi Tāhuhu, Ngāti Wharepaia, Ngāti Ruangaio and Te Parawhau and Ngāti Tū.

“Prior to Patuharakeke taking the name Patuharakeke the hapū was more generally known as Ngāti Tū with some elements identifying themselves as Te Ākitai and Te Parawhau. All of these hapū have origins in Ngāi Tāhuhu and/or Ngāti Manaia. Patuharakeke are a composite hapū of descent from most major contemporary iwi groups in the north. These include Ngāti Wai, Ngāpuhi nui tonu, Ngāti Whātua and Te Uri o Hau.”<sup>4</sup>

- 2.1.2 The image below provides an illustration of Patuharakeke area of interests.



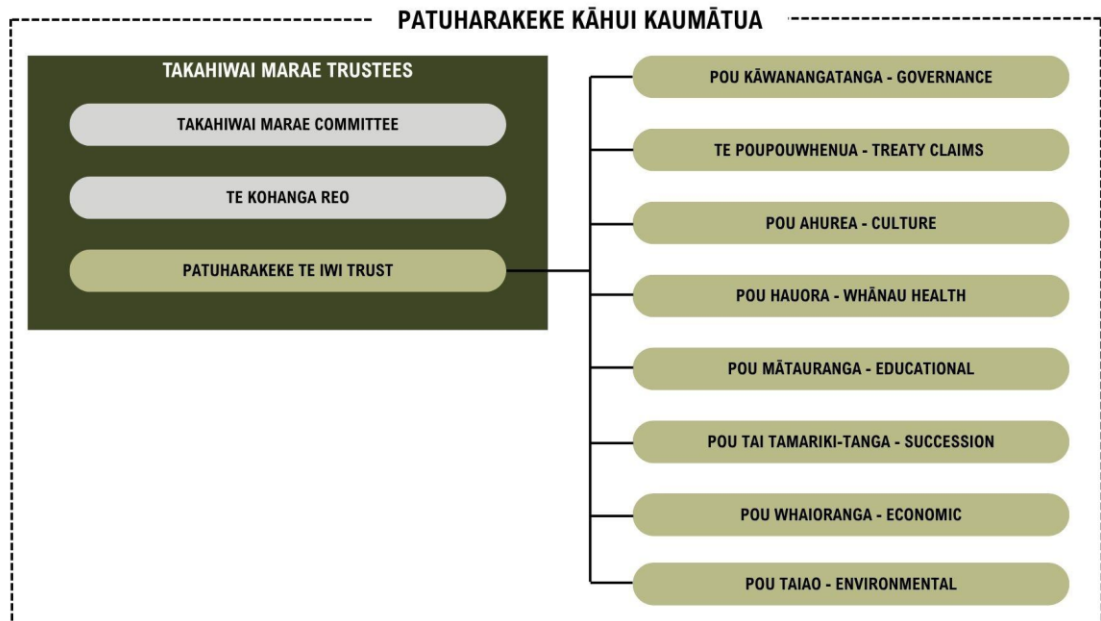
- 2.1.3 The following pepeha is used to describe the traditional and contemporary associations (includes customary authority) of Patuharakeke with the area:

*Ko Manaia Te Maunga | Ko Terenga Parāoa Te Moana | Ko Takahiwai Te Marae | Ko Rangiora Te Tupuna Whare | Ko Patuharakeke Te Hapū*

<sup>4</sup> Patuharakeke Hapū Environmental Management Plan 2014, Page 12

## Patuharakeke Te Iwi Trust

2.1.4 The organisation representing and protecting the interests of Patuharakeke is the Patuharakeke Te Iwi Trust. Below is an image outlining the governance and organisation structure of the Patuharakeke Te Iwi Trust.



2.1.5 The Patuharakeke Te Iwi Trust sits under the oversight of the Takahiwai Marae Trustees alongside the Takahiwai Marae Committee and the Kōhanga Reo.

2.1.6 There are eight (8) pou for the Patuharakeke Te Iwi Trust. These are:

- **Pou Kāwanatanga – Governance**  
*Make decisions that uphold the values to achieve the vision for Patuharakeke and the community*
- **Te Pou pouwhenua – Treaty Claims**  
*Provide support of historical claims of breaches of Te Tiriti o Waitangi*
- **Pou Ahurea – Culture**  
*Develop opportunities to apply mana whenua cultural design and interpretation to support and express the history of the rohe*
- **Pou Hauora – Whānau Health**  
*Provide support for initiatives that improve the health and wellbeing of Patuharakeke whānau and the community*
- **Pou Mātauranga – Educational**  
*Develop and implement an education and employment pathway to support Patuharakeke and the community*

- **Pou Tai Tamariki-tanga – Succession**  
*Support the expression, innovation and delivery of the next generations to apply their approach to the future of the rohe*
- **Pou Waioranga – Economic**  
*Develop opportunities for supporting Patuharakeke economic initiatives*
- **Pou Taiao – Environmental**  
*Identify environmental projects and initiatives to support the restoration and enhancement of the environment that supports Patuharakeke goals.*

2.1.7 The Patuharakeke Kāhui Kaumātua is the korowai that cover over all the activities of the Takahiwai Marae Trustees (includes Patuharakeke Te Iwi Trust).

2.1.8 The vision and mission statements for the Patuharakeke Te Iwi Trust are:

Vision

*“I ngā rā e hī ika, he kupenga tātai āwhai nuku – If you wish to catch fish, first you need to ensure your net is in good order”*

Mission

To revitalise the mauri of our taonga tuku iho

2.1.9 The vision and mission are supported by the following values:

- **Whakapapa** – The foundation of our framework for managing resources, this demonstrates the relationships between the various elements of the world around us, including human beings.
- **Kaitiakitanga** – Our duty of care and responsibility toward our taonga tuku iho
- **Whanaungatanga** – Building ongoing positive relationships
- **Manaakitanga** – Our ability to care for and sustain our whānau and manuhiri
- **Mātauranga** – To protect, revive, enrich and utilise our knowledge in our capacity as kaitiaki
- **Mana Whenua** – Our right to exercise authority over our rohe and the resources therein
- **Mauri** – Protection of the ‘life force’ contained in all places, species, minerals, ecosystems in our rohe. It can also be understood as a measure of the health and vitality of those elements.
- **Tikanga** – To retain the traditions of our tupuna in all our operations
- **Pūmau te Wairuatanga** – To protect, revive enrich and utilise our spiritual stability
- **Tino Rangatiratanga** – Our right to exercise sovereignty of our lands, water etc
- **Hapū Rangatiratanga** – Our right to exercise sovereignty of our hapū ownership

2.1.10 Patuharakeke Pou Taiao, the Environmental Group, lead the environmental and consenting/approvals matters on behalf of the Iwi Trust, and are assigned with the responsibility

of representing and advocating for the best interests of Patuharakeke on resource management issues.

## 2.2 Key Patuharakeke Documents

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2.2.1 The review and consideration of the following Patuharakeke documents ensures that the CIA report is both mindful and responsive to the journey of Patuharakeke in protecting their rangatiratanga and exercise of kaitiakitanga and tikanga. The documents reviewed are associated with:

- Patuharakeke Treaty of Waitangi claims
- Patuharakeke application for recognised customary rights

Also reviewed was the Patuharakeke Hapū Environmental Management Plan 2014 (hereon “PHEMP”) and other Patuharakeke CIA Reports.

### **Te Tiriti o Waitangi Claims – WAI 745 and WAI 1308**

2.2.2 There are two claims<sup>5</sup> with the Waitangi Tribunal (hereon “Tribunal”) representing the interests of Patuharakeke, these are:

- WAI 745 by Paki Pirihi (on behalf of the Iwi Trust), and
- WAI 1308 by Ngawaka Pirihi, Paraire Pirirhi, Harry Midwood, Patricia Heperi, Crete Milner and Terrence Pirihi (on behalf of owners of Pukekauri and Takahiwai land-blocks)

2.2.3 Although the two claims by Patuharakeke have yet to be settled, both have been subject to the settlement processes of other claimants (includes iwi) to protect the interest (hapū rangatiratanga and tikanga) or Patuharakeke. Accordingly, the claimants for both claims have been active.

2.2.4 The two claims sit within the Te Paparahi o Te Raki (Northland) Inquiry where around 415 claims sit before the Tribunal.

2.2.5 In 2014, the Tribunal produced the Stage 1 report, and in 2023, a three volume Stage 2 report was produced and published by the Tribunal. The major issues outlined the Stage 2 report are<sup>6</sup>:

- Tino rangatiratanga, kāwanatanga and autonomy: political engagement between Māori and the Crown, including the 1860s rūnanga system and the Crown's relationship with the Kotahitanga movements of the 1880s, 1890s, and the twentieth century.
- The immediate aftermath of the Treaty of Waitangi

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<sup>5</sup> The Patuharakeke Hapū Environmental Management Plan also refers to WAI 504 and WAI 1040, with the latter claim number for the Te Paparahi o Te Raki (Northland) Inquiry

<sup>6</sup> <https://www.waitangitribunal.govt.nz/en/inquiries/district-inquiries/te-paparahi-o-te-raki-northland>

- The operation of the Native Land Court and the alienation of Māori land in the 19th and 20th centuries.
- The management of Māori land in the twentieth century, including local government and rating, and public works takings.
- Ownership and management of environmental, water and other non-land resources.
- Takutai moana/foreshore and seabed.
- Economic development and socioeconomic issues and capability.
- Te reo Māori, wāhi tapu, taonga, and tikanga.
- Specific local issues including the Port of Whangārei/Northport, Marsden Point Refinery, Hauturu (Little Barrier Island) and Hato Petera College – sale of Crown Grants Lands.

2.2.6 Although these issues above apply across all of Northland, and therefore inclusive of Patuharakeke claims, there are specific matters for Patuharakeke which are summarised in the PHEMP:

*“The key causes of action to which our Statement of Claim relate include undermining the Tino Rangatiratanga of Patuharakeke through nineteenth century land alienation. The alienation and confiscation of land in Patuharakeke’s rohe through actions of the Crown and/or their agents has resulted in less than two percent of land remaining in Patuharakeke ownership. From approximately 100,000 acres including coastal lands stretching from One Tree Point to Mangawhai of around 78,000 acres along the eastern seaboard, now only around 5 acres (2.02 hectares) are held communally by Patuharakeke. This includes Patuharakeke’s marae complex, urupa, Kaumatua flats and the old Takahiwai Native School grounds.*

- *Confiscation*
  - *The 5000 acre Poupuwhenua block was confiscated by the Crown in late in 1844.*
  - *The underlying purpose of the ‘confiscation’ was to provide land for settlers*
- *Alienation through Corrupt Crown Purchases*
  - *An excessively low price paid, then would on sell to settlers shortly after at a massive profit margin (eg. Waipu and Ruakaka Blocks)*
  - *The failure to survey boundaries, then taking land in lieu of survey charges*
  - *The failure to provide reserves and breach of promise to ensure 10% of future proceeds would go to Patuharakeke (eg. Waiwarawara block)*
  - *Public works takings right up until the 1960’s (eg. Pukekauri Block)*
  - *Busby purchased a large area at Ruakaka and Waipu in December 1839*
- *Twentieth Century Breaches*
  - *Environmental issues, such as the industrialisation of Poupuwhenua and the failure of the Crown to protect natural resources such as freshwater resources,*

*Whangarei Terenga Paraoa and other natural resources and heritage within our rohe.*<sup>7</sup>

### **Marine and Coastal Area (Takutai Moana) Claim - Recognised Customary Rights**

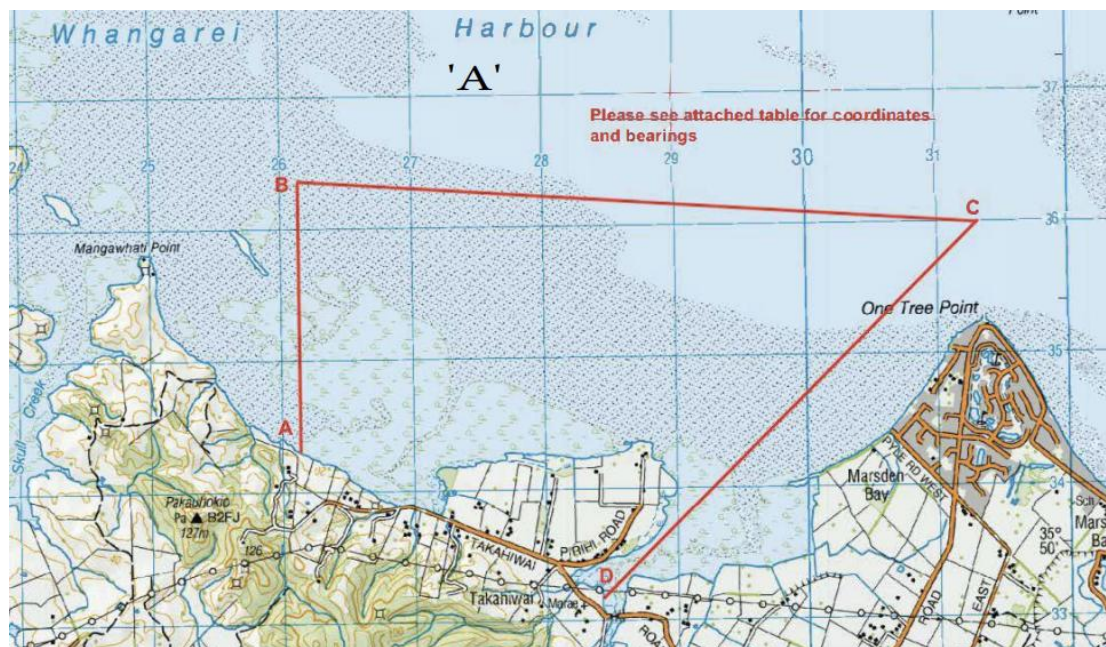
2.2.7 The Iwi Trust have an application with the High Court of New Zealand under the Marine and Coastal Area (Takutai Moana) Act 2011 (hereon “MACA Act”) for an order to recognise Customary Marine Title and Protected Customary Rights of Patuharakeke in the common marine and coastal area. The application numbers are:

- MAC-01-01-101 or CIV-2017-485-000281 Patuharakeke Te Iwi (Application for Customary Marine Title)
- MAC-01-01-102 or CIV-2017-485-000286 Patuharakeke (Application for Protected Customary Rights)

### Customary Marine Title

2.2.8 The MACA Act explains<sup>8</sup> customary marine title as the recognition of the customary interests of an applicant group for a specified area in the common marine and coastal area in accordance with their tikanga, and exclusively used and occupied by the applicant group since 1840 (without interruption).

2.2.9 The map<sup>9</sup> lodged with the application is below:



<sup>7</sup> Patuharakeke Hapū Management plan 2014, Pages 30-32

<sup>8</sup> Section 58 Customary Marine Title of the Marine and Coastal Area (Takutai Moana) Act 2011

<sup>9</sup> Map <https://www.courtsofnz.govt.nz/assets/5-The-Courts/high-court/high-court-lists/applications-marine-coastal-list/civ-2017-485-000281-patuharakeke-te-iwi/civ2017-485-281patuharakeketewitrustmap.pdf>

2.2.10 The application to the High Court by the Iwi Trust for customary marine title identifies the specified area as:

*The area to which this application relates is the common marine and coastal area (as defined in s 9 of the Act) adjacent to the historical Takahiwai Block that is bounded:*

- a. on the landward side by the line of mean high-water springs;*
- b. on the harbour side by the outer limits of Patuharakeke Te Iwi's rohe moana recognised by the Ministry for Primary Industries ("the rohe moana");*
- c. on the westward side by a line that extends from the coast abutting the northwest corner of Takahiwai 3A1B (35°49'34.0"S, 174°23'45.6"E) north to the outer limits of the rohe moana (35°48'32.4"S, 174°23'45.6"E); and*
- d. on the eastward side by a line that extends from the centre of the bridge on Takahiwai Road crossing the Takahiwai Stream (35°50'18.384"S, 174°25'22.3968"E) northeast to the outer limits of the rohe moana (35°48'48"S, 174°27'06"E).<sup>10</sup>*

### Protected Customary Rights

2.2.11 The MACA Act explains<sup>11</sup> protected customary right as an activity, use or practice in the common marine and coastal area that has been exercised since 1840 and continues to be exercised by the applicant group in the present, and is not extinguished as a matter of law.

2.2.12 The application to the High Court by the Iwi Trust outlines<sup>12</sup> the following customary activities undertaken by the Patuharakeke ancestors in their common marine and coastal area:

- non-commercial fishing, including utilising nets and hand lines to catch tāmure (snapper), pātiki (flounder), mangō (shark), inanga (whitebait), kumukumu (red gurnard), pioke (dogfish), parāoa (whale), kahawai, tuna (eel), kanae (grey eyed mullet), wheke (octopus), whai (stingray), aua (yellow eyed mullet), parore (bream);
- non-commercial seeding and harvesting of shellfish, including pipi (kōkota), tio (rock oysters), kōura (freshwater crayfish), kuku (mussels), tipa (scallop), kina, pāua, tuatua (cockles), pūpū, pāpaka (crabs);
- activities related to spiritual practices, such as rāhui;
- planting and cultivating plant species in the application area, including harakeke, pirita (supplejack) and pīngao;
- gathering edible and aquatic plants such as watercress;
- collecting hāngi stones for non-commercial purposes;
- collecting driftwood and other natural resources for non-commercial purposes;

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<sup>10</sup> Application by Patuharakeke Te Iwi Trust Board (2017), point 4, pages 1-2 <https://www.courtsfnz.govt.nz/assets/5-The-Courts/high-court/high-court-lists/applications-marine-coastal-list/civ-2017-485-000281-patuharakeke-te-iwi/civ-2017-485-281.pdf>

<sup>11</sup> Section 51 Meaning of protected customary rights of the Marine and Coastal Area (Takutai Moana) Act 2011

<sup>12</sup> Application by Patuharakeke Te Iwi Trust Board (2017), point 2, page 1 <https://www.courtsfnz.govt.nz/assets/5-The-Courts/high-court/high-court-lists/applications-marine-coastal-list/civ-2017-485-000286-patuharakeke/civ-2017-485-286.pdf>

- temporary camp-sites for ceremonial activities in the application area;
- tauranga waka.

2.2.13 The map<sup>13</sup> below provides an illustration/outline of the specified area for the application:



2.2.14 The application outlines the following reasons why a protected customary rights order is pursued by Patuharakeke:

7. The grounds on which this order is sought are that:

- Patuharakeke being a coastal group has relied heavily on *tāmure* (snapper), *pātiki* (flounder), *mangō* (shark), *inanga* (whitebait), *kumukumu* (red gurnard), *pioke* (dogfish), *paraoa* (whale), *kahawai*, *tuna* (eel), *kanae* (grey eyed mullet), *wheke* (octopus), *whai* (stingray), *aua* (yellow eyed mullet), *parore* (bream), *pipi* (*kōkota*), *tio* (rock oysters), *koura* (freshwater crayfish), *kuku* (mussels), *tipa* (scallops), *kina*, *pāua*, *tuatua* (cockles), *pupu*, *pāpaka* (crabs) and wetland food stocks foraged by *whānau* in the estuaries and coastal margins; and
- Patuharakeke fishermen sought the deep water fish that were not available around the inner shoreline; and
- Patuharakeke also undertakes the following activities in common marine and coastal area the:

<sup>13</sup> Map <https://www.courtsofnz.govt.nz/assets/5-The-Courts/high-court/high-court-lists/applications-marine-coastal-list/civ-2017-485-000286-patuharakeke/civ2017-485-286patuharakeketeiwiTrustBoardMap.pdf>

- i. spiritual practices such as rāhui, baptisms, and designating waahi tapu;*
- ii. planting and cultivating plant species such as harakeke, raupō, muka and watercress; .*
- iii. weaving and rongoā;*
- iv. collecting hangi stones for non-commercial purposes;*
- v. collecting driftwood and other natural resources for non-commercial purposes;*
- vi. temporary camp sites for ceremonial activities; and*
- vii. tauranga waka.*

8. Patuharakeke has undertaken these activities listed above mai rā ano (since time immemorial) and continues to undertake these activities in the application area, albeit in some instances using modern equipment, and in accordance with tikanga.

2.2.15 Traditional Research reports inform these two MACA applications. Whetū have reviewed the following reports:

- Ngā Kōrero Tuku Iho o Patuharakeke – Traditional Research Report of Patuharakeke “*Tiaki Tangaroa – Tiaki anō mātou ---- If we look after the sea – the sea will look after us*”
- Ngā Kōrero Tuku Iho o Patuharakeke – Traditional Research Report of Patuharakeke (for the MACA Whangārei Stage 1(b) Hearing Area) “*Me tangoake i te tai ----- Taken up from the sea, or reclaimed from the sea*”

2.2.16 Patuharakeke have an extensive relationship with their common marine and coastal area that encompasses traditional, historical, spiritual, cultural and contemporary associations.

#### **Patuharakeke Hapū Environmental Management Plan 2014**

2.2.17 The PHEMP is the environmental management plan for Patuharakeke representing the views and perspectives of Patuharakeke with regards to environmental resource management and fisheries management.

2.2.18 The PHEMP is a statement of Patuharakeke values and aspirations, and prescribes a series of issues, objectives and policies in relation to the environment (including fisheries) and is a living and practical document that will assist Patuharakeke to proactively and effectively engage in and shape current and future policy, planning processes, and resource management decisions.

2.2.19 It states environmental objectives and proposed actions and outcomes that are of priority to Patuharakeke. The relevant policy areas for this proposed fast-track project are outlined in a table included in **Appendix A**.

## Draft Climate Change Update 2025

- 2.2.20 To acknowledge and respond to the increasing changes to weather patterns and climatic conditions, the Iwi Trust have published a draft document that updates the climate change provisions in the PHEMP.
- 2.2.21 The planning framework for the climate change document is centred around a Te Ao Māori / whakaaro Māori concept of a waka (double hull vessel), a guiding star/whetū, and the appropriate use of mātauranga Māori.
- 2.2.22 The issues, objectives and policies outlined in the climate change document focus on five (5) areas:
- Hiwi Taha Maui – Mitigation
  - Hiwi Taha Matou – Adaptation and Resilience
  - Whare – Whanaungatanga
  - Hoe Tere – Tino Rangatiratanga
  - Rangatiratanga Taiao

## Patuharakeke Cultural Impact Assessment Reports

- 2.2.23 Two CIA reports were reviewed by Whetū with the aim of identifying and understanding the application of Patuharakeke values and interests (includes rangatiratanga and kaitiakitanga) in resource management processes. The two reports are:
- a. Northport Expansion Project - Cultural Effects Assessment (2022)
  - b. Refining NZ Crude Freight Proposal – Cultural Effects Assessment (2017)

## 2.3 Patuharakeke Mana Moana Roopu

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- 2.3.1 The Patuharakeke Mana Moana Roopu is a subcommittee of the Iwi Trust Board are gazetted under the Fisheries (Kaimoana Customary Fishing) Regulations 1998, and are mandated to act on our behalf on all matters pertaining to customary fisheries, specifically:

*6. Power to authorise the taking of fisheries resources for customary food-gathering—A Tangata Kaitiaki may authorise any individual to take fisheries resources managed under the Fisheries Act 1996, other than those resources that are taken in fresh water, for customary food-gathering purposes from within the whole or any part of the area/rohe moana. No customary food-gathering of fisheries resources may take place in the area/rohe moana without an authorisation from a Tangata Kaitiaki<sup>14</sup>.*

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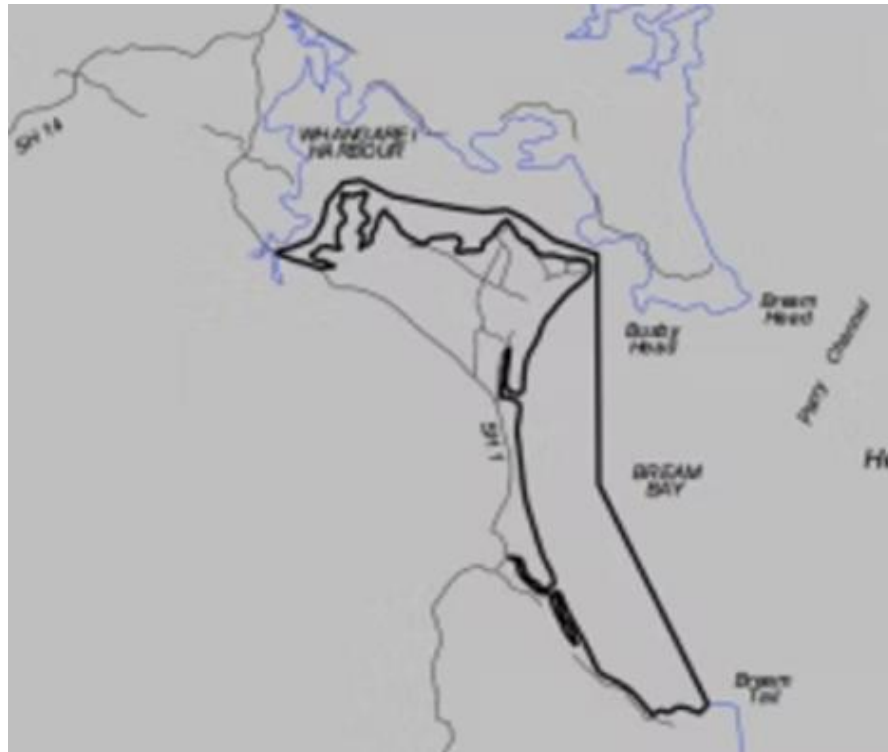
<sup>14</sup> <file:///Users/jameswhetu/Downloads/NZGazette62May09.pdf>

2.3.2 The vision for the Roopu is “A healthy rohe moana that enables us to sustain our whānau and kāinga and manaaki our manuhiri with kaimoana”.

2.3.3 The tikanga/management principles for the Roopu are based on:

**Kaitiakitanga | Whanaungatanga | Manaakitanga | Integrated Management |  
Enhancement**

2.3.4 The gazetted area/rohe moana, as shown in the image below, is identical to the application area for protected customary activity.



Combined Rohe Moana - Te Rerenga Paraoa

2.3.5 In 2021, the Minister for Ocean and Fisheries notified, via gazette notice<sup>15</sup>, of a combined Rohe Moana for Ngāti Kahu, Te Parawhau, Ngāti Tū and Patuharakeke. This Rohe Moana is referred to as Te Rerenga Paraoa, and links/abuts the Patuharakeke Rohe Moana and extends eastward to the exclusive economic zone (200 nautical miles).

2.4 Mana Whakahono ā Rohe

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2.4.1 Mana Whakahono ā Rohe are an instrument of the RMA to assist tangata whenua with their involvement in resource management processes of local government.

<sup>15</sup> <https://gazette.govt.nz/notice/id/2021-go2731/pdf>

2.4.2 In December 2020, the Northland Regional Council and Patuharakeke Te Iwi Trust signed a Mana Whakahono ā Rohe<sup>16</sup> at Takahiwai Marae.

## 2.5 Commercial Fisheries Interests & Ngātiwai Trust Board

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2.5.1 As a hapū of Ngātiwai, the commercial fisheries interests of Patuharakeke are managed by the Ngātiwai Trust Board as the Mandated Iwi Organisation.

## 2.6 Patuharakeke Cultural Values

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2.6.1 Patuharakeke cultural values were identified through the review of key Patuharakeke documents and via the wānanga/workshop held on 25 May 2025, and were confirmed by Te Iwi Trust through their review and report back to Patuharakeke on 8 November 2025.

2.6.2 Whetū has identified the following Patuharakeke cultural values relevant to the proposed fast-track project:

- a. Rangatiratanga / Mana Moana
  - i. Protecting the customary authority and interests of Patuharakeke in Te Ākau Bream Bay and Whangārei Terenga Parāoa (Whangārei Harbour);
  - ii. Use of Patuharakeke values and mātauranga in resource management processes and in local decision-making;
  - iii. Securing and protecting the rights and interests of Patuharakeke in Te Ākau Bream Bay and Whangārei Harbour, and widely the Poupouwhenua / Takahiwai land area;
  - iv. Patuharakeke Te Iwi Trust upholding its obligations to Patuharakeke hapū, marae and whānau; and
  - v. Patuharakeke connection with its community (iwi, neighbouring iwi and hapū, and local community)
- b. Kaitiakitanga
  - i. Exercise of kaitiakitanga in accordance with Patuharakeke tikanga;
  - ii. Recognise Patuharakeke relationship with Te Ākau Bream Bay and Marine Mammals;
  - iii. Protect and enhance Patuharakeke waahi tapu (areas of significance and importance to Patuharakeke);
  - iv. Application of Patuharakeke kaitiaki monitoring (indicators and standards);

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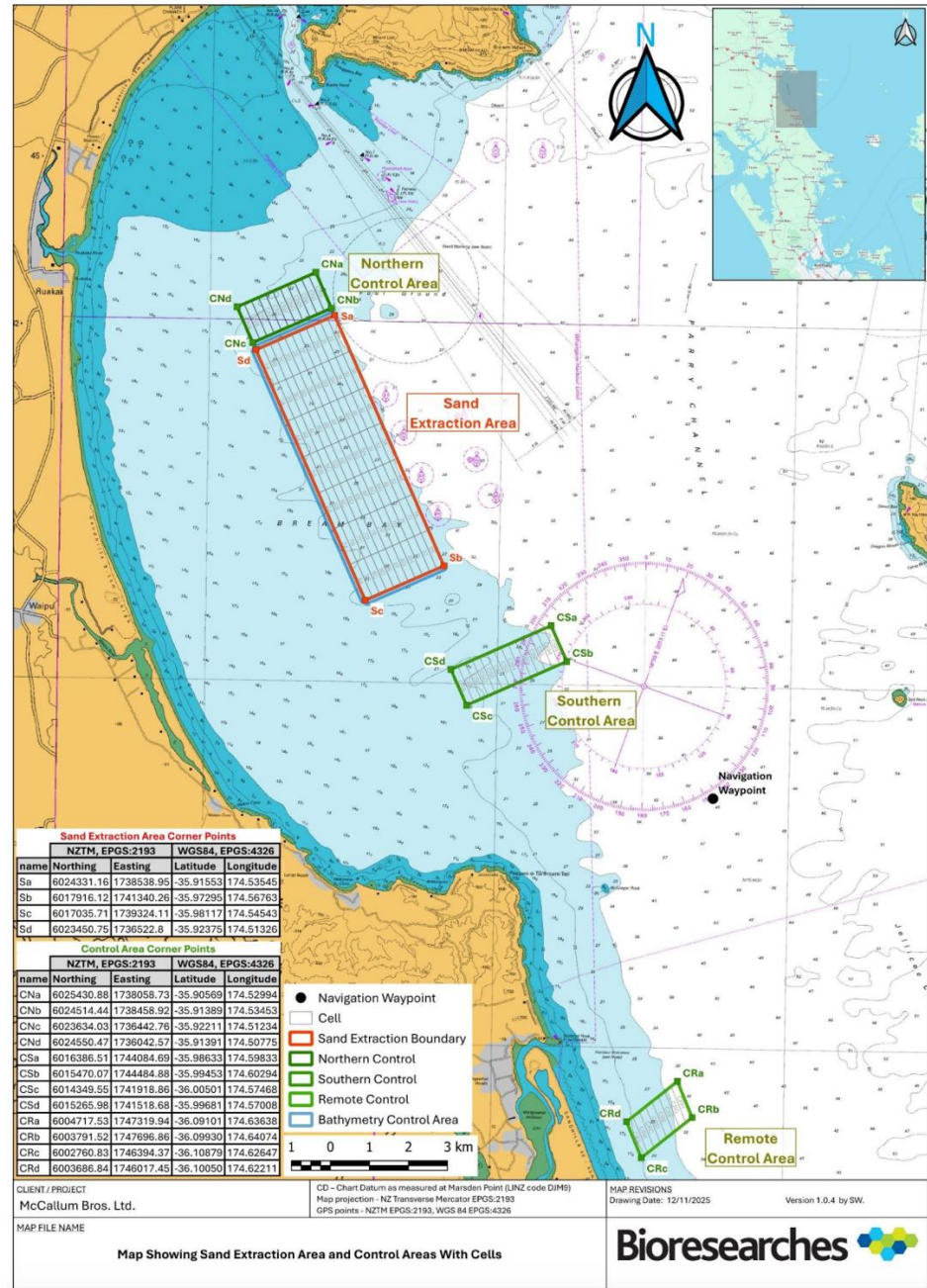
<sup>16</sup> <https://www.nrc.govt.nz/media/o2kxjoth/2024-hapu-mwar-adding-te-parawhau-20240429-final-signed.pdf>

- v. Protect the mana and mauri of Tangaroa (waters, seascape, and fisheries and marine mammals); and
- vi. Proactive response to Climate Change

### 3. Fast-Track Project – Sand Extraction in Te Ākau Bream Bay

#### 3.1 Location Information & Surrounding Environment

3.1.1 Below is an image identifying the location of the proposed fast-track project area in Te Ākau Bream Bay.



Sourced from McCallum Bros Substantive Application<sup>17</sup>

<sup>17</sup> McCallum Bros Ltd Substantive Application (2026), Attachment 6 Site Plan (Including Location of Control Sites)

3.1.2 Information made available by McCallum Bros outlines that the proposed extraction area will be located 4.7km offshore in water depths of 20-30 meters<sup>18</sup> within an area that is approximately 15.4km in size (7km long x 2.2km wide) using a trailer suction hopper dredge William Fraser.<sup>19</sup>

## 3.2 Proposal and Application Information

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3.2.1 The following documents available on the fast-track project website reviewed by Whetū :

- Bioresearches Limited
  - Te Ākau Bream Bay Sand Area - 2024 Initial Sand Extraction Assessment February – March 2024, Job No: 67129, Draft V5 dated 7 March 2025;
  - Te Ākau Bream Bay Sand Extraction Project: Assessment of Ecological Effects, Job No: 67129 Final V6.3 dated 17 December 2025;<sup>20</sup>
- Boyd, R.O - Assessment of Effects on Fish and Fisheries in Te Ākau Bream Bay dated February 2025<sup>21</sup>;
- Brown New Zealand Limited
  - Te Ākau Bream Bay Sand Extraction: Landscape & Natural Character Effects Assessment dated August 2025;<sup>22</sup>
- Goodchild, Bruce – Navigation Safety Assessment dated 21 February 2025;<sup>23</sup>
- Market Economics Limited
  - Bream Bay Sand Extraction: Assessment of Economic Effects, Document Reference No: MCBL 004.24 dated 1 May 2024;
  - Te Ākau Bream Bay Sand Extraction: Economic Assessment, Document Reference No: MCBL 004.24 dated 21 December 2025;<sup>24</sup>
- McCallum Brothers Limited – Bream Bay Sand Extraction Application – Briefing Paper for Patuharakeke Trust Board dated 28 February 2024;
- MetOcean Solutions Limited

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<sup>18</sup> Bioresearches (2025) Assessment of Ecological Effects, Page 1

<sup>19</sup> McCallum Bros Ltd Substantive Application (2026), Section 5 Description of the Project, Page 15

<sup>20</sup> This Bioresearches Assessment of Ecological Effects report is an updated version of the assessment report that was initially provided to the Iwi Trust and Whetū.

<sup>21</sup> On the second page of the report, it is dated April 2025

<sup>22</sup> This Brown NZ Landscape & Natural Character Effects Assessment report is an updated version of the assessment report that was initially provided to the Iwi Trust and Whetū.

<sup>23</sup> This Bruce Goodchild report was not made available to the Iwi Trust nor Whetū.

<sup>24</sup> This Market Economics Consulting Assessment of Economic Effects report is an updated version of the assessment report that was initially provided to the Iwi Trust and Whetū.

- Assessment of Effects on Surf Breaks at Bream Bay, Document ID: 0635-05, dated July 2024<sup>25</sup>;
- National Institute of Water and Atmospheric Research Limited<sup>26</sup>
  - Cup corals and Schedule 7 of the Fast-track Approvals Act 2024 dated 18 December 2025, Version 4, NIWA Client Report No: 2024379WN;
  - Sand Extraction in Whanga-a-Tamure Bream Bay: Potential Effects on Seabirds and Shorebirds dated 16 May 2025, NIWA Client Report No: 2024250WN;
  - Scleractinian cup corals at Te Ākau Bream Bay dated 18 December 2025, Version 4.0, NIWA Client Report No: 2024322WN;
- Osbourne Hay (North) Limited
  - Te Ākau Bream Bay Sand Extract Project – Resource Consent and Wildlife Approval Applications and Assessment of Effects under the Fast-track Approvals Act 2024, Report Date: January 2026, Report Version: Final;<sup>27</sup>
- SLR Consulting New Zealand<sup>28</sup>
  - Bream Bay Sand Extraction: Water Quality Assessment of Environmental Effects, SLR Project No: 820.030379.00001, Revision: 05, dated 17 December 2025;
  - Te Ākau Bream Bay Sand Extraction: Marine Mammal Environmental Impact Assessment, SLR Project No: 840.030119.00001, Revision: 07, dated 13 January 2026;
- Styles Group Acoustic and Vibration Consultants
  - Assessment of Airbourne Noise Effects – Sand Extraction Te Ākau Bream Bay, dated 13 January 2026, Rev 5;<sup>29</sup>
  - Assessment of Underwater Noise Levels – Proposed Sand Extraction: Te Ākau Bream Bay, dated 10 April 2025, Rev 5;
- Tonkin & Taylor Limited
  - Te Ākau Bream Bay Sand Extraction: Coastal Process Effects Assessment, dated January 2026, Job Number 1093502 v6.0<sup>30</sup>.

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<sup>25</sup> The Document History table in the report informs that the version 0.6 is dated 14 October 2024

<sup>26</sup> There are two NIWA reports that were not made available to the Iwi Trust nor Whetū.

<sup>27</sup> This final substantive application report was not made available to the Iwi Trust nor Whetū.

<sup>28</sup> The report prepared by SLR Consulting NZ (Water Quality Assessment of Environmental Effects and Marine Mammal Environmental Impact Assessment) are updated versions of the assessment reports that were initially provided to the Iwi Trust and Whetū.

<sup>29</sup> This Styles Group Assessment of Airbourne Noise Effects report is an updated version of the assessment report that was initially provided to the Iwi Trust and Whetū.

<sup>30</sup> This Tonkin & Taylor Coastal Process Effects Assessment report is an updated version of the assessment report that was initially provided to the Iwi Trust and Whetū.

- 3.2.2 A statement from Paul Donoghue<sup>31</sup> was provided regarding his expertise/knowledge on Auckland concrete market and appropriateness of the sand material in Te Ākau Bream Bay for the Auckland market.
- 3.2.3 Included in the substantive application were recommended Resource Consent conditions (Attachment 26) and recommended Wildlife Approval conditions (Attachment 35), as well as the following management plans:
- Sand Extraction Operation Plan (Attachment 27)
  - Marine Mammal Management Plan (Attachment 28)
  - Environmental Monitoring Management Plan (Attachment 29)
  - Cup Coral Management Plan (Attachment 30)
  - Biosecurity Management Plan (Attachment 31)
  - Garbage Management Plan (Attachment 32)
  - Oil Spill Contingency Plan (Attachment 33)
- 3.2.4 Also, in addition to the Patuharakeke CIA report were CIA reports from Te Poupouwhenua o Tiakiriri Kūkupa Trust (Te Parawhau ki tai) and Ngātiwai Trust Board, and joint memorandum between McCallum Bros and Te Parawhau ki Tai.
- 3.2.5 The fast-track project details are not repeated here, but in summary, it is understood<sup>32</sup> that the proposed fast-track project is
- a) Resource Consent (Coastal Permit)
    - i. Coastal permit would cover:
      - Destruction, damage or disturbance of any foreshore or seabed or the deposition of material on, or under, the foreshore and seabed, and
      - Discharge of water or sediment into water incidental to the activity;
    - ii. The term of the consent/approval being sought is 35 years, with the McCallum Bros are proposing a two staged approach
      - Stage 1 proposes to extract 150,000m<sup>3</sup> per annum for at least the first three (3) years<sup>33</sup>;

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<sup>31</sup> Paul Donoghue is a registered engineering associate and employed by Concrete New Zealand provided supporting statement included as Attachment 20 Concrete Suitability Statement in substantive application.

<sup>32</sup> McCallum Bros Ltd Substantive Application (2026), Section 5 Description of the Project, Page 15

<sup>33</sup> The Market Economics Consulting report informs that this equates to 270,000 tonnes over the three year period, The SLR Consulting report on Marine Mammals informs that this equates to 14 trips per month between the Port of Auckland and Te Ākau Bream Bay.

- Stage 2 proposes to increase the rate to 250,000m<sup>3</sup> per annum for the remaining period of the consent (up to 32 years)<sup>34</sup>;
  - The monthly extraction rate (maximum) is 15,000m<sup>3</sup> for Stage 1 (first three years), with monthly rate for Stage 2 (32 years) is 25,000m<sup>3</sup><sup>35</sup>
- iii. The total extraction volume of sand will up to 8,450,000m<sup>3</sup>, whereby the extraction area would lower the seabed by an average of 0.55m<sup>36</sup>
  - iv. Sand is to be extracted in the afternoon from 12pm to 6pm (April-September) and from 12pm to 8pm (October-March), with a maximum daily extraction time of 3.5hrs which will limit extraction track length between 11km – 13km per extraction day.
  - v. A number of conditions of resource consent are proposed (Attachment 26) by McCallum Bros to managing the effects of the projects. Of particular interest is proposed condition 44 “Cultural Contribution”.
- b) Wildlife Permit
- i. During monitoring – Collect both dead and alive *Sphenotrochus ralphae* and *Kionotrochus suteri*;
  - ii. During monitoring – When identified on site during monitoring, return to the coastal marine area the dead and alive *Sphenotrochus ralphae* and *Kionotrochus suteri*;
  - iii. During monitoring – For those dead and alive *Sphenotrochus ralphae* and *Kionotrochus suteri* not identified and returned to the coastal marine area while on site, incidental killing by being preserved in a solution of 5% glyoxal, 70% ethanol sea water solution as part of the storage and transportation of sand samples to a laboratory;
  - iv. During sand extraction – Incidental collection of both dead and alive *Sphenotrochus ralphae* and *Kionotrochus suteri*, and return to the coastal marine area;
  - v. During monitoring and sand extraction – Disturbance and incidental killing of *Sphenotrochus ralphae* and *Kionotrochus suteri*;

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<sup>34</sup> The Market Economics Consulting report informs that this equates to 450,000 tonnes over the 32-year period. The SLR Consulting report on Marine Mammals informs that this equates to 23 trips per month between the Port of Auckland and Te Ākau Bream Bay.

<sup>35</sup> Tonkin & Taylor (2026) Coastal Process Effects Assessment, Introduction, Page 1

<sup>36</sup> Tonkin & Taylor (2025) Coastal Process Effects Assessment, Section 3.5 Sediments, Page 17

## 4. Legislative and Regulatory Environment

### 4.1 Fast-track Approvals Act 2024

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4.1.1 The FTA Act was introduced in December 2024. The purpose of the FTA Act is to streamline the approval process for infrastructure and development projects that are deemed to have significant regional or national benefits. An amendment to the FTA Act was introduced in 2025, with that amendment ascending into law on 11 December 2025.

4.1.2 There are a number of statutory requirements that relate to consultation with iwi and consideration of cultural values. Section 7 of the FTA Act states the following:

**Section 7 Obligation relating to Treaty settlements and recognised customary rights**

*(1) All persons performing and exercising functions, powers, and duties under this Act must act in a manner that is consistent with—*

*(a) the obligations arising under existing Treaty settlements; and*

*(b) customary rights recognised under—*

*(i) the Marine and Coastal Area (Takutai Moana) Act 2011 (hereon “MACA”);*

*(ii) the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 (hereon “Ngā Rohe Moana”)*

*(2) To avoid doubt, subsection (1) does not apply to a court or a person exercising a judicial power or performing a judicial function or duty.*

*(3) In this section, existing Treaty settlements means Treaty settlements that exist at the time the relevant function, power, or duty is performed or exercised (rather than only those that exist at the commencement of this Act).*

4.1.3 Currently, Patuharakeke do not have an individual Treaty settlement, nor do the Patuharakeke Te Iwi Trust hold any recognised customary rights under MACA or Ngā Rohe Moana.

4.1.4 However, Patuharakeke have recognition and obligations under the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, and its regulation the Fisheries (Kaimoana Customary Fishing) Regulations 1998.

4.1.5 In preparing a substantive application for a listed project, McCallum Bros will need to demonstrate compliance with section 29 of the FTA Act.

**Section 29 Pre-lodgement requirements for listed project**

*(1) Before lodging a substantive application for a listed project, the authorised person for the project must—*

*(a) consult the persons and groups referred to in section 11(a);*

4.1.6 Section 11 of the FTA Act states:

**Section 11 Consultation requirements for referral application**

*(1) Before lodging a referral application, the applicant must—*

*(a) consult –*

- (i) any relevant applicant groups with applications for customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011; and
  - (ii) ngā hapū o Ngāti Porou, if the project area is within or adjacent to, or the project would directly affect, ngā rohe o moana o ngā hapū o Ngāti Porou; and
- (b) notify in writing –
- (i) the relevant local authorities,
  - (ii) any relevant iwi authorities, hapū, and Treaty settlement entities, including—
    - (A) iwi authorities and groups that represent hapū that are parties to relevant Mana Whakahono ā Rohe or joint management agreements; and
    - (B) the tangata whenua of any area within the project area that is a taiāpure-local fishery, a mātaītai reserve, or an area that is subject to bylaws or regulations made under Part 9 of the Fisheries Act 1996; and
  - (iii) the relevant administering agencies; and
  - (iv)....

4.1.7 The Patuharakeke Te Iwi Trust is:

- a. a relevant applicant group with an application for customary marine title (section 11(1)(a)(i)) to be consulted, and
- b. a relevant iwi authority and hapū (section 11(1)(b)(ii), and an iwi authority and group with a Mana Whakahono ā Rohe in place with the Northland Regional Council (section 11(1)(b)(ii)(A), that are to be notified in writing of the application.

4.1.8 Schedule 5 of the FTA Act prescribes the approvals process for resource consents. Clause 5 outlines the information requirements for consent applications. Below focuses on those requirements in Clause 5 regarding cultural, iwi/hapū, Treaty settlement, kaitiaktanga, and customary rights matters:

**Schedule 5 Approvals relating to Resource Management Act 1991**

**Clause 5 Information required in consent application**

- (1) For the purposes of section 43(3)(a), a consent application must include the following information:
- (b) a description and map of the site at which the activity is to occur, including whether the site is within or adjacent to—
    - (i) a statutory area (as defined in the relevant Treaty settlement Act); or
    - (ii) ngā rohe moana o ngā hapū o Ngāti Porou; or
    - (iii) a protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011;
  - (h) an assessment of the activity against any relevant provisions in any of the documents listed in subclause (2); and
  - (i) information about any Treaty settlements that apply in the area covered by the consent application, including—
    - (i) identification of the relevant provisions in those Treaty settlements; and

*(ii) a summary of any redress provided by those settlements that affects natural and physical resources relevant to the project or project area; and*

*(j) a list of any relevant customary marine title groups, protected customary rights groups, ngā hapū o Ngāti Porou (where an application is within, adjacent to or directly affecting ngā rohe moana o ngā hapū o Ngāti Porou), or applicants under the Marine and Coastal Area (Takutai Moana) Act 2011; and*

*(2) The documents referred to in subclause (1)(h) are the following:*

*(g) a planning document recognised by a relevant iwi authority and lodged with a local authority.*

*(3) An assessment under subclause (1)(h) must include an assessment of the activity against—*

*(a) any relevant objectives, policies, or rules in a document listed in subclause (2);*

*(b) any requirement, condition, or permission in any rules in any of those documents; and*

*(c) any other requirements in any of those documents.*

*(4) A consent application must include an assessment of the activity's effects on the environment that—*

*(a) includes the information required by clause 6; and*

*(b) covers the matters specified in clause 7.*

4.1.9 As already stated, Patuharakeke do not have a Treaty settlement, nor do the Patuharakeke Te Iwi Trust hold any recognised customary rights under MACA or Ngā Rohe Moana. However, Patuharakeke do have:

- recognition and obligations under the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, and its regulation the Fisheries (Kaimoana Customary Fishing) Regulations 1998; and
- a hapū environmental management plan (planning document) lodged with Northland Regional Council and other local authorities in the takiwā/area of Patuharakeke.

4.1.10 The PHEMP contains objectives and policies, and requirements<sup>37</sup>, that are relevant to the McCallum Bros fast-track project.

4.1.11 Clause 5(4)(a) refers to Clause 6 and Clause 7 in Schedule 5 of the FTA Act regarding information required, and matters to cover, to assess environmental effects. With those clauses in mind, Patuharakeke have interest in the:

- a. actual and potential effects on the environment, specifically Te Ākau Bream Bay, and the intended mitigation measures to reduce and/or prevent those effects;
- b. risks to the environment, with specific focus on Te Ākau Bream Bay;
- c. monitoring methodologies to be applied in the fast-track project;
- d. long-term impacts to Patuharakeke protected customary activity(s);
- e. social, economic and cultural effects on Ruakākā, and wider, community;

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<sup>37</sup> Requirements are those matters in the Patuharakeke Hapū Environmental Management Plan that state "must" and "shall" do. These have been identified and outlined in the table included in Appendix A of this report.

- f. effects on aesthetic, recreational, scientific, historical, spiritual and cultural values; and
  - g. climate change/natural hazard concerns.
- 4.1.12 In the absence of interpretations/definitions in the FTA Act for environment and effects, the CIA report refers to the interpretations/definitions in the RMA (which are described in the section below).

### **Decision-Making Process**

- 4.1.13 Section 81 of the FTA Act prescribes the responsibility of the expert panel when deciding whether to grant or decline an approval. Where it relates to RMA/resource consents, section 81(2)(b) and (3)(a) refers clauses 17 to 21 of Schedule 5 of the FTA Act. Clause 17 is outlined below:
- 4.1.14 Clause 17(1) requires the panel to take into account of various Parts of the RMA, and relevant provisions in any other relevant legislation that directs decision making under the RMA. In giving clarity around the application of Part 2 of the RMA, Clause 17(2)(a) advises that only sections 5, 6 and 7 of the RMA are to be applied.

## 4.2 Resource Management Act 1991

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- 4.2.1 The RMA provides the statutory framework for assessment and decision-making on the sustainable management of Aotearoa New Zealand's natural and physical resources, and interprets/defines the environment as:
- ecosystems and their constituent parts, including people and communities; and
  - all natural and physical resources; and
  - amenity values; and
  - the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters
- 4.2.2 Additionally, section 3 of the RMA interprets/defines the term "effect" as:

### **Section 3 Meaning of effect**

*In this Act, unless the context otherwise requires, the term effect includes—*

- (a) any positive or adverse effect; and*
- (b) any temporary or permanent effect; and*
- (c) any past, present, or future effect; and*
- (d) any cumulative effect which arises over time or in combination with other effects—regardless of the scale, intensity, duration, or frequency of the effect, and also includes—*
- (e) any potential effect of high probability; and*
- (f) any potential effect of low probability which has a high potential impact.*

4.2.3 Within Part 2 of the RMA are sections 5 – 8:

- Section 5 - Purpose
- Section 6 - Matters of National Importance
- Section 7 - Other Matters
- Section 8 - Treaty of Waitangi

### **Purpose of the RMA – Sustainable Management**

4.2.4 Section 5(2) of the RMA describes sustainable management:

#### ***Section 5(2)***

*In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while—*

- a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- c) avoiding, remedying, or mitigating any adverse effects of activities on the environment*

4.2.5 Relevant case law on the purpose of the RMA for this CIA report is the *Environmental Defense Society v New Zealand King Salmon Company Ltd* [2014] NZSC 38.

4.2.6 This Supreme Court decision<sup>38</sup> is considered a significant change in interpretation of the RMA. The Court held that the definition of sustainable management must be read as an integrated whole and the environmental effects described in section 5(2)(a)-(c) must be observed in the course of sustainable management outlined in the section 5(2).

4.2.7 Prior to the Court's decision, an overall broad judgment approach to the economic benefits and environmental effects were applied, however, the Court determined that, although section 5 does not create primacy for environmental protection, in certain circumstances sustainable management may require that particular environments be protected from the adverse effects of inappropriate activities.

4.2.8 Environmental protection is a key component of sustainable management, but no single aspect of "the use, development, and protection" of natural and physical resources in section 5 has overarching authority. Consequently, while specific environmental thresholds may be established to safeguard certain environments from negative impacts, the effectiveness of

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<sup>38</sup> *Environmental Defense Society v New Zealand King Salmon Company Ltd* (2014) NZSC 38

these measures will be determined on a case-by-case basis to ensure they fulfil the sustainable management objectives of the RMA.

4.2.9 Other key guidance on the interpretation of Part 2 of the RMA from the decision:

- "Avoiding" in section 5(2)(c) has its "ordinary meaning of "not allowing" or "preventing the occurrence of"
- Section 5 be read as a whole, with "while" meaning "at the same time as"
- Sections 6, 7 and 8 "supplement" section 5 by further elaborating on obligations on those administering the RMA.
- "Inappropriateness" in sections 6(a), (b) and (f) should be assessed by reference to what it is that is sought to be protected or preserved.

4.2.10 To support Section 5 of the RMA are Sections 6 - 8 which outline a hierarchy of matters to assist the achievement of sustainable management with Aotearoa New Zealand's natural and physical resources. All matters described in sections 6 – 8 are relevant to Māori as mana whenua/mana moana and as kaitiaki.

### **Māori Relationship (culture and traditions) with the Environment**

4.2.11 Section 6 of the RMA states the following:

#### ***Section 6 Matters of national importance***

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:*

- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- (f) the protection of historic heritage from inappropriate subdivision, use, and development:*
- (g) the protection of protected customary rights:*
- (h) the management of significant risks from natural hazards.*

- 4.2.12 Reflected above, the RMA provides that “the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga” and “the protection of historic heritage from inappropriate subdivision, use, and development” are both matters of national importance that must be recognised and provided for.
- 4.2.13 To “recognise and provide for” requires the decision-maker to make actual provision for these national matters, and signifies priority and greater weight and therefore not reduced when balancing. However protection is not given primacy<sup>39</sup>.
- 4.2.14 It is necessary to identify whether there is a relationship by Māori with the property/area (includes water, sites, waahi tapu and other taonga).
- 4.2.15 Complementary to section 6(e), and across the RMA, are the inclusion of ‘mana whenua’, ‘tangata whenua’ and ‘tikanga Māori’. These are defined in the RMA as follows:
- Mana whenua means “customary authority exercised by an iwi or hapū in an identified area”
  - Tangata whenua means “in relation to a particular area, the iwi, or hapū, that holds mana whenua over that area”
  - Tikanga Māori means “Māori customary values and practices”
- 4.2.16 Māori perspectives of the world are based on the proposition that the environment is an interacting network of related elements, each having a relationship to the other and to earlier origins<sup>40</sup>.
- 4.2.17 Mātauranga Māori is an integral element of understanding and engaging with and in the Māori world (Te Ao Māori). It spans Māori knowledge, culture, values and worldview<sup>41</sup>, and is embedded in the relationships between people and natural resources, and the relationship between people and their bodies of knowledge as mātauranga Māori is explained through kinship/whanaungatanga<sup>42</sup>.
- 4.2.18 The unique relationship and natural order (whakapapa and whanaungatanga) is a basis of the Māori worldview, and in context of Aotearoa New Zealand’s resource management regime, is key to understanding, identifying and applying the values and interests of Māori when considering information and evidence on Māori relationship, culture and traditions with ancestral lands, water, sites, waahi tapu and other taonga, as well as their role as kaitiaki.

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<sup>39</sup> Environmental Defense Society v New Zealand King Salmon Company Ltd (2014) NZSC 38

<sup>40</sup> Durie, M. (1998). Te Mana, Te Kāwanatanga: The Politics of Self Determination. Oxford University Press: Wellington. page 21.

<sup>41</sup> Hikuroa, D. (2018). Mātauranga Māori - the ūkaipō of knowledge in New Zealand.

<sup>42</sup> Tuatahi, T. (2011). Ko Aotearoa tēnei: A Report into Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity (Waitangi Tribunal Report). At page 105. Retrieved from:

[https://forms.justice.govt.nz/search/Documents/WT/wt\\_DOC\\_68356054/KoAotearoaTeneiTT1W.pdf](https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_68356054/KoAotearoaTeneiTT1W.pdf)

- 4.2.19 It is considered that there are two relevant court decision on section of the RMA for this CIA report:
- Port of Tauranga v Bay of Plenty Regional Council 2023,
  - Ngāti Maru Trust v Ngāti Whātua Ōrākei Whaia Maia 2020, and
  - Ngāti Hokopu ki Horowhitu v Whakatāne District Council 2002
- 4.2.20 The relevance of the Port of Tauranga (hereon “POTL”) court decision, the Environment Court’s first interim decision<sup>43</sup> granted resource consent for Stage 1 only, and for Stage 2 directed the POTL, among other directions, to undertake further engagement with local iwi and hapū.
- 4.2.21 The decision outlines that the primary issues<sup>44</sup> to be determined by the Court were:
- (a) whether the proposal recognises and provides for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga, which is a matter of national importance; and
  - (b) how to have particular regard to kaitiakitanga in the circumstances of this case.
- 4.2.22 The Court found that based on all the evidence, the adverse effects of the current proposal on tangata whenua, considered on their own and cumulatively with the effects of existing Port activities, are significantly adverse<sup>45</sup>, and determined that the POTL must provide further evidence to demonstrate that the extent and degree of recognition of and provision for the relationship of tangata whenua with their ancestral taonga<sup>46</sup>. The Court would express that a collaborative approach to the design and management of POTL facilities is capable of producing an acceptable solution to address the issues affecting tangata whenua and provide for the future of the POTL<sup>47</sup>, and that POTL propose a meaningful kaitiaki role for tangata whenua<sup>48</sup>.
- 4.2.23 With regard to the Ngāti Maru Trust court decision and its relevance, the High Court decision for Ngāti Maru Trust v Ngāti Whātua Ōrākei Whaia Maia Ltd<sup>49</sup> emphasised the relevance and importance of looking at cultural effects from an RMA perspective as identified through a tikanga process.

....the obligation “to recognise and provide for” the relationship of Māori and their culture and traditions with their whenua and other taonga must necessarily involve seeking input from

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<sup>43</sup> Port of Tauranga Ltd v Bay of Plenty Regional Council (2023) NZEnvC 270 dated 13 December 2023

<sup>44</sup> Port of Tauranga Ltd v Bay of Plenty Regional Council (2023) NZEnvC 270 at 575

<sup>45</sup> Port of Tauranga Ltd v Bay of Plenty Regional Council (2023) NZEnvC 270 at 412

<sup>46</sup> Port of Tauranga Ltd v Bay of Plenty Regional Council (2023) NZEnvC 270 at 414 and 618 (3)

<sup>47</sup> Port of Tauranga Ltd v Bay of Plenty Regional Council (2023) NZEnvC 270 at 415

<sup>48</sup> Port of Tauranga Ltd v Bay of Plenty Regional Council (2023) NZEnvC 270 at 618 (2)

<sup>49</sup> Ngāti Maru Trust v Ngāti Whātua Ōrākei Whaia Maia Ltd (2020) NZHC 2768

affected iwi about how their relationship, as defined by them in tikanga Māori, is affected by a resource management decision<sup>50</sup>.

- 4.2.24 In the 2002 Environment Court decision for Ngāti Hokopu ki Hokowhitu v Whakatāne District Council<sup>51</sup>, the Court outlined that in the context of assessment against section 6(e), there is a meeting of two worlds<sup>52</sup> and therefore the meaning and sense of cultural values (e.g whakapapa and whanaungatanga) should come from Māori and their Māori world view from where they came<sup>53</sup>.
- 4.2.25 Additionally, with section 6(e), the Court decision states that there needs to be care not to impose inappropriate 'western concepts' when it applies requirement to consider the relationship of Māori with the natural environment.
- 4.2.26 The Court concluded that to understand Māori values of the landscape and how it affects Māori conduct, one must step deeply inside Māori thinking. One must see the world through Māori eyes, and assess Māori values within a Māori worldview<sup>54</sup>.

### **Kaitiakitanga**

- 4.2.27 Section 7 of the RMA states the following:

#### **Section 7 Other matters**

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—*

- (a) *kaitiakitanga:*
  - (aa) *the ethic of stewardship:*
  - (b) *the efficient use and development of natural and physical resources:*
  - (c) *the maintenance and enhancement of amenity values:*
  - (d) *intrinsic values of ecosystems:*
  - (f) *maintenance and enhancement of the quality of the environment:*
  - (g) *any finite characteristics of natural and physical resources:*
  - (i) *the effects of climate change:*

- 4.2.28 Kaitiakitanga is defined in the RMA as the “exercise of guardianship by the tangata whenua of an area in accordance with tikanga Māori in relation to natural and physical resources, includes the ethic of stewardship”.

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<sup>50</sup> Ngāti Maru Trust v Ngāti Whātua Ōrākei Whaia Maia Ltd at 73

<sup>51</sup> Ngāti Hokopu ki Hokowhitu v Whakatane District Council (2002) 9 ELRNZ 111 (NZEnvC).

<sup>52</sup> Ngāti Hokopu ki Hokowhitu v Whakatane District Council at 43

<sup>53</sup> Ngāti Hokopu ki Hokowhitu v Whakatane District Council at 46 and 53.

<sup>54</sup> Ngāti Hokopu ki Hokowhitu v Whakatane District Council.

- 4.2.29 Durie<sup>55</sup> describes kaitiakitanga as the act of guardianship that requires clear lines of accountability to whānau, hapū and iwi and is more frequently associated with obligation rather than authority.
- 4.2.30 The Waitangi Tribunal report (2012)<sup>56</sup> shares the view regarding the above description, but extends that the description lacks the spiritual dimension that animates the concept and is a product of whanaungatanga, or the intergenerational obligation that arises by virtue of the kin relationship<sup>57</sup>. The Tribunal reports that it is not possible to have kaitiakitanga without whanaungatanga, and vice versa that whanaungatanga creates kaitiakitanga obligations.<sup>58</sup>
- 4.2.31 Kaitiakitanga is about upholding the care of the ancestors whom are manifested in the landscapes that Māori live within.
- 4.2.32 In environmental terms, the kaitiaki approach is holistic and provides for restoration of damaged ecological systems, restoration of ecological harmony, increased usefulness of resources, and reduced risk to present and future generations.<sup>59</sup>
- 4.2.33 The role of kaitiaki is to balance human need with the preservation of the resource and the protection of mauri (the life principle or living essence contained in all things), therefore acting as both benefactor and beneficiary<sup>60</sup>. The role is considerably more significant than simply that of a guardian or steward. It is a vital component in the spiritual and cultural relationship of tangata whenua with their land<sup>61</sup>.
- 4.2.34 There are three relevant court decisions for this CIA report, these are:
- Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board 2021
  - Ngāti Maru Trust v Ngāti Whātua Ōrākei Whaia Maia 2020
  - Tūwharetoa Māori Trust Board v Waikato Regional Council 2018
- 4.2.35 In the Trans-Tasman Resources Ltd decision, when considering the interests of iwi the Supreme Court decision<sup>62</sup> referred to the Court of Appeal decision<sup>63</sup> when outlining that:

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<sup>55</sup> Durie, M. (1998). *Te Mana, Te Kāwanatanga: The Politics of Self Determination*. Oxford University Press: Wellington. page 5.

<sup>56</sup> Waitangi Tribunal. (2012). The Stage 1 report on the national freshwater and geothermal resources claim: Wai 2358. Section 2.7. Retrieved from: [https://forms.justice.govt.nz/search/Documents/WT/wt\\_DOC\\_59941926/Wai2358W.pdf](https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_59941926/Wai2358W.pdf)

<sup>57</sup> Waitangi Tribunal. (2012) at page 105.

<sup>58</sup> Waitangi Tribunal. (2012) at page 105.

<sup>59</sup> Matunga, H. P. (1994). *The Resource Management Act 1991 and Māori Perspectives*. Centre for Māori Studies and Research, Lincoln University.

<sup>60</sup> Hayes, S. (1998). 'Defining Kaitiakitanga and the Resource Management Act 1991', in *Auckland University Law Review* (Vol 8 1996-1999) at page 893.

<sup>61</sup> Hayes, S. (1998) at page 898.

<sup>62</sup> *Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board* (2021) NZSC 127

<sup>63</sup> *Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board* (2020) NZCA 86

“...the interests of iwi with mana moana in the consent area are the longest-standing human-related interests in that place.

4.2.36 As with all interests, they reflect the relevant values of the interest-holder. Those values – mana, whanaungatanga and kaitiakitanga – are relational. They are also principles of law that predate the arrival of common law in 1840.”<sup>64</sup>

4.2.37 Furthermore, in considering kaitiakitanga, the Supreme Court asserts:

“...despite the references to the effects of the proposal on kaitiakitanga and mauri of the marine environment, the DMC did not effectively grapple with the true effects of this proposal for the iwi parties or with how ongoing monitoring could meet the iwi parties concern that they will be unable to exercise their kaitiakitanga to protect the mauri of the marine environment, particularly given the length of the consent and the long-term nature of the effects of the proposal on that environment.”<sup>65</sup>

4.2.38 What was required was for the DMC to indicate an understanding of the nature and extent of the relevant interest, both physical and spiritual, and to identify the relevant principles of kaitiakitanga said to apply.”<sup>66</sup>

4.2.39 With regard to kaitiakitanga in the RMA, in *Ngāti Maru Trust v Ngāti Whātua Ōrākei Whaia Maia Ltd* the court stated:

[69] It is not possible to be definitive about the scope of the jurisdiction to respond to iwi tikanga-based claims, including claims based on asserted mana whenua, in the abstract. But the operation of s 7(a) dealing with kaitiakitanga is illustrative. Kaitiakitanga is exercised by the hapū or iwi that holds mana whenua over a particular area. As the RMA anticipates, and as this case exemplifies, there will be occasions when there are overlapping iwi interests in the same whenua. Nevertheless, s 7(a) directs that regard must be had to their respective kaitiakitanga. Where the views of those iwi diverge as to the responsibilities of kaitiaki, a decision may need to be made as to which of those views is to apply in the context of that particular application and that may involve evidential findings as to what the iwi consider is required in tikanga Māori.”<sup>67</sup>

4.2.40 The Environment Court decision *Tūwharetoa Māori Trust Board v Waikato Regional Council* [2018] NZEnvC 93, the Court did not think that ownership was determinative of how it must have regard to kaitiakitanga (section 7(a) of the RMA) and the principles of the Treaty of Waitangi, and found that the association of Māori (in this case *Ngāti Tūwharetoa*) with land affected by the applications will result in adverse cultural effects.

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<sup>64</sup> *Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board* (2021) NZSC 127 at 297

<sup>65</sup> *Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board* (2021) NZSC 127 at 160

<sup>66</sup> *Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board* (2021) NZSC 127 at 161

<sup>67</sup> *Ngāti Maru Trust v Ngāti Whātua Ōrākei Whaia Maia Ltd* at 69

## **Treaty of Waitangi / Te Tiriti o Waitangi**

- 4.2.41 On the direction of Clause 17(2)(a) of Schedule 5 of the FTA Act, section 8 of the RMA is not presented herein, however for Patuharakeke, the commitments and promises of/within Te Tiriti o Waitangi are relevant.
- 4.2.42 As previously stated, Patuharakeke have yet to settle, and therefore do not have a Treaty settlement legislation. Although this may be the current situation for Patuharakeke, Te Tiriti recognises the right of Māori, of Patuharakeke, to plan for and manage their environment. This makes Te Tiriti the principal reference point for all natural resource decision-making rather than a Treaty settlement legislation.
- 4.2.43 Protecting the values and interests of Patuharakeke are obligations under Te Tiriti.
- 4.2.44 Also, it is viewed that the Mana Whakahono ā Rohe between the Patuharakeke Te Iwi Trust and the Northland Regional Council has its basis in Te Tiriti with an intent to enable Patuharakeke to participate in the duties, functions and exercise of power it performs in resource management.

## **4.3 RMA Planning Documents**

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### **Northland Regional Council – Proposed Regional Plan for Northland**

- 4.3.1 The Northland Regional Council (hereon “NRC”) has the jurisdiction in the coastal marine environment of Te Ākau Bream Bay, with the Proposed Regional Plan for Northland (hereon “PRPN”) outlining the provisions for resource use in the coastal marine environment.
- 4.3.2 The NRC’s website informs that the PNRP replaces the three existing regional plans (Regional Air Quality Plan, Regional Coastal Plan, and Regional Water and Soil Plan) for Northland.
- 4.3.3 Whetū reviewed the February 2024 version of the PRPN.
- 4.3.4 The PRPN states that as of 28 June 2023, all appeals before the Environment Court are resolved. However, the NRC website informs that the PRPN is currently not operative, therefore, where relevant, there is potential that some provisions in NRC’s Regional Coastal Plan that could still be operative.
- 4.3.5 The PRPN and substantive application identifies that the fast-track project is located in the General Marine Zone and Open Coast Water Quality Management Unit. There are a number of overlays in proximity to the fast-track project area. Images of these overlays are included in **Appendix B** and identified below:
- Across the Te Ākau Bream Bay waters
    - Significant Marine Mammal and Seabird Area
    - Marine Pathways
    - Aquaculture Exclusion Area

- Along Te Ākau Bream Bay beachline and Ruakākā River outlet
  - Significant Bird Areas
  - Significant Ecological Areas
  - Sites and Areas of Significance to Tangata Whenua
  - Outstanding Natural Character
  - Outstanding Natural Features
  - High Natural Character

4.3.6 Parts/Sections of the PRPN that were reviewed were:

- Part B – Definitions | Whakamāramatanga
- Part C – Rules | Ngā Ture
  - C.1 Coastal Activities
  - C.6 Discharges to Land and Water
- Part D – Policies | Ngā Kaupapa
  - D.1 Tāngata Whenua
  - D.2 General
  - D.4 Land and Water
  - D.5 Coastal
- Part E – Catchments | Ngā Whaitua
- Part F – Objectives | Ngā Whāinga

4.3.7 Complementary to updating the CIA report, Whetū reviewed the PRPN as planning evidence for the Iwi Trust to support their invited comments to the Expert Panel.

After reviewing the PRPN, it is considered that the fast-track project is primarily a dredging and disposal activity in the coastal marine environment.

4.3.8 In their substantive application, McCallum Bros have identified Rule C.1.5.13 Dredging, deposition and disturbance activities – Discretionary Activity for the fast-track project. This is agreed by Whetū.

The rule is outlined below:

***C.1.5.13 Dredging, deposition and disturbance activities – discretionary activity***

*The damage, destruction or disturbance of the foreshore or seabed, or deposition of material onto the foreshore or seabed, that is not the subject of any other rule of this Plan are discretionary activities, provided they are not in a mapped (refer to Maps | Ngā mahere matawhenua):*

- 1) *Nationally Significant Surf Break, or*
- 2) *Outstanding Natural Feature, or*
- 3) *Area of Outstanding Natural Character, or*

- 4) *Historic Heritage Area or Site, or*
- 5) *Significant Ecological Area, or*
- 6) *Site or Area of Significance to Tāngata Whenua, or*
- 7) *Outstanding Natural Landscape, or*
- 8) *Significant Bird Area – Critical Bird Habitats.*

*For the avoidance of doubt this rule covers the following RMA activities:*

- *Destruction, damage or disturbance of any foreshore or seabed or the deposition of material in, on or under the foreshore or seabed (s12(1)).*
- *Discharge of water or sediment into water incidental to the activity (s15(1)).*

4.3.9 As a Discretionary Activity, the relevant objectives and policies in the PRPN that were identified and reviewed by Whetū are identified are below:

- F.1.2 Water quality
- F.1.3 Indigenous ecosystems and biodiversity
- F.1.4 Fish passage
- F.1.5 Enabling economic well-being
- F.1.8 Use and development in the coastal marine area
- F.1.9 Tāngata whenua role in decision-making
- F.1.10 Natural hazard risk
- F.1.11 Improving Northland's natural and physical resources
- F.1.12 Natural Character, Outstanding Natural Features, Historic Heritage and places of significance to tāngata whenua
- F.1.14 Hazardous substances and contaminated land

4.3.10 The substantive application identified and assessed the above PRPN objectives except for:

- F.1.4 Fish passage
- F.1.10 Natural hazard risk
- F.1.11 Improving Northland's natural and physical resources

4.3.11 The policies in the PRPN are reviewed as part of the planning assessment, with Policy D.5.24 Dredging, disturbance and deposition activities the key policy in the PRPN.

4.3.12 In addition to Policy D.5.24 are the D.1 Tāngata Whenua policies that have been identified below, alongside other cultural related policies, and policies of interest to Patuharakeke contained within the PRPN:

- Policy D.1.1 When an analysis of effects on tāngata whenua and their taonga is required
- Policy D.1.2 Requirements of analysis of effects on tāngata whenua and their taonga
- Policy D.1.3 Affected persons
- Policy D.1.4 Managing effects on places of significance to tāngata whenua

- Policy D.1.5 Places of significance to tāngata whenua
- Policy D.2.2 Social, cultural and economic benefits of activities
- Policy D.2.3 Climate change and development
- Policy D.2.4 Adaptive management
- Policy D.2.13 Marine and freshwater pest management
- Policy D.2.14 Resource consent duration
- Policy D.2.15 Recognising other plans and strategies
- Policy D.2.17 Managing adverse effects on Natural Character, Outstanding Natural Landscapes and Outstanding Natural Features
- Policy D.2.18 Managing adverse effects on indigenous biodiversity
- Policy D.2.19 Managing adverse effects on land-based values and infrastructure
- Policy D.2.20 Precautionary approach to managing effects on significant indigenous biodiversity and the coastal marine environment
- Policy D.4.1 Maintaining overall water quality
- Policy D.4.4 Zone of reasonable mixing
- Policy D.5.27 Underwater noise

4.3.13 It is outlined<sup>68</sup> in the PRPN that when considering an application for resource consent, regard must be had to D.1 Tāngata Whenua policy provisions in the PRPN (alongside other relevant objectives and policies), but where there is conflict, the more directive policy(s) shall prevail.

#### **Northland Regional Policy Statement**

4.3.14 The Northland Regional Policy Statement (hereon “RPS”) provides an overview of the resource management issues for the Northland region, and outlines objectives, policies and methods to achieve integrated management of the natural and physical resources in the region.

4.3.15 The RPS was made operative 14 June 2018.

4.3.16 The RPS identifies eight (8) significant resource management issues for the Northland region. These issues are stated below:

1. Fresh and coastal water
2. Indigenous ecosystem and biodiversity
3. Economic potential and social wellbeing
4. Regional form
5. Issues of significance to tangata whenua – participation in resource management
6. Issues of significance to tangata whenua – natural and physical resources
7. Natural hazards
8. Natural character, features/landscape and historic heritage

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<sup>68</sup> Part D of the Proposed Regional Plan for Northland, Application of objectives and policies, Page 230

4.3.17 The descriptions/explanations for Issue 5 and Issue 6 are outlined below:

***Issue 2.5 Issues of significance to tangata whenua – participation in resource management***

*The following issues have been identified by iwi authorities as regionally significant as they relate to tangata whenua participation in resource management:*

- (a) There is inadequate provision for the early and effective participation of tangata whenua as partners in regional council resource management decision-making processes affecting natural and physical resources;*
- (b) The lack of recognition and provision for the sustainable management of Māori land and returned Treaty settlement assets by tangata whenua;*
- (c) Current use of Māori land may not provide for the sustainable social, cultural, economic and environmental wellbeing of tangata whenua. In particular, the importance and role of marae and papa kāinga has not been acknowledged in the past by the regional and district councils;*
- (d) Mātauranga Māori is not sufficiently recognised and used in the ongoing management and monitoring of natural and physical resources; and*
- (e) The inclusion of Māori concepts, values and practices within resource management processes is frequently limited and ineffective.*

***Issue 2.6 Issues of significance to tangata whenua – natural and physical resources***

*The following issues have been identified by iwi authorities as regionally significant as they relate to the state of, and pressures on, natural and physical resources:*

- (a) The decline of the mauri of natural resources (in particular water and land). (See also Issue 2.1 – Fresh and coastal water);*
- (b) The decline of mahinga kai, particularly kai moana harvesting sites, is impacting on the ability of tangata whenua to feed their whanau and manaaki manuhiri. (See also Issue 2.1 – Fresh and coastal water);*
- (c) Some tangata whenua in rural areas are drinking untreated water from streams and rivers. (See also Issue 2.1 – Fresh and coastal water);*
- (d) Land use and development can lead to damage, destruction and loss of access to wāhi tapu, sites of customary value and other ancestral sites and taonga which Māori have a special relationship with. (See also Issue 2.8 – Significant natural areas, features / landscapes and historic heritage);*
- (e) The loss of indigenous biodiversity, particularly where it negatively impacts on the ability of tangata whenua to carry out cultural and traditional activities. (See also Issue 2.2 – Indigenous ecosystems and biodiversity);*
- (f) The impacts of climate change. (See also Issue 2.7 – Natural hazards); and*

*(g) The use of genetic engineering and the release of genetically modified organisms in the environment.*

4.3.18 There are a number of objectives in Part 3 of the RPS address these two issues.

4.3.19 Also identified above are the relevant policies that implement the objectives, there are tangata whenua policies in Part 3 of the RPS address these two issues.

#### **New Zealand Coastal Policy Statement 2010**

4.3.20 The New Zealand Coastal Policy Statement (hereon “NZCPS”) applies to the coastal environment and came into effect on 3 December 2010.

4.3.21 There are seven (7) objectives and 29 policies. All objectives are viewed by Whetū as relevant to this fast-track, with the following policies (identified by Whetū) also being relevant:

- Policies
  - Policy 1 Extent and characteristics of the coastal environment
  - Policy 2 The Treaty of Waitangi, tangata whenua and Māori heritage
  - Policy 3 Precautionary approach
  - Policy 4 Integration
  - Policy 6 Activities in the coastal environment
  - Policy 11 Indigenous biological diversity (biodiversity)
  - Policy 12 Harmful aquatic organisms
  - Policy 13 Preservation of natural character
  - Policy 15 Natural features and natural landscapes
  - Policy 17 Historic heritage identification and protection
  - Policy 22 Sedimentation
  - Policy 23 Discharge of contaminants
  - Policy 24 Identification of coastal hazards
  - Policy 29 Restricted Coastal Activities

#### **National Policy Statement for Indigenous Biodiversity**

4.3.22 The National Policy Statement for Indigenous Biodiversity (hereon “NPS-IB”) applies to indigenous biodiversity in the terrestrial environment throughout Aotearoa New Zealand.

4.3.23 The objective of the NPS-IB is to maintain indigenous biodiversity such that there is at least no overall loss indigenous biodiversity. To achieve this objective, there are four foci:

- through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity
- by recognising people and communities, including landowners, as stewards of indigenous biodiversity
- by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity, and

- while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.

## 4.4 Other Matters

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4.4.1 This section responds to the directive from central government for Crown Minerals, as well as the proposed Phase III RMA Reforms.

### **Critical Minerals List of New Zealand**

4.4.2 In January 2025, the Ministry of Business, Innovation and Employment released a list of minerals identified as essential to New Zealand’s economy and technological needs. Aggregate & Sand was identified on the list.

4.4.3 There are no mandated actions, however it is acknowledged that the published list does serve as a guide for policy and investment decisions.

### **Phase III RMA Reforms**

4.4.4 In March 2025, a draft Blueprint to replace the RMA was published. Of particular note that may be of relevance to this fast-track project is the proposed amendment to the NZCPS, specifically Policy 6 and Policy 8, to make it easier to consent priority activities in the coastal environment (including in areas of important coastal value).

4.4.5 Also proposed is the amendment to the NPS-IB to improve the consent pathway for quarrying and mining.

### **Treaty of Waitangi (Fisheries Claims) Settlement Act 1992**

4.4.6 Section 4 of the FTA Act informs that reference to Treaty settlement Act in the Act includes Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 (hereon “Fisheries Settlement Act”) and secondary legislation that gives effect to section 10 of the Fisheries Settlement Act and Part 9 of the Fisheries Act 1996.

4.4.7 The purpose of the Fisheries Act 1996 is to provide for the utilisation of fisheries resource while ensuring sustainability ensuring Sustainability means:

- Maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations, and
- Avoiding, remedying or mitigating any adverse effects of fishing on the aquatic environment
- Utilisation means conserving, using, enhancing and developing fisheries resources to enable people to provide for their social, economic and cultural well-being.

4.4.8 The Fisheries Settlement Act gives effect to Māori fisheries rights, and:

- make better provision for non-commercial traditional and customary fishing rights and interests, and
- better provision for participation in the management and conservation of New Zealand fisheries.

## 5. Patuharakeke Approach & Assessment Framework

### 5.1 Patuharakeke Technical Team

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#### Members and Expertise

5.1.1 In addition to Whetū, the Iwi Trust engaged specific technical experts to support the assessment of effects of the fast-track project by peer reviewing McCallum Bros technical reports.

5.1.2 The experts engaged by Patuharakeke, and their speciality, are:

- Dr Tom Brough<sup>69</sup> – Marine Mammals and Sea
- Professor Dr Karin Bryan<sup>70</sup> – Coastal Processes
- Dr Richard Bulmer<sup>71</sup> – Marine Benthic Ecology
- Dr Drew Loher<sup>72</sup> – Marine Benthic Ecology
- Dr Darren Parsons<sup>73</sup> – Marine Ecology
- Dr Richard Meade<sup>74</sup> - Economics

5.1.3 Also, because of the newness with participation in the FTA Act, the charitable organisation Environmental Law Initiative offered and provided support to the Iwi Trust in their understanding of the FTA Act and what it may mean for Patuharakeke.

#### Initial Peer Review and Statements of Expert Evidence

##### Dr Tom Brough

5.1.4 The assessment report initially peer reviewed by Dr Tom Brough was:

- SLR Consulting Limited - Te Ākau Bream Bay Sand Extraction: Marine Mammal Environmental Impact Assessment, SLR Project No: 840.030119.00001, Revision: 05, dated 17 April 2025;

5.1.5 A number of matters were identified by Dr Brough in his initial review:

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<sup>69</sup> Marine Ecologist, Quantitative Modeller with NIWA <https://niwa.co.nz/people/tom-brough>

<sup>70</sup> Professor at the University of Auckland <https://profiles.auckland.ac.nz/karin-bryan>

<sup>71</sup> Marine Ecologist with Tidal Research <https://www.tidalresearch.co.nz/about>

<sup>72</sup> Marine Ecologist, Strategy Manager – Coasts & Estuaries with NIWA <https://niwa.co.nz/people/drew-lohrer>

<sup>73</sup> Marine Ecologist, Principal Scientist with NIWA <https://niwa.co.nz/people/darren-parsons>

<sup>74</sup> Economist, Principal Economist at Cognitus Economic Insight <https://www.cognitus.co.nz/about>

- The report makes good use of the available information and rightly recognises the importance of Te Ākau Bream Bay for marine mammal taonga, and is largely accurate.
- The report correctly notes the key species of concern, which are primarily coastal bottlenose dolphins and Bryde's whales, acknowledging that common dolphins, false killer whales, pilot whales, killer whales, New Zealand fur seals and leopard seals being reasonably common.
- Acoustic data collected as part of the assessment confirms recent findings from vessel-based surveys by Patuharakeke/NIWA/Far Out that bottlenose dolphins and Bryde's whale have high occurrence (daily in the case of dolphins).
- Notes that dolphin detections were so frequent that they filtered out detections that were longer than 1 minute in duration, under the assumption that these were made from groups/individuals outside of Te Ākau. But Dr Brough outlines that this is a very big assumption and not at all routine, so it is likely that dolphins are even more regular in the area than their data suggest.

#### Statement of Expert Evidence from Dr Tom Brough

5.1.6 In preparing his evidence, Dr Tom Brough informs that he has reviewed the substantive application report, and Attachments 11, 12, 14, 28 and 29.

Dr Broughs evidence focuses on:

- Marine Mammals and Sharks in Te Ākau Bream Bay
- Impacts of Acoustic Noise Pollution
- Habitat Degradation
- Cumulative Effects
- Marine Mammal Management Programme

5.1.7 In the executive summary and at point 3.2 of his evidence, Dr Brough is of the view that the extent of use by bottlenose dolphins in Te Ākau Bream Bay, and the potential significance of impacts arising from the proposed activity, are understated. He provides his reasoning for that view.

5.1.8 Additionally, Dr Brough expresses the concern that "chronic disturbance or degradation of important foraging habitat has the potential to result in material harm to the marine mammal population and may result in adverse effects on threatened species and significant indigenous biodiversity.

5.1.9 Dr Brough also comments that the current assessment framework focuses on impacts of the activity rather than reducing uncertainty and validating key assumptions prior to operations beginning, and promotes that a precautionary approach is applied to marine mammal management.

5.1.10 Dr Brough concludes at point 8.1 that:

*“Te Ākau Bream Bay provides critical habitat for marine mammals, supporting diversity and abundance, important habitat for life history stages and key behaviours, and providing core areas for threatened species. Increasingly, there are few such areas in New Zealand waters that remain undisturbed and thus it is vital we strive to avoid any potential impact on those areas we are aware of.”*

### **Professor Dr Karin Bryan**

- 5.1.11 The assessment report initially peer reviewed by Dr Karin Bryan was:
- Tonkin & Taylor Limited - Te Ākau Bream Bay Sand Extraction: Coastal Process Effects Assessment, dated March 2025, Job Number 1093502 v2.0.
- 5.1.12 There were a number of key findings by Professor Bryan:
- The methodology by Tonkin & Taylor is robust.
  - The proposed activity is in a closed system
  - It is noted that a control site will be left untouched, but shares the view that the sand may also be coarser in this control site, and therefore may not be so easily mobilised. Professor Bryan considers that the control area will need to be re-assessed to be similar to the proposed activity area.
  - Although the activity and its impacts will be noticeable in the proposed extraction area of Te Ākau Bream Bay, it will not be noticeable on the coastline
  - Agrees that there will be no effects on waves
  - The outer depth of closure can be within the extraction zone but its need to check in more detail the justification of using the Depth of Transport (hereon “DoT”) rather than the Depth of Closure (hereon “DoC”).

### **Statement of Expert Evidence from Dr Karin Bryan**

- 5.1.13 Dr Bryan informs that she has reviewed the substantive application report, and Attachments 8, 17, and 27, alongside other information/documents made available to Dr Bryan, and/or located on the fast-track website in response by McCallum Bros to Minute 4 of the Expert Panel.
- 5.1.14 Dr Bryan’s evidence outlines her assessment of the coastal and sediment transportation implications arising from the proposed McCallum Bros fast-track project.
- 5.1.15 Dr Bryan’s states that Te Ākau Bream Bay is already experiencing ongoing erosion, although small overall, indicates sediment deficit may not replenish, therefore removing sand may increase deficit.

Furthermore, Dr Bryan raises the concern that the recently approved dredging at Northport have not been considered, and therefore whether this may affect sand transport pathways of restrict the beach’s ability to recover from erosion.

- 5.1.16 At point 3.2, Dr Bryan states that by permanently lowering the seabed by 0.55m and homogenising an area characterised by sand waves would cause permanent structural changes to the shelf, and that the effects have not been adequately considered.
- 5.1.17 Lastly, although Dr Bryan states that the calculations for DoT and DoC follow standard and accepted methodology, she outlines in her evidence that there is uncertainty around whether the outermost DoC has been correctly identified, and a suitable buffer to reflect uncertainty has been correctly applied.
- 5.1.18 Dr Bryan concludes that “there is a risk of significant adverse effects which could compromise the coastal hazard zone along the beach, and permanently change the character of the beach and continental shelf.”

**Dr Drew Loher**

- 5.1.19 The assessment report initially peer reviewed by Dr Drew Loher was:
- Bioresearches Limited - Te Ākau Bream Bay Sand Extraction Project: Assessment of Ecological Effects, Job No: 67129 dated 4 April 2025.
- 5.1.20 Dr Loher did not prepare any statement of expert evidence but his findings from that initial review are outlined below:
- Sampling was thorough—lots of observations/samples.
  - ‘Clean’ uncontaminated sandy/shelly sediment (very little mud)—low likelihood of plumes and resuspension of contaminants during bottom disturbance by dredge.
  - Diversity is moderate-to-high. The shelly material in the sediment and the reasonably deep water (low wave disturbance) likely contributes to the higher diversity relative to inshore ~10 m. The diversity is not likely confined to the dredge area.
  - Presence of sensitive taxa (NIWA 2013)
  - No brachiopods found in the proposed extraction area. One brachiopod was recorded in the southern control near the eastern margin in a dredge tow from monitoring cells K and L. (but seeing brachiopods with drop-cam would be hard). Brachiopods are sometimes found attached to a carrier shell (*Xenophora neozelanica*), and these were observed in a few locations across the area.
  - Horse mussels, 1-30m<sup>2</sup>, found a number of times across the area. Where present, there were 1 or 2 individuals per sample. Despite fitting into the NIWA 2013 definition of “bed”, they do not report finding beds of *Atrina* in the main report.
  - Cup corals—“A total of 9 individual stony corals, from 7 grab samples, absolutely protected under the Wildlife Act (1953) were found alive within the proposed sand extraction area, an additional 3 individuals were detected in the now discontinued Stage 1 proposed sand extraction area around the 4 anchorages east of the proposed sand extraction area, with a further 1 in the control areas.”

- Live stony corals are shown by the red symbols in Figure 25. Report implies that they would survive the dredging and be returned to the seabed.
- Scallop and Atrina beds were once abundant there. The law around historical disturbance and what you can consider when addressing 'cumulative effects' is tricky.

### **Dr Richard Bulmer**

5.1.21 The assessment report initially peer reviewed by Dr Richard Bulmer was:

- Bioresearches Limited - Te Ākau Bream Bay Sand Extraction Project: Assessment of Ecological Effects, Job No: 67129 dated 4 April 2025.

### Statement of Expert Evidence from Dr Richard Bulmer

5.1.22 Dr Bulmer informs that he has reviewed the substantive application report and Attachments 12 and 29, and outlines that his expert evidence is with regard to the benthic ecological effects of the proposed fast-track project, with his evidence focused on:

- Scale of the seabed disturbance from dredging
- Survivorship of benthic organisms
- Negligible/low assessment of ecological effects, and
- Whether the proposed Environmental Monitoring and Management Plan (hereon "EMMP") is an adequate framework for detecting and managing adverse ecological effects.

5.1.23 Dr Bulmer opines that the updated Bioresearches report dated 17 December 2025 correctly states the per-trip footprint during dredging, and outlines that when expressed annually, it equates to 21-23% of the extraction area being directly dredged each year.

5.1.24 On survivorship of benthic organisms, at point 5.2 Dr Bulmer is of the view that mortality is likely to be higher than implied in the assessment report, especially for "key habitat forming and taonga species which are unlikely to survive passing through the dredge and are expected to take longer to recover than smaller more rapidly reproducing species".

5.1.25 Dr Bulmer also challenges the assessment report's conclusion that the effects on benthic biota will be negligible when effects are considered alongside a large annual footprint, repeated disturbances, and uncertainty around survivorship.

5.1.26 Lastly, Dr Bulmer reviewed the EMMP and presents the view that the plan does not set out clear quantitative thresholds or adaptive triggers that would require specific management responses if required.

5.1.27 Additionally, Dr Bulmer expresses concern that there is no defined criteria and process in the EMMP for when extraction should pause, reduce or relocate extraction activity.

5.1.28 Dr Bulmer concludes that the benthic ecological assessment of effects is not adequately supported, alongside other concerns, and advises that caution is warranted.

## Dr Darren Parsons

- 5.1.29 The assessment report initially peer reviewed by Dr Darren Parsons was:
- Boyd, R.O - Assessment of Effects on Fish and Fisheries in Te Ākau Bream Bay dated February 2025;
- 5.1.30 On fish and shellfish communities in Te Ākau Bream Bay:
- Demersal fish trawl surveys were used to describe a diverse community dominated by snapper (tāmure). Insights about differences in fish abundance for Te Ākau Bream Bay compared to other areas are not able to be derived from these surveys due to limited recent survey coverage in Te Ākau Bream Bay and seasonal restrictions.
  - Pelagic species observations (e.g., jack mackerel, blue mackerel, kahawai, trevally) are based on aerial surveys used by the purse seine fleet, which are not accepted as reliable abundance indices, but notes that they offer insight into species presence.
- 5.1.31 On commercial and non-commercial fishing activity in Te Ākau Bream Bay:
- The commercial fishing data utilised are outdated (2007–2013) and of low resolution, limiting their relevance.
  - Tāmure/Snapper does dominate the demersal finfish fisheries, with trawling and Danish seining restricted in parts of the application area, but bottom longlining permitted throughout.
  - Pilchard purse seining, which occurs in Te Ākau Bream Bay, is not addressed in the report.
  - Non-commercial catch is also dominated by snapper and kahawai, but recent and detailed data sources such as the National Panel Survey and boat ramp surveys were not utilised. Estimating displaced catch from the sand extraction area could help quantify impacts but has not been done.
- 5.1.32 On potential impacts of sand extraction on fisheries resources and fishing:
- Dr Parsons identified that noise effects on fish are expected to be temporary because fish will resume normal behaviour/feeding after the noise has ceased. However, he queries that if sand extraction is frequent, this might imply near constant disturbance within or immediately adjacent to the sand extraction area. In his view, the potential displacement caused by this disturbance has not been quantified.
  - With water quality/suspended sediment, in response to the conclusion that only minor increases in total suspended sediment would occur, and fish are well adapted dynamic environments, Dr Parsons outlines that scallops, particularly juvenile scallops, are sensitive to sediment, so it is not clear if this has been fully assessed, especially given the low existing biomass of scallops.

- In response to the conclusion that fish are mobile and could avoid the suction head, Dr Parsons does not support this view and comments that it seems very unlikely for scallops to not be impacted (e.g physical/direct mortality).
- Suggests that on the consideration of availability of benthic fauna as food for fishes that it would be useful to estimate the annual loss of benthic productivity that could have alternatively been available as food for fish. Dr Parsons comments that given the recent instances of malnourished snapper in this region (milky white flesh syndrome), it is clear that resources are limited, which would be exacerbated by any further loss of benthic productivity, which could not be compensated for by displacement of fish to other areas

#### Statement of Expert Evidence from Dr Darren Parsons

- 5.1.33 Dr Parsons informs that he has reviewed Attachment 16 of the substantive application which is the assessment of fish and fisheries effects, and outlines that his expert evidence is in relation to the potential effects of the proposed fast-track project on fisheries and fish food resources, and comments on the importance of the area for scallops and other fisheries.
- 5.1.34 In his executive summary, Dr Parsons advises that the fish and fisheries effects assessment uses outdated datasets, and does not fully describe the limitations of available survey coverage of Te Ākau Bream Bay.
- 5.1.35 Additionally about the fish populations and fisheries, Dr Parsons informs that the fisheries assessment also relies on the Hauraki Gulf trawl survey to compare fish abundance between Te Ākau Bream Bay and other areas of the Hauraki Gulf. Because of this, Dr Parsons is of the view that the survey series does not provide strong evidence that there is relative fish abundance in Te Ākau Bream Bay and the Hauraki Gulf.
- 5.1.36 On the benthic food resources for fish, at point 5.9 Dr Parsons challenges the assessment stating that the effect of the fast-track project on the availability or abundance of food for benthic fishes is expected to be negligible, by outlining that no quantitative estimate was provided on the annual loss of benthic productivity that reach that conclusion.
- 5.1.37 Furthermore on this matter, Dr Parsons makes a reference to the declining snapper growth rates in the Hauraki Gulf, and states that these observations suggest food limitation may already exist.

#### **Dr Richard Meade**

- 5.1.38 The assessment report initially peer reviewed by Dr Richard Meade was:
- Market Economics Limited - Te Ākau Bream Bay Sand Extraction: Economic Assessment, Document Reference No: MCBL 004.24 dated 14 August 2025

## Statement of Expert Evidence from Dr Richard Meade

5.1.39 Dr Meade has prepared an updated report in response to the substantive application that was lodged with the EPA for submission with the Patuharakeke’s invited comments. The updated report has been reviewed by Whetū.

## 5.2 Assessment Framework

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5.2.1 As outlined in section 1.2 of this report, the assessment framework for this CIA report draws from the PHEMP and the statutory requirements of both the FTA Act and the RMA (and its regulations) to analyse the potential consent application and to identify the actual and potential cultural impacts (adverse effects) arising from the McCallum Bros fast-track project.

5.2.2 The objectives of the cultural impact framework for assessing the McCallum Bros fast-track project are:

1	Assessments should be made within a Māori worldview from where they came, and the meaning and sense of values are primarily given by Patuharakeke <sup>75</sup> as an iwi authority and hapū in Te Ākau Bream Bay.
2	Consultation with Patuharakeke is a requirement <sup>76</sup> of the FTA Act, and for Patuharakeke, the importance of implementing tikanga <sup>77</sup> and application of consultation principles <sup>78</sup> .
3	Acknowledge that the proposal is a listed fast-track project under the FTA Act, and that the purpose of the FTA Act is given the greatest weight when considering the consent application <sup>79</sup> .
4	Apply a pragmatic and proportional approach <sup>80</sup> and recognise the RMA context for: <ul style="list-style-type: none"><li>● a consenting process for a Discretionary Activity, and</li><li>● D.1 Tāngata Whenua provisions in the Proposed Regional Plan for Northland</li></ul>

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<sup>75</sup> Ngāti Hokopu ki Hokowhitu v Whakatāne District Council 2002

<sup>76</sup> Section 11 of the Fast-track Approvals Act 2024

<sup>77</sup> Ngāti Maru Trust v Ngāti Whātua Ōrakei Whaia Maia Ltd

<sup>78</sup> Patuharakeke Te Iwi Trust Guide to Consultation, and Consultation Principles developed through case law

<sup>79</sup> Clause 17(1) of Schedule 5 of the Fast-tracks Approval Act 2024

<sup>80</sup> Te Rūnanga o Ngāti Whātua v Auckland Council 2024 NZHC 3794

5	Protect indigenous biological diversity <sup>81</sup> and historic heritage <sup>82</sup> in the coastal environment of Te Ākau Bream Bay.
6	The obligations of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and its regulation Fisheries (Kaimoana Customary Fishing) Regulations 1998 <sup>83</sup> .
7	The traditional interests and customary activities in Te Ākau Bream Bay, and the pursuit by Patuharakeke to gain protected customary activity recognition through the Marine and Coastal Area (Takutai Moana) Act 2011.
8	Tikanga is law and lore <sup>84</sup> .
9	Safeguard for present and future generations the mana and mauri of: <ul style="list-style-type: none"> <li>● ngā atua, with particular consideration to Tangaroa<sup>85</sup>,</li> <li>● waahi tapu and sites and areas of significance to Patuharakeke in Te Ākau Bream Bay<sup>86</sup></li> <li>● the waters of Te Ākau Bream Bay<sup>87</sup></li> </ul>
10	Make actual provision for the Patuharakeke relationship with Te Ākau Bream Bay (includes the local and surrounding landscapes and environment) <sup>88</sup> and its community <sup>89</sup> .
11	Promote and enable the: <ul style="list-style-type: none"> <li>● exercise of kaitiakitanga<sup>90</sup>,</li> <li>● incorporation of mātauranga alongside western science<sup>91</sup>, and</li> </ul>

<sup>81</sup> Policy 11 of the New Zealand Coastal Policy Statement

<sup>82</sup> Policy 17 of the New Zealand Coastal Policy Statement

<sup>83</sup> Recognises the Rohe Mana Moana of Patuharakeke

<sup>84</sup> Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board

<sup>85</sup> Patuharakeke Hapū Environmental Management Plan, Policy 8.1.4 of Northland Regional Policy Statement, and D.1.5 of the Proposed Regional Plan for Northland

<sup>86</sup> Section 6(f) of the Resource Management Act 1991, Patuharakeke Hapū Environmental Management Plan, and Policy 8.1.2 of Northland Regional Policy Statement, and D.1.1 and D.1.5 of the Proposed Regional Plan for Northland

<sup>87</sup> Patuharakeke Hapū Environmental Management Plan, New Zealand Coastal Policy Statement, Northland Regional Policy Statement, and Proposed Regional Plan for Northland

<sup>88</sup> Section 6(e) of the Resource Management Act 1991

<sup>89</sup> Patuharakeke Te Iwi Trust Vision, Mission and Values and Patuharakeke Hapū Environmental Management Plan

<sup>90</sup> Section 7(a) of the Resource Management Act 1991, Policy 8.1.2 of Northland Regional Policy Statement, and Proposed Regional Plan for Northland

<sup>91</sup> Policy 8.1.3 of Northland Regional Policy Statement, and Proposed Regional Plan for Northland

	<ul style="list-style-type: none"> <li>● implementation of tikanga-based practices<sup>92</sup></li> </ul>
12	<p>Opportunities for protection, restoration and/or enhancement of:</p> <ul style="list-style-type: none"> <li>● waahi tapu and sites and areas of significance to Patuharakeke<sup>93</sup>,</li> <li>● indigenous biodiversity and habitats<sup>94</sup>,</li> <li>● coastal wetlands<sup>95</sup></li> </ul>
13	<p>Consideration of the new and proposed changes to the resource management system, specifically the publication of the Critical Minerals List for New Zealand, and proposed Phase 3 of the Resource Management Act reforms.</p>
14	<p>Encourage pathways to implement partnership, participation, active protection and/or redress<sup>96</sup>.</p>

<sup>92</sup> Patuharakeke Hapū Environmental Management Plan, Policy 8.1.4 of Northland Regional Policy Statement, and Proposed Regional Plan for Northland

<sup>93</sup> Patuharakeke Hapū Environmental Management Plan, Policy 4.4.2 of Northland Regional Policy Statement, and Proposed Regional Plan for Northland

<sup>94</sup> National Policy Statement for Indigenous Biodiversity, Policy 4.4.1 and Policy 4.7.1 of Northland Regional Policy Statement, and Proposed Regional Plan for Northland

<sup>95</sup> New Zealand Policy Statement, Policy 4.4.1 of Northland Regional Policy, and Proposed Regional Plan for Northland

<sup>96</sup> Te Tiriti o Waitangi, Section 8 of the Resource Management Act 1991, Northland Regional Policy Statement, and Proposed Regional Plan for Northland

## 6. Patuharakeke Impact Assessment Statements

### 6.1 Patuharakeke Cultural Impact Statements

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- 6.1.1 A practice in New Zealand's resource management is to understand and address (management measures such as mitigation, remedy, avoidance, and offset) all effects on the environment. The Resource Management Act 1991 defines the environment as:
- (a) ecosystems and their constituent parts, including people and communities; and
  - (b) all natural and physical resources; and
  - (c) amenity values; and
  - (d) the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters
- 6.1.2 Technical reports are commissioned and prepared by suitably qualified persons to advise and suggest measures to manage (mitigate, remedy, avoid and offset) the identified effects/impacts of a proposal.
- 6.1.3 A cultural impact assessment states the impacts of a clearly defined proposed activity against the associations, interests, rights, values and perspectives of Patuharakeke.
- 6.1.4 The cultural impact statements are distinguished under two themes:
- Rangatiratanga / Mana Moana, and
  - Kaitiakitanga
- 6.1.5 The term Rangatiratanga and Mana Moana here is intended to capture the mana (the authority) of Patuharakeke to make their own decisions to maintain, protect, and sustain the health and well-being of, and their relationship with, the local environment and its community.
- 6.1.6 Kaitiakitanga means guardianship, protection, preservation or sheltering. Further to this, the exercise of kaitiakitanga by Patuharakeke is based on the traditional Māori world view of observation, feel (physical and spiritual), knowledge/experience, and insight.
- As asserted in the *Tūwharetoa Māori Trust Board v Waikato Regional Council* 2018 court decision, ownership is not necessary to exercise kaitiakitanga.
- 6.1.7 In a contemporary setting, Patuharakeke kaitiakitanga is also achieved through a digital dashboard to observe the environment (and activities) in accordance with tikanga/mātauranga Māori, and access/source monitoring data and visualise it in both western science and mātauranga Māori platforms.
- 6.1.8 Section 6.4 Overall Position states the position of Patuharakeke Te Iwi Trust.

**Adverse Cultural Impact #1 – Recognition of Patuharakeke Customary Authority**

- 6.2.1 The adverse cultural impact is the undermining of the customary authority of Patuharakeke in Te Ākau Bream Bay. This adverse impact responds to Objectives 6, 8 and 10 of the cultural impact framework.
- 6.2.2 The FTA Act does not define, nor have an interpretation, for Rangatiratanga, Mana Whenua or Mana Moana, however the RMA and Fisheries Act 1996 do have a definition/interpretation for Mana Whenua. It is described as meaning “customary authority exercised by an iwi or hapū in an identified area”.
- 6.2.3 Through traditional and contemporary occupation, Patuharakeke have traditions and practices that span generations in all of Te Ākau Bream Bay, and into the Whangarei Harbour along the coastline of Marsden Point, One Tree Point, and Mangawhati Point.
- 6.2.4 Protecting the customary authority and interests of Patuharakeke in Te Ākau Bream Bay and Whangārei Harbour is of significant importance to Patuharakeke.
- 6.2.5 The customary authority of Patuharakeke in Te Ākau Bream Bay is recognised<sup>97</sup>, and yet to be recognised under MACA and via settlement of Treaty of Waitangi Claim WAI 745 and WAI 1308.
- 6.2.6 The proposed sand extraction area is in close proximity to, potentially partially within, the Rohe Moana of Patuharakeke. The Rohe Moana of Patuharakeke has been formally in existence, via gazette notice (publicly notified), since 2009.
- 6.2.7 Patuharakeke can issue customary authorisations within the Rohe Moana.
- 6.2.8 The protection of established Patuharakeke rights<sup>98</sup> and interests<sup>99</sup> in the Rohe Moana is paramount to Patuharakeke.
- 6.2.9 The extent of the Rohe Moana is shown in the image at section 2.3.4 of this report, with the geographical co-ordinates (WGS84 datum) contained in the gazette notice.
- 6.2.10 Additionally, it is important to also recognise the combined Rohe Moana *Te Rerenga Paraoa* with Ngāti Kahu, Te Parawhau and Ngāti Tū which was gazetted in 2021. The proposed sand extraction area is within this Rohe Moana.

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<sup>97</sup> Under the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 via gazette notice and regulation 9 of the Fisheries (Kaimoana Customary Fishing) Regulation 1998.

<sup>98</sup> To exercise Patuharakeke tikanga and culture and traditions

<sup>99</sup> To exercise kaitiakitanga in accordance with Patuharakeke tikanga

6.2.11 To address this cultural impact, the recommendation to McCallum Bros is to re-consider the location of the proposed sand extraction area in Te Ākau Bream Bay due to:

- a. its proximity to, and potentially within, the Rohe Moana of Patuharakeke, and
- b. it being located within the combined Rohe Moana Te Rerenga Paraoa.

It is viewed that this recommended action best upholds the obligations of the Fisheries Settlement Act.

6.2.12 Whetū are of the view that relevant provisions in the PRPN associated with this adverse cultural impact are contained D.1 Tangata Whenua:

- D.1 Tāngata Whenua
  - Policy D.1.1 When an analysis of effects on tāngata whenua and their taonga is required
  - Policy D.1.2 Requirements of analysis of effects on tāngata whenua and their taonga
  - Policy D.1.3 Affected persons
  - Policy D.1.4 Managing effects on places of significance to tāngata whenua
  - Policy D.1.5 Places of significance to tāngata whenua

6.2.13 Objective 3.12 Tangata whenua role in decision outlined in the RPS also recognises the role of Patuharakeke in decision-making where it affects their taonga, with the following policies implementing this objective:

- Policy 8.1.1 Tangata whenua participation
- Policy 8.1.2 The Regional and district council statutory responsibilities
- Policy 8.1.3 Use of Mātauranga Māori
- Policy 8.1.4 Māori concepts, values and practices

6.2.14 Additionally, the NPS-IB requires the recognition of Patuharakeke as kaitiaki of indigenous biodiversity, and the efforts of Patuharakeke to protect and restore its taonga in, and in proximity to, Te Ākau Bream Bay.

6.2.15 Although a cultural contribution resource consent condition has been proposed by McCallum Bros, the customary authority of Patuharakeke to assess and determine how to maintain, protect, and sustain the health and well-being of, and relationship with, Te Ākau Bream Bay is currently not appropriately provided for by McCallum Bros. There are more appropriate measures to recognise and provide for the customary authority and interests of Patuharakeke.

## **Adverse Cultural Impact #2 – Recognition of Patuharakeke Customary Rights, Interests and Practices**

- 6.2.16 The adverse cultural impact is the disregard of Patuharakeke customary rights, interests and practices in Te Ākau Bream Bay. This cultural impact responds to Objectives 6-8 and 10 of the cultural impact framework.
- 6.2.17 An aspect of the Fisheries Settlement Act is to make better provision for non-commercial traditional and customary fishing rights and interests, and better provision for participation in the management and conservation of New Zealand fisheries.
- 6.2.18 Although specified as part of the Patuharakeke MACA application for protected customary rights, section 2.2.12 of this CIA report provides a list of those non-commercial traditional and customary fishing rights and interests in the Rohe Moana of Patuharakeke.
- 6.2.19 This established customary right provides a sense of food security and subsistence to Patuharakeke, whilst complementary reducing living costs, and more importantly, ensures nutritional needs.
- 6.2.20 Alongside fisheries related activities are non-fisheries activities practiced within (and beyond) the Rohe Moana, these are tauranga waka and rāhui. Accordingly, the customary rights, interests and practices of Patuharakeke in Te Ākau Bream Bay also includes access to, and passage across the waters of, Te Ākau Bream Bay.
- 6.2.21 Policy 2 of the NZCPS requires the consideration of the principles of Te Tiriti o Waitangi, tangata whenua and Māori heritage in the coastal environment, with the following parts of Policy 2 relevant for this cultural impact:
- (a) recognise that tangata whenua have traditional and continuing cultural relationships with areas of the coastal environment, including places where they have lived and fished for generations*
  - (d) provide opportunities in appropriate circumstances for Māori involvement in decision making, for example when a consent application or notice of requirement is dealing with cultural localities or issues of cultural significance, and Māori experts, including pūkenga, may have knowledge not otherwise available;*
  - (e) take into account any relevant iwi resource management plan and any other relevant planning document recognised by the appropriate iwi authority or hapū and lodged with the council, to the extent that its content has a bearing on resource management issues in the region or district; and*
    - (i) where appropriate incorporate references to, or material from, iwi resource management plans in regional policy statements and in plans; and*

*(ii) consider providing practical assistance to iwi or hapū who have indicated a wish to develop iwi resource management plans;*

*(f) provide for opportunities for tangata whenua to exercise kaitiakitanga over waters, forests, lands, and fisheries in the coastal environment through such measures as:*

*(i) bringing cultural understanding to monitoring of natural resources;*

*(ii) providing appropriate methods for the management, maintenance and protection of the taonga of tangata whenua;*

*(iii) having regard to regulations, rules or bylaws relating to ensuring sustainability of fisheries resources such as taiāpure, mahinga mātaītai or other non commercial Māori customary fishing.*

6.2.22 It is viewed that the proposed fast-track project will have a detrimental adverse impact on Patuharakeke present, and future, customary rights, interests and practices in Te Ākau Bream Bay.

6.2.23 Although a proposed cultural contribution resource consent condition is presented in the substantive application as a mechanism to recognise the iwi/hapū relationships with Te Ākau Bream Bay and the sand resource, as well as being a funding mechanism to support ongoing participation, this proposed condition is not supported by Patuharakeke.

The proposed condition is a measure that was developed outside of tikanga and kawa (correct processes that are aligned with the way Patuharakeke considers information and makes decisions), and disregards the profound significance of Te Ākau Bream Bay to Patuharakeke and pursuit to protect its mana and mauri.

6.2.24 Consistent with the recommendation to McCallum Bros outlined above, the proposed fast-track project should not be located in Te Ākau Bream Bay, or any coastal waters within the rohe of Patuharakeke.

6.2.25 The Iwi Trust will continue to pursue on behalf of Patuharakeke hapū, marae and whānau to protect and restore in its entirety, and pursue and secure through its claims, the customary rights, interests and practices of Patuharakeke in Te Ākau Bream Bay and Whangārei Harbour.

### **Adverse Cultural Impact #3 – Patuharakeke Values, Interests and Mātauranga**

6.2.26 The adverse cultural impact is the minimal consideration of Patuharakeke values, interests and mātauranga in locating the fast-track project in Te Ākau Bream Bay, and secondly, minimal consideration (includes avoidance) of those values in the technical reporting that informs the design and delivery of the fast-track project. This adverse cultural impact responds to the Objectives 1, 4, and 8-11 of the cultural impact framework.

6.2.27 The *Ngāti Hokopu ki Horowhitu v Whakatāne District Council* decision in 2002 reminds that assessments should be made within a Māori worldview from where they came, and in Te Ākau

Bream Bay, the meaning and sense of those values should be given by Patuharakeke as an iwi authority and hapū in Te Ākau Bream Bay.

- 6.2.28 The technical reports for the fast-track project that were reviewed<sup>100</sup> have been presented on a foundation of western science (or western perspective), with each expert outlining their assessments and opinions accordingly to that worldview. This comment is not a judgment, nor discouragement, of the assessments and opinions, but an important matter to highlight.
- 6.2.29 The perspective and science (pūtaiao) for Patuharakeke has its basis in Te Ao Māori, so there will be difference in views (and values) to the information contained within the technical reports.
- 6.2.30 The PHEMP articulates the values of Patuharakeke as it relates to specific natural resources, resource use/activities, and resource management issues.
- 1.6 Cultural Framework
  - 1.8 Tangata Whenua Planning Tools
  - 2. Relationships
  - 3.1 Recognition of Kaitiakitanga
  - 3.2 Te Tiriti o Waitangi
  - 3.3 Kaitiaki Monitoring Tools
  - 4.2 Climate Change
  - 8. Waahi Tapu me Waahi Taonga
  - 9.1 Coastal Water Quality
  - 9.2 Foreshore and Seabed
  - 9.3 Access to the Coastal Environment
  - 9.7 Marine Mammals
  - 9.8 Customary Fisheries
- 6.2.31 The PHEMP contains a body of knowledge/mātauranga built over many generations, and provides a level of insight that could have been considered prior to the involvement of Whetū and preparation of this CIA report.
- 6.2.32 The first interim decision of the Environment Court for the Port of Tauranga development refers to the ‘clash of cultures’ and ultimately takes a holistic approach, or ‘wide lens’, to enable the Court to understand how to recognise and provide for the relationship of Māori and their culture and traditions with ancestral lands, water, sites, waahi tapu and other taonga.<sup>101</sup>
- In the same manner, Patuharakeke promotes the ‘widening of the lens’ to McCallum Bros. Examples of widening the lens are the:
- The extent of the assessment area. It does not consider Patuharakeke culture, traditions and relationship with, and worldview of, the waters of Te Ākau Bream Bay, and
  - Western science solely qualifying the state of the environment being assessed.
- 6.2.33 The assessment area for the proposed fast-track project limits the culture, traditions of Patuharakeke, and its relationship with the waters of Te Ākau Bream Bay, Whangārei Harbour and Hauraki Gulf, because the Patuharakeke worldview is that they are connected.

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<sup>100</sup> Technical reports are identified in section 3.2 of this CIA Report.

<sup>101</sup> Interim Decision Port of Tauranga v Bay of Plenty Regional Council at [75]

6.2.34 The technical reports and their assessments focus only on a small footprint/area in Te Ākau Bream Bay. This small portion cannot provide sufficient information on the cultural health and mauri (as sought by Patuharakeke) of Te Ākau Bream Bay.

6.2.35 Additionally, it is contested by Patuharakeke that the current state of the immediate environment in Te Ākau Bream Bay is in good health (as stated in the technical reports).

It is important to Patuharakeke that this perspective/view outlined in these reports do not become the benchmark for this fast-track project going forward.

6.2.36 The kōrero tuku iho and mātauranga of Patuharakeke informs that historically the state of the environment in Te Ākau Bream Bay was in a far better state.

The values, interests and mātauranga of Patuharakeke ultimately places Te Ākau Bream Bay in an environmental/coastal waters condition that is not captured and considered in the technical reports.

6.2.37 Although the technical reports inform that effects are manageable and traverse a spectrum of negligible to minor effects on the Te Ākau Bream Bay environment, for Patuharakeke the proposed fast-track project does not avoid the adverse effects on the spiritual, historical and cultural significance and importance of the Te Ākau Bream Bay environment to Patuharakeke.

6.2.38 An example is with the marine mammal cumulative effects assessment. The assessment should recognise that several species are less abundant today when compared historically both in record and in mātauranga/kōrero tuku iho.

6.2.39 Another example is with the Landscape and Visual Effects Assessment (hereon "LVEA"). The values of Patuharakeke are multi-dimensional and should not be reduced to just cultural/associate values.

Patuharakeke values can, and should, inform all three LVEA values/factors (physical, associative and perceptual values).

6.2.40 As already articulated in section 2 and Appendix A of this CIA report, Te Ākau Bream Bay has cultural and traditional significance to Patuharakeke.

6.2.41 Also after reviewing the proposed resource consent conditions, there are no measures to provide for the application of mātauranga Māori in the fast-track project.

6.2.42 In the RPS, Policy 8.1.3 *Use of Mātauranga Māori* gives direction that the NRC shall provide opportunities for the use and incorporation of mātauranga Māori in decision-making, management, implementation and monitoring of natural resources.

In the PRPN, Policy 8.1.3 is considered to be provided for in *Policy D.1.2 Requirements of an analysis of effects on tāngata whenua and their taonga*, specifically D.1.2(6):

*If analysis of the effect of an activity on tāngata whenua and their taonga is required in a resource consent application, the analysis must:*

*(6) incorporate, where appropriate, mātauranga Māori*

- 6.2.43 Based on the current form of the proposal, in addition to the recommendation for McCallum Bros to re-consider the location of the proposed sand extraction area in Te Ākau Bream Bay, it is considered appropriate and applicable that McCallum Bros update and amend their technical assessments to acknowledge Patuharakeke values that contextualises the meaning and sense of Te Ākau Bream Bay.

This recommendation is consistent with the 2002 Environment Court decision for Ngāti Hokopu ki Hokowhitu v Whakatāne District Council.

- 6.2.44 The Iwi Trust are of the view that there is a role for Patuharakeke values and mātauranga to be considered and applied in the sustainable management of Te Ākau Bream Bay and the wider coastal environment.

**Adverse Cultural Impact #4 – Te Ākau Bream Bay Community**

- 6.2.45 The FTA Act has removed the standard public participation process in proposals where its scale and scale have substantial effects on the environment and its community.
- 6.2.46 In Te Ākau Bream Bay, Patuharakeke and community are intertwined together through intergenerational occupation in shared spaces (e.g coastal marine environment) and also in coming together to maintain, protect, and sustain the health and well-being of the local environment.

A relevant example of active connection in the community are the collaborative activities with the Bream Bay Coastal Care Trust.

- 6.2.47 As an exercise of its rangatiratanga, the Iwi Trust (and widely Patuharakeke hapū, marae, and whānau) takes a role and responsibility to manaaki (care for and sustain) the health and wellbeing of its community in its rohe/takiwā.
- 6.2.48 The vision and mission of the Iwi Trust is driven by the following values:
- **Whakapapa** – The foundation of our framework for managing resources, this demonstrates the relationships between the various elements of the world around us, including human beings.
  - **Kaitiakitanga** – Our duty of care and responsibility toward our taonga tuku iho
  - **Whanaungatanga** – Building ongoing positive relationships
  - **Manaakitanga** – Our ability to care for and sustain our whānau and manuhiri
  - **Mātauranga** – To protect, revive, enrich and utilise our knowledge in our capacity as kaitiaki
  - **Mana Whenua** – Our right to exercise authority over our rohe and the resources therein

- **Mauri** – Protection of the ‘life force’ contained in all places, species, minerals, ecosystems in our rohe. It can also be understood as a measure of the health and vitality of those elements.
- **Tikanga** – To retain the traditions of our tupuna in all our operations
- **Pūmau te Wairuatanga** – To protect, revive enrich and utilise our spiritual stability
- **Tino Rangatiratanga** – Our right to exercise sovereignty of our lands, water etc
- **Hapū Rangatiratanga** – Our right to exercise sovereignty of our hapū ownership

6.2.49 These values, such as manaakitanga and whanaungatanga, encourages and enables Patuharakeke and the community to come together and learn from each other, and collectively pursue the duty to care for our environment (kaitiakitanga and stewardship).

6.2.50 The relationship with, and interests of, the Te Ākau Bream Bay community is important to Patuharakeke.

It is with this mind that this adverse cultural impact is identified.

6.2.51 The disregard of, or minimising, the interests of the Te Ākau Bream Bay community is not acceptable to Patuharakeke. This adverse cultural impact responds to Objectives 2, 8 and 10 of the cultural impact framework.

6.2.52 The manner in which the FTA Act reduces the involvement of the Te Ākau Bream Bay community in feeding into the fast-track project, erodes the efforts of, and the continued pursuit by, the Iwi Trust (and Patuharakeke hapū, marae, and whānau) to revitalise the mauri of our taonga tuku iho.

6.2.53 In the absence of community level engagement, Patuharakeke recommend to McCallum Bros to re-consider their location of the proposed sand extraction area in Te Ākau Bream Bay if they are choosing not to consult and engage with the community.

6.2.54 The recommendation takes on board the POTL interim decision outlining the applicability of consultation principles, and the nature of developers/resource users to be a good neighbour to those affected.

6.2.55 Patuharakeke believe that there is a role for the Te Ākau Bream Bay community in this proposed fast-track project, and acknowledge the Expert Panel’s invitation to community groups that have a connection to, and relationship with, Te Ākau Bream Bay, to provide comments.

#### **Adverse Cultural Impact #5 – Poor Consultation with Patuharakeke Te Iwi Trust**

6.2.56 Initially, the Iwi Trust had informed in its version 2 of the CIA report that consultation with McCallum was positive based on a commitment by McCallum Bros that participation by Patuharakeke in consultation processes, the review of project information and technical reports,

and the preparation of the CIA report, would be appropriately resourced. To date, this has not occurred.

- 6.2.57 Although it was previously commented in version 2 of the CIA report that activities of McCallum Bros in their consultation and engagement with the Iwi Trust was positive, and that the engagement was consistent with the Iwi Trust's Guide to Consultation, as well as the consultation principles that define good consultation, the rescinding of resourcing to participate and prepare a technical report (the Patuharakeke CIA report) is viewed as an adverse cultural impact..
- 6.2.58 McCallum Bros have not supported the Iwi Trust to engage with Patuharakeke hapū, marae and whānau. Participation in the proposed fast-track project has come at the cost of Patuharakeke.

### 6.3 Effects on Patuharakeke Kaitiakitanga

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#### **Adverse Cultural Impact #6 – Exercise kaitiakitanga in accordance with Patuharakeke tikanga**

- 6.3.1 Kaitiakitanga is fundamental to the relationship between Patuharakeke and the environment.
- 6.3.2 In absence of an interpretation for kaitiakitanga in the FTA Act, the RMA defines kaitiakitanga as the "exercise of guardianship by the tangata whenua of an area in accordance with tikanga Māori in relation to natural and physical resources, includes the ethic of stewardship".
- 6.3.3 The RMA interprets Tikanga Māori as "Māori customary values and practices".
- 6.3.4 To maintain balance, the co-existence of Patuharakeke with its environment is through practices such as tapu and rāhui to either moderate, conserve, and/or prohibit activities that bring harm (adversely impact) the values and interests of Patuharakeke. This is an exercise of tikanga that Patuharakeke pursue with this fast-track project proposed by McCallum Bros.
- 6.3.5 In the Trans-Tasman Resources Court of Appeal decision, tikanga Māori defines and governs the interests of Māori (in this case) Patuharakeke in the taonga protected by the Treaty and is therefore an integral strand of the common law of New Zealand<sup>102</sup>.
- 6.3.6 This adverse cultural impact relates to the limited, and non-existent, provision for Patuharakeke to exercise its kaitiakitanga in accordance with Patuharakeke tikanga in the fast-track project.
- 6.3.7 By not recognising the Mana Moana/customary authority of Patuharakeke (as stated in Adverse Cultural Impact #1), Patuharakeke are of the view that in its current form, the fast-track project does not provide an appropriate setting for Patuharakeke to exercise its kaitiakitanga in

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<sup>102</sup> Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board (2020) NZCA 86 at [177]

accordance with Patuharakeke tikanga. This adverse impact responds to Objectives 1, 4, and 8-12 of the cultural impact framework.

6.3.8 As a demonstration of Patuharakeke kaitiakitanga, the Rōpu Mana Moana leads customary fisheries activities, the monitoring of taonga (i.e pipi monitoring), and have actively sought and enacted closures since 2018 with current closure enacted until 28 June 2026.

6.3.9 A real concern is that the fast-track project will have adverse impacts on Patuharakeke customary practices, and hapū/marae/whānau confidence in gathering kaimoana. Such impact will undermine Patuharakeke tikanga, and could potentially impact the transfer of intergenerational knowledge if Patuharakeke are having to compromise its values.

It is the view of Patuharakeke that intergenerational loss can occur if habitat or access are degraded over time.

6.3.10 The proposed consent conditions document currently do not propose any cultural mitigation measures that enable Patuharakeke to be involved in the proposed fast-track project.

This also reflected in the minimal consideration of Patuharakeke values, interests and mātauranga (Adverse Cultural Impact #3) in the technical reports, resulting in no recommendations being put forward.

6.3.11 The values, interests and mātauranga affirms what matters to Patuharakeke which includes the natural character and landscape/seascape of Te Ākau Bream Bay, the ecological health and biodiversity, and amenity. In the coastal marine environment, Patuharakeke champions a precautionary approach, which is consistent with the NZCPS and PHEMP.

6.3.12 Although there is some consideration of Patuharakeke in the technical reports assessing effects on Patuharakeke, Patuharakeke are taking a precautionary approach with this fast-track project because there is actual and potential significant adverse cultural impacts.

6.3.13 The expert evidence supporting Patuharakeke have identified where there is still uncertainty and unknowns in the fast-track project.

6.3.14 For this reason, there is uncertainty whether Patuharakeke are able to exercise their kaitiakitanga in Te Ākau Bream Bay.

6.3.15 Patuharakeke want to avoid the intergenerational loss of kaimoana in Te Ākau Bream Bay, this includes avoiding further degradation and diminishing quality of coastal waters which can reduce shellfish habitat and compromise fish behaviour.

The risks to customary and traditional fisheries resources and waahi tapu are currently not considered and therefore are not provided for in the fast-track project.

6.3.16 Also it is important that the proposed mitigation measures ensure that there are feedback loops and consideration of Patuharakeke concerns/comments, which includes the use of management plans to adapt and respond to those concerns/feedback/comments.

- 6.3.17 It is with this concern (risk and uncertainty) in mind that Patuharakeke are of the view that in its current form, the strengthening of kaitiakitanga in the fast-track project is best achieved by recommending to McCallum Bros that it finds another location for its sand extraction proposal.
- In its current form, the project is not suitable as an activity in Te Ākau Bream Bay.
- 6.3.18 Objectives in the PRPN that were identified by McCallum Bros are:
- F.1.2 Water Quality
  - F.1.3 Indigenous Ecosystems and Biodiversity
  - F.1.4 Fish Passage, and
  - F.1.12 Natural Character, Outstanding Natural Features, Historic Heritage and Places of Significance to Tāngata Whenua
- 6.3.19 Whetū are of the view that Objective F.1.9 Tāngata Whenua Role in Decision-Making should be included in the planning assessment.
- 6.3.20 Also, in addition to D.1 Tāngata Whenua provisions in the PRPN, the other relevant provisions in the PRPN are:
- D.2 General
    - Policy D.2.3 Climate change and development
    - Policy D.2.4 Adaptive management
    - Policy D.2.14 Resource consent duration
    - Policy D.2.16 Managing adverse effects on Historic Heritage
    - Policy D.2.18 Managing adverse effects on indigenous biodiversity
    - Policy D.2.20 Precautionary approach to managing effects on significant indigenous biodiversity and the coastal environment
  - D.4 Land and Water
    - Policy D.4.1 Maintaining overall water quality
    - Policy D.4.2 Industrial or trade wastewater discharges to water
    - Policy D.4.4 Zone of reasonable mixing
    - Policy D.4.6 Discharge of hazardous substances to land or water
  - D.5 Coastal
    - Policy D.5.24 Dredging, disturbance and deposition activities
    - Policy D.5.25 Benefits of dredging, disturbance and deposition activities
    - Policy D.5.26 Dumping (deliberate disposal) of dredge spoil and other waste material
    - Policy D.5.27 Underwater noise

## Adverse Cultural Impact #7 – Patuharakeke relationship with Te Ākau Bream Bay and Marine Mammals

6.3.21 This adverse cultural impact is about the intimacy of the relationship that Patuharakeke have with Te Ākau Bream Bay (and wider) and with Marine Mammals, and how the fast-track project in its current form has not appropriately recognised this intimate relationship. This adverse cultural impact responds to Objectives 1, and 8-11 of the cultural impact framework.

*Ko Manaia Te Maunga | Ko Whangārei Terenga Parāoa Te Moana | Ko Takahiwai Te Marae |  
Ko Rangiora Te Tupuna Whare | Ko Patuharakeke Te Hapū*

6.3.22 Expressed in the above pepeha/saying, the land/whenua (includes mountain/maunga and marae) and coastal waters is a statement of belonging, and describes the living embodiments of the relationship Patuharakeke hapū members have with the waters in Te Ākau Bream Bay (and wider) and Marine Mammals.

6.3.23 Te Ākau Bream Bay is an extension of the body of water referred to in the pepeha as Whangārei Terenga Paraoa.

6.3.24 The coastal waters of Te Ākau Bream Bay are inseparable to the lands, mountains and freshwater that sit within the Patuharakeke rohe. They do not exist independently. For Patuharakeke they are interconnected in whanaungatanga.

6.3.25 The Trans-Tasman Resources Court of Appeal decision acknowledges and refers to whanaungatanga (alongside kaitiakitanga) as a relationship between affected iwi and the natural environment, and not just as physical resources but as entities in their own right (e.g ancestors, gods, whānau), and the need to meaningfully engage with the affected iwi and with the concept of whanaungatanga<sup>103</sup>.

6.3.26 The karakia at the start of the PRPN<sup>104</sup> recognises, and provides a description of, the whanaungatanga.

<i>He karakia ki ngā atua</i>	<i>A prayer to Māori gods</i>
<i>Ko Rangi Ko Papa</i>	<i>There is Rangi, There is Papa</i>
<i>Ka puta</i>	<i>Then the birth</i>
<i>Ko Rongo Ko Tāne Māhuta</i>	<i>Of Rongo, Of Tāne Māhuta</i>
<i>Ko Tangaroa Ko Tūmatauenga</i>	<i>Of Tangaroa, Of Tūmatauenga</i>
<i>Ko Haumietiketike Ko Tāwhirimātea</i>	<i>Of Haumietiketike, Of Tāwhirimātea</i>
<i>Ko Rūamoko</i>	<i>Of Rūamoko</i>
<i>Tokona te Rangi ki runga</i>	<i>Separate the sky above</i>

<sup>103</sup> Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board (2020) NZCA 86 at [174]

<sup>104</sup> Proposed Regional Plan for Northland, Page 3.

*Te Papa ki raro  
Ka puta te Ira Tāngata  
Ki te Whai Ao  
Ki te Ao Mārama  
E rongo whakairia ake ki runga  
Tūturu whakamaua kia tina! Tina!  
Haumi e, hui e! Tāiki e!*

*And the land below  
Humanity is born  
Into the physical world  
The world of light  
Let peace be raised back above  
Bind us together  
Let it be so*

- 6.3.27 Accordingly, the Patuharakeke relationship with Te Ākau Bream Bay cannot be understood without reference to the whole. With this in mind, the proposed sand extraction area is not just in Te Ākau Bream Bay, it is within the rohe of Patuharakeke.
- 6.3.28 For Patuharakeke, the fast-track project is not a bespoke development (and use of natural resources). It is one development among a number of developments in the rohe of Patuharakeke.
- 6.3.29 The PHEMP informs<sup>105</sup> that the cultural health of Whangarei Terenga Parāoa and Te Ākau Bream Bay are directly adversely affected by:
- Direct discharges of contaminants
  - Sedimentation
  - Diffuse pollution rural, urban and industrial land use
  - Reclamation, drainage and degradation of coastal wetlands
  - Cumulative effects of activities
- 6.3.30 Note the reference to land based activities/effects in the above points.
- 6.3.31 The proposed fast-track project to extract sand from within Te Ākau Bream Bay (e.g vessel, noise, night lighting and seabed alteration) has the potential to degrade/minimise the cultural/associative, aesthetic and perceptual values that connect Patuharakeke to Te Ākau Bream Bay and wider environment.
- 6.3.32 On Patuharakeke relationship with marine mammals, the name Whangārei Terenga Parāoa means the meeting place of whales. The specific whale referred to are sperm whales (Parāoa). Parāoa are highly regarded by Patuharakeke, and are symbolic in Patuharakeke of chiefly status.
- 6.3.33 Marine mammals have a special place in Patuharakeke culture and tradition that is continued today and are treated as whānau/kindred. Sightings are still common.
- 6.3.34 As a result, Patuharakeke will advocate for the protection of marine mammals and their right to a healthy environment where there is no pollution discharged into Te Ākau Bream Bay. In

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<sup>105</sup> Patuharakeke Hapū Environmental Management Plan at Page 70

relevance to the McCallum Bros fast-track project, is also noise pollution, ship strikes (although determined minimal), and the disturbance and reduction of food resources.

- 6.3.35 In the SLR Consulting Ltd report, it states that underwater acoustic/noise effects are the most significant impact. This impact is a significant concern to Patuharakeke.
- 6.3.36 Another concern is that marine mammals cannot 'ping' if the seabed is disturbed.
- 6.3.37 Patuharakeke disagree with the marine mammal assessment that marine mammals are already habituated to high vessel noise.
- 6.3.38 The intimacy of the relationship is reflected in the urupā/burial grounds for whales/tohorā (and other marine mammals) at Te Ākau Bream Bay, and by the proximity of Takahiwai Marae to Whangārei Harbour (Whangārei Terenga Parāoa).
- 6.3.39 The fast-track project compromises the pursuit<sup>106</sup> by Patuharakeke to increase numbers of healthy marine mammals inhabiting and migrating through its coastal waters and harbour. For this reason, safeguarding marine mammals is of significant importance to Patuharakeke.
- 6.3.40 Patuharakeke again recommend to McCallum Bros that it re-considers locating this fast-track project in Te Ākau Bream Bay.

#### **Adverse Cultural Impact #8 – Protection and Safeguard Areas of Significance to Patuharakeke**

- 6.3.41 The adverse cultural impact is that there is no protection, nor safeguarding, of areas of significance and importance to Patuharakeke. This adverse cultural impact responds to Objectives 5, 9 and 12 of the cultural impact framework.
- 6.3.42 There are two distinct areas :
  - 1. Whangārei Terenga Parāoa, and
  - 2. Reefs
- 6.3.43 As explained above in Adverse Cultural Impact #6, the Whangārei Harbour (and the abutting/continuously flowing waters of Te Ākau Bream Bay) is referred to in pepeha and kōrero tuku iho as Whangārei Terenga Parāoa. An area of significance and importance to Patuharakeke.
- 6.3.44 Also of importance to Patuharakeke are the reefs in Te Ākau Bream Bay as they embody the traditional associations. Attached as **Appendix F** is a map identifying the location of the reefs.
- 6.3.45 Although the technical reports inform that effects are manageable and traverse a spectrum of negligible to minor effects on the Te Ākau Bream Bay environment, for Patuharakeke the

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<sup>106</sup> Objective 9.7.2(a) of the Patuharakeke Hapū Environmental Management Plan, Page 80

proposed fast-track project does not avoid the adverse effects on the spiritual, historical and cultural significance and importance of the Te Ākau Bream Bay environment to Patuharakeke.

- 6.3.46 Patuharakeke recommend to McCallum Bros it re-considers locating this fast-track project in Te Ākau Bream Bay.

#### **Adverse Cultural Impact #9 – Mana and Mauri (the Realm) of Tangaroa**

- 6.3.47 Tangaroa embodies the waters, fish and bird life, marine mammals, seabed, seascape, and the air space above.

- 6.3.48 The realm of Tangaroa is a living connection of whakapapa and whanaungatanga that Patuharakeke recognises in its tikanga and exercise of kaitiakitanga, and shapes how Patuharakeke use, protect and makes decisions in Te Ākau Bream Bay.

- 6.3.49 This adverse cultural impact is about Tangaroa as its own living being/entity and embodiment, and not just a resource. It is a living presence and source of life, therefore the fast-track project must recognise its mana and mauri which is consistent with Objectives 8 and 9 of the cultural impact framework.

- 6.3.50 Although Tangaroa is not its own legal personhood, like the Whanganui River, Patuharakeke bestow Tangaroa as having the same rights and responsibility as a living being.

- 6.3.51 There will be negative impacts and potential adverse risks to the mana and mauri of Tangaroa. Although the technical reports inform that effects are manageable and traverse a spectrum of negligible to minor effects, the effects to Tangaroa will occur.

For example, the disturbance to seabed, and potential coastal water quality issues, will have a direct impact on the mauri of Tangaroa.

- 6.3.52 With regards to the LVEA, as shared earlier, the values of Patuharakeke are multi-dimensional and should not be reduced to just cultural/associate values.

- 6.3.53 The seascape of Te Ākau Bream Bay underpins the identity of Tangaroa. The biophysical and perceived/perceptual characteristics and attributes of Tangaroa need to be considered.

- 6.3.54 A concern for Patuharakeke is the industrialisation of/in Te Ākau Bream Bay and Whangārei Harbour, where the characteristics and attributes (biophysical, perceptual and cultural/associative) of Tangaroa disappear over time and within a 35-year period.

- 6.3.55 The extension of industrial activities at Marsden Point / Northport into Te Ākau Bream Bay will diminish the mana and mauri of Tangaroa.

- 6.3.56 Patuharakeke recommends to McCallum Bros that it re-considers locating this fast-track project in Te Ākau Bream Bay.

## **Adverse Cultural Impact #10 – Response to Climate Change**

- 6.3.57 It is with Objectives 1, 9 and 11 of the cultural impact framework in mind, that this adverse cultural impact is framed.
- 6.3.58 The impacts arising from climate change is a real issue and risk to Patuharakeke that requires genuine consideration.
- 6.3.59 The resource management issues with climate change for Patuharakeke are:
- Climate change will impact the cultural, economic, social and environmental wellbeing of Patuharakeke,
  - The magnitude, nature and timing of these on Patuharakeke, and Patuharakeke taonga tuku iho, have not been assessed,
  - There is a failure by the Northland Regional Council to proactively lead mitigation of carbon emissions within Northland,
  - There is a lack of preparedness planning for adaptation to the effects of climate change within Tai Tokerau and Aotearoa as a whole.
- 6.3.60 Further outlined in the PHEMP, “*most modelling sees our rohe with increasing average temperatures, increasing annual rainfall, increased severe weather events and significant sea level rise*”<sup>107</sup>.
- 6.3.61 The Draft Climate Change Update 2025 to the PHEMP, which is available of the Patuharakeke website, outlines, categorises and bring awareness to further climate change related issues:
- 3.1 Hiwi Taha Mauī – Mitigation
    - The extent of greenhouse gases/fossil fuel being emitted
    - Any planned transition (or outline whether such technology exist) away from greenhouse gases/fossil fuel use
    - Ability for the fast-track project to respond to new climate change related data/information
  - 3.2 Hiwi Taha Matau – Adaptation & Resilience
    - Transition plan away from the industrialisation of Whangārei Harbour, Marsden Point/Northport, and Te Ākau Bream Bay
    - Identifying resources, habitats and ecosystems in Te Ākau Bream Bay that are key to protecting effects of climate change
    - Measures to manage the risk of new and existing pest species
  - 3.3 Whare – Whanaungatanga

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<sup>107</sup> Patuharakeke Hapū Environmental Management Plan, Page 37

- Willingness to co-design adaptation and resilience methods
  - 3.4 Hoe Tere – Tino Rangatiratanga
    - What are the threats to Patuharakeke taonga (e.g fisheries and reefs) and the ability for Patuharakeke to take action to preserve those taonga in, and in close proximity to, the proposed sand extraction area.
- 6.3.62 Threats to people/communities and Patuharakeke taonga are a genuine concern for Patuharakeke, and a proactive response to climate change is promoted and sought by Patuharakeke.

With this concern in mind, it is likely that climate change related events will occur within the 35-year duration of the proposed fast-track project.

- 6.3.63 Accordingly, in its current form, the proposal has not considered the views of Patuharakeke on climate change. It is considered appropriate and applicable that McCallum Bros update and amend their technical assessments to give genuine consideration to the views of Patuharakeke on climate change.

#### **Adverse Cultural Impact #11 – Costs to Patuharakeke and Local Community**

- 6.3.64 This adverse cultural impact responds to Objectives 3 and 13 of the cultural impact framework.

- 6.3.65 There are three parts to this adverse cultural impact:

- The cultural loss/cost to Patuharakeke
- The cost to the local community, and
- Appropriate identification and consideration of the costs arising from the project

- 6.3.66 In his peer review, Dr Meade opines that there is potential cultural cost/loss to Patuharakeke as a result of a loss of rangatiratanga (“control”) over the marine area and environs<sup>108</sup>, and that there is a corresponding economic value to that cultural cost/loss.

- 6.3.67 For Patuharakeke, it is viewed that there is a likelihood that the customary right of Patuharakeke to take fisheries resources for customary food-gathering (i.e provision for food security and subsistence to Patuharakeke) will be impacted by the proposed fast-track project.

The established customary right supports the livelihoods (includes reducing living costs) of Patuharakeke whānau, hapū and iwi.

- 6.3.68 Dr Meade points out in his analysis of Market Economics assessment, their analysis considers only the benefits of the project, and ignores its costs and adverse effects<sup>109</sup>, and informs that

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<sup>108</sup> Cognitus Economic Insight (2025) Te Ākau Bream Bay Fast-Track – Patuharakeke Te Iwi Trust Bard Specialist Memo, Section 4.4 Cultural Costs/Losses are Likely to be Material using Established Value Economic Metrics from Relevant Domains, page 22

<sup>109</sup> Cognitus Economic Insight (2025) Te Ākau Bream Bay Fast-Track – Patuharakeke Te Iwi Trust Bard Specialist Memo, Section 5 Conclusion, page 25.

there are established metrics commonly applied in economic assessments to measure the economic value of avoiding different levels of pain and suffering.

- 6.3.69 Adverse Cultural Impacts #1 - #9 set out the cultural impacts/costs/losses to Patuharakeke. All reflect pain and suffering to Patuharakeke. These should be considered by McCallum Bros as part of the economic assessment in determining significant benefits of the project.
- 6.3.70 It is viewed<sup>110</sup> by Dr Meade that these cultural costs are material and potentially large enough to completely offset the asserted benefits of the project.
- 6.3.71 On the second matter, the cost to the local community (includes Patuharakeke) is in regard to whether there are any benefits arising from the proposed fast-track project for the community.
- 6.3.72 The Market Economics report, and the supporting statement of Mr P Donaghue, refer to the economic opportunities that will arise from the fast-track project for Auckland. There is no assessment/consideration on what the economic or significant regional benefit to Northland (or the Te Ākau Bream Bay communities) are.
- 6.3.73 In this regard, Dr Meade responds to Market Economics assessment on the benefits of the project, and counters<sup>111</sup> that the asserted benefits are economically immaterial and not significant, and that the asserted benefits for Northland are very minor and insignificant, with the benefits narrowly distributed exclusively to Auckland.
- 6.3.74 In the absence of any assessment by Market Economics that inform on the extent of the economic impacts on the values of Patuharakeke and the Te Ākau Bream Bay community, it is difficult to support their assessment that the proposed fast-track project will deliver a positive and beneficial contribution to the Patuharakeke community, the Te Ākau Bream Bay community, and the Northland region.
- 6.3.75 On the third matter, this is an extension on the costs to the local community.
- It is acknowledged that the purpose of the FTA Act is “to facilitate the delivery of infrastructure and development projects with significant regional or national benefits”, however clause 7(a) in Schedule 5 of the FTA Act advise that an assessment of environment effects must cover “any effects on the people in the neighbourhood and, if relevant, the wider community, including any social, economic and cultural effects”.
- 6.3.76 Sand extraction activities of the Te Ākau Bream Bay seabed will have a negative impact on the benthic ecology in the extraction area, which will give rise to material costs and adverse effects have a cost on local amenity, and an environmental cost.

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<sup>110</sup> Cognitus Economic Insight (2025) Te Ākau Bream Bay Fast-Track – Patuharakeke Te Iwi Trust Bard Specialist Memo, Section 1.4 Summary of Main Conclusions, points 11.10.1, page 5.

<sup>111</sup> Cognitus Economic Insight (2025) Te Ākau Bream Bay Fast-Track – Patuharakeke Te Iwi Trust Bard Specialist Memo, Section 1.4 Summary of Main Conclusions, points 11.6 and 11.7, pages 4-5.

- 6.3.77 Dr Meade outlines<sup>112</sup> in his peer review analysis that there are omitted costs in the Market Economics assessment.
- 6.3.78 Across the three parts of this adverse impact, overall Patuharakeke are of the view that the proposal requires an enhanced level of assessment that wholly identifies both the costs and benefits of the project.
- 6.3.79 Therefore, in addition to the recommendation that McCallum Bros re-considers locating this fast-track project in Te Ākau Bream Bay, Patuharakeke recommends that a peer review of the Market Economics' report is sought by the Expert Panel.

## 6.4 Overall Position

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- 6.4.1 As a whole, and in its current form, the Iwi Trust are not in a position to support the fast-track project proposed by McCallum Bros.
- 6.4.2 The primary issue is that the fast-track project should not be located in Te Ākau Bream Bay. The reasons are outlined in the cultural impact assessment in 6.2 and 6.3 of the report, with the primary recommendation of Patuharakeke encouraging McCallum Bros to re-consider locating the proposed fast-track project in Te Ākau Bream Bay, and request to the Expert Panel to decline the application.
- 6.4.3 In total there are 11 cultural impacts. These are listed below:

### Rangatiratanga / Mana Moana

1. Undermining the customary authority of Patuharakeke in Te Ākau Bream Bay
2. Disregard of Patuharakeke customary rights, interests and practices in Te Ākau Bream Bay
3. Minimal consideration of Patuharakeke values, interests and mātauranga in:
  - a. Locating the proposed fast-track activity in Te Ākau Bream Bay ,and
  - b. In preparing technical reports to inform the design and delivery of the project
4. Disregard to the values and wellbeing of Te Ākau Bream Bay Community
5. Poor Consultation with Patuharakeke Te Iwi Trust

### Kaitiakitanga

6. Limited, to non-existent, provisions for Patuharakeke to exercise its kaitiakitanga in accordance with Patuharakeke tikanga
7. Insufficient consideration of Patuharakeke relationship with Te Ākau Bream Bay and Marine Mammals

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<sup>112</sup> Cognitus Economic Insight (2025) Te Ākau Bream Bay Fast-Track – Patuharakeke Te Iwi Trust Bard Specialist Memo, Section 4.2 Omitted Costs include Possible Environmental Costs/Risks and Lost Local Amenity, page 19

8. No protection, nor safeguarding, of areas of significance and importance to Patuharakeke
  9. Adverse effects on the mana and mauri of Tangaroa
  10. Limited, to no, consideration and response to Climate Change
  11. Cultural losses and costs to Patuharakeke on (present and future) rangatiratanga and kaitiakitanga and the costs to the Local Community
- 6.4.4 It is acknowledged by Whetū that Patuharakeke do not have the power to “veto” against (right to reject) the McCallum Bros fast-track project.

#### **Recommendation and Request**

- 6.4.5 The position of Patuharakeke is one of opposition to the proposed fast-track project. This position is on the basis that the extent of the adverse effects (and costs) to the **Rangatiratanga** and exercise of **Kaitiakitanga** are substantial and significant.
- 6.4.6 Accordingly, the overarching recommendation to McCallum Bros is that the proposed fast-track project is re-located outside of, and away from, Te Ākau Bream Bay. It is viewed by Patuharakeke that, on balance, this is the most appropriate approach to achieve the objectives of the cultural impact assessment framework.
- 6.4.7 To the Expert Panel, the Patuharakeke Te Iwi Trust request that the proposed fast-track project is declined as there will be an adverse effect on the customary authority, and customary rights/interests/practices, of Patuharakeke should the project proceed in its current form. Te Ākau Bream Bay is an area of significance to Patuharakeke.
- 6.4.8 In the previous version of the CIA report (Final Report), there were complementary recommendations put forward to McCallum Bros. These were:
- update and amend the technical assessments to:
    - i. acknowledge Patuharakeke values that contextualises the meaning and sense of Te Ākau Bream Bay. This recommendation is consistent with the 2002 Environment Court decision for Ngāti Hokopu ki Hokowhitu v Whakatāne District Council, and
    - ii. give genuine consideration to the views of Patuharakeke on proactive response to climate change.
  - update and amend the Market Economics to wholly identify both the costs and benefits of the project, and response to the peer review comments provided by Cognitus Economic Insight.
- 6.4.9 It was noted in the initial review, that a number of the technical reports had considered the PHEMP and/or other available Patuharakeke reports/documents in their assessments,

however the basis for the recommendation was on the view that there was minimal consideration given Patuharakeke values, interests and mātauranga, and that there were information gaps, incomplete investigations and a level of uncertainty on some matters.

These concerns still exist for Patuharakeke.

- 6.4.10 With regard to the Market Economic Consulting report dated 21 December 2025, it is noted that their assessment responds to the Patuharakeke CIA report. Although the response by Market Economic Consulting does not fully consider and address the concerns outlined in Adverse Cultural Impact #10, it is acknowledged that an assessment was undertaken.

## 7 Response from McCallum Bros and Conclusion

### 7.1 Response to the Patuharakeke CIA Report

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7.1.1 The substantive application lodged with the EPA on 26 January 2026 was reviewed by Whetū. The substantive application report prepared by Osbourne Hay acknowledges the Patuharakeke CIA report, and where required, makes reference to the values and interests of Patuharakeke, and the identified adverse cultural impacts. These are reflected in the following manner:

- acknowledges the opposition position of Patuharakeke,
- acknowledgement of Patuharakeke as mana whenua mana moana and association with Te Ākau Bream Bay,
- outlines naming convention/protocols to response Patuharakeke association with Te Ākau Bream Bay (noting that name Paepae Atua is also used in the report),
- provision for Patuharakeke (alongside Ngātiwai and Te Parawhau ki Tai) to perform tikanga and cultural inductions, and involvement in marine mammal response matters,
- proffer of a cultural contribution resource consent condition to recognise Patuharakeke relationship with Te Ākau Bream Bay, and to support Patuharakeke participation in the fast-track project.

7.1.2 Although these above matters are noted in the substantive application report, by staying in Te Ākau Bream Bay, McCallum Bros have not fully appreciated the significance of the adverse impact the project will have on Patuharakeke. The overarching recommendation to re-locate outside of, and away from, Te Ākau Bream Bay is viewed by Patuharakeke as the most appropriate approach to achieve the objectives of the cultural impact assessment framework, and more importantly, avoid harm to Patuharakeke. This recommendation is still preferred by Patuharakeke.

### 7.2 Closing Comments

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7.2.1 The fundamental concerns for Patuharakeke is that the proposed fast-track project by McCallum Bros to extract sand from Te Ākau Bream Bay is located in a coastal marine environment that is of profound significance and importance to Patuharakeke.

7.2.2 The customary authority of Patuharakeke in Te Ākau Bream Bay are established, with the pursuit by Patuharakeke to further secure its customary rights, interests and practices in Te Ākau Bream Bay (and widely Whangārei Harbour and Hauraki Gulf) through available channels (e.g Waitangai claim and MACA processes).

7.2.3 These rights, interests and practices for Patuharakeke reinforces historical, traditional, cultural, and spiritual associations with the coastal marine environment, and provides a sense of food

security and subsistence to Patuharakeke, whilst complementary reducing living costs, and more importantly, ensures nutritional needs.

There is a substantial cost/loss to Patuharakeke.

- 7.2.4 The recommendation to McCallum Bros to reconsider locating its project (in its current form) outside of, and away from, Te Ākau Bream Bay, is viewed by Patuharakeke as the best approach to safeguard the relationship, culture and traditions with Te Ākau Bream Bay.
- 7.2.5 Noting that a substantive application has been lodged with the EPA, and an Expert Panel has been established, the request to the Expert Panel is to decline the application on the basis that the adverse effects/impact of the proposed fast-track project are significant to Patuharakeke for the reasons stated in this CIA report.

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*RJ Davidson Family Trust v Marlborough District Council* (2018) NZCA 316

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*Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board* (2020) NZCA 86

*Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board* (2021) NZSC 127

*Port of Tauranga Ltd v Bay of Plenty Regional Council* (2023) NZEnvC 270

**Legislation**

Fast-Track Approvals Act 2024 and Resource Management Act 1991

Treaty of Waitangi (Fisheries Claims) Settlement Act 1992

## Appendix A: Patuharakeke Hapū Management Plan 2014

### Patuharakeke Hapū Environmental Management Plan 2014

Part II – Participation in Resource Management Planning and Decision-Making		
2. Relationship		
2.6 Issues	Current relationships are limited in their provision for the full participation of Patuharakeke as equal partners in decision making processes affecting natural and physical resources in our rohe.	Page 21
2.7 Objectives	<p>a) Patuharakeke will strengthen and establish ongoing meaningful relationships with our neighbours, community, developers and agencies to ensure we are appropriately acknowledged as kaitiaki of our rohe.</p> <p>b) Patuharakeke will have a partnership role in resource management planning and decision-making within our rohe.</p>	Page 21
2.8 Policies	<p>a) PTB will endeavour to keep hapu and whanau informed of all issues affecting the development and management of our natural, physical and heritage taonga. For significant issues, PTB will always advocate for these issues to be brought back to the marae for korero and hui, and will provide regular, open consultation through hui between PTB, and our hau kāinga and whānau whānui.</p> <p>b) PTB will endeavour to ensure that Patuharakeke participate in the decision-making processes of government agencies that affect us and our resources and are engaged on all issues of concern to us.</p> <p>c) Patuharakeke will wananga and work collaboratively with other hapu and iwi to share skills, learning, knowledge, experiences and opportunities. Patuharakeke will consider invitations to participate in multi stakeholder working parties on a case by case basis.</p> <p>d) PTB will continue to advocate for the recognition of Patuharakeke as a Treaty partner in all multi-stakeholder processes involving the management and development of natural, physical and heritage resources within our rohe. Patuharakeke will consider all requests to join multi- stakeholder processes on a case by case basis.</p>	Pages 21 - 23

	<p>e) Patuharakeke will continue to work collaboratively and positively with all community groups and stakeholders whose policies and initiatives contribute to the sustainable management and enhancement of resources within our rohe. Patuharakeke will consider all requests to join multi-stakeholder processes on a case-by-case basis.</p> <p>h) PTB will, to the best of our capacity, monitor all applications for development initiatives within our rohe.</p> <p>i) PTB will direct developers to the appropriate point of contact for their proposal. PTB will enter into consultation with all developers to assist in ascertaining the actual or potential effects of the development proposals on Patuharakeke, our values and our environment. Where any development initiative has the potential to impact on our values or resources, PTB will request that the developers bring their initiatives to the marae for the consideration of the hau kainga.</p> <p>j) PTB will ensure that adequate measures to avoid, remedy or mitigate any adverse effects on Patuharakeke, our values and our environment are identified for developers and council prior to development proceeding.</p> <p>k) PTB will, to the best of our capacity, monitor all developments once commenced to ensure that they do not result in adverse effects and that they are completed in accordance with the conditions of their consent.</p> <p>n) Patuharakeke will actively participate in the management of our taonga – our involvement should be sought at the commencement of all management, planning and monitoring processes.</p> <p>o) Agencies and other parties should be cognisant of the lack of capacity and resources for PTB to participate in contemporary planning and policy processes. Where consultation or participation in agency processes involves a cost to Patuharakeke, these should be borne by the relevant agency. Where consultants or contractors undertake consultation on behalf of agencies, the contract for service should specify the need for the contractor to consult directly with Patuharakeke on a professional basis.</p>	
2.9 Methods	<p><u>Relationships with Developers</u></p> <p>e) PTB will establish a Patuharakeke RMU to work with all responsible developers in our rohe and to facilitate dialogue and engagement with our marae community, hapu and land owners.</p> <p>f) PTB will continue to advocate that all potential developers should seek to enter into direct engagement with us in regard to their proposals at the earliest possible stage of the development.</p>	Page 24

	<p>g) PTB will enter into agreements with responsible developers to clearly specify the involvement of Patuharakeke in the development process. Where this involvement includes a cost to the marae or hapu, PTB will insist that all reasonable costs are borne by the developer.</p> <p>h) Patuharakeke will develop protocols covering protection of all waahi tapu and other heritage sites and values in regard to development initiatives and will seek to have these protocols adopted as standard consent conditions for all consents granted within our rohe.</p>	
<b>Part III – Resource Issues</b>		
<b>3. Kaitiakitanga</b>		
3.1 Recognition of Kaitiakitanga		
3.1.1 Issues	b) There is a lack of direct and effective Patuharakeke involvement, as the kaitiaki, in the sustainable management of our ancestral taonga, including water, soil, minerals, air, indigenous flora and fauna and our heritage.	Page 28
3.1.2 Objectives	<p>a) Patuharakeke are acknowledged as the kaitiaki of all resources within our rohe and are actively involved in the decision-making, management, monitoring and enhancement of those resources including water, soils, mineral, air, flora and fauna and heritage.</p> <p>b) The relationship of Patuharakeke and our culture and traditions with our ancestral taonga is recognised and provided for as a matter of national importance by Councils and other statutory agencies.</p> <p>c) Mātauranga Patuharakeke or traditional Patuharakeke environmental knowledge is acknowledged, protected and utilised.</p>	Page 28
3.1.3 Policies	<p>a) Patuharakeke are recognised as the kaitiaki of all resources, including water bodies, energy, soils, minerals, air, flora, fauna and heritage, in our rohe.</p> <p>d) Use will be made of relevant Mātauranga Patuharakeke/traditional Patuharakeke environmental knowledge and practice in management and decision-making associated with all resources, including water bodies, soils, minerals, air, flora, fauna, energy and heritage. The intellectual property rights associated with that knowledge will be respected and protected.</p> <p>e) PTB are an interested and potentially affected party to any notified and non-notified resource consent application within our rohe concerning or potentially affecting any resource because of our special relationship with these taonga. When PTB is involved in setting conditions for a consent, the applicant or council will resource PTB to regularly monitor and review those conditions.</p>	Page 28

3.1.4 Methods	<p>a) PTB requests that all statutory agencies with responsibility for management of all resources recognise Patuharakeke as kaitiaki within our rohe. PTB will monitor all agencies' current and proposed policies to ensure that this happens. PTB also request that all relevant statutory agencies:</p> <ul style="list-style-type: none"> <li>i. Actively promote engagement with tangata whenua as being best practice to resource consent or permit applicants pre-application;</li> <li>ii. Require that all resource consent or permit applications concerning or potentially affecting all resources, including water bodies, soils, minerals, air, flora, fauna and heritage, be lodged with a PTB Cultural Impact Assessment approved by Patuharakeke as the relevant tangata whenua. Suggested consent conditions should be included in the assessment;</li> <li>iii. Notify PTB of any resource consent or permit application concerning or potentially affecting all resources, including water bodies, soils, minerals, air, flora, fauna and heritage and provide adequate time and resourcing for PTB to respond in an informed manner;</li> <li>iv. Provide PTB with copies of any infringement or abatement notices or details of Environment Court proceedings within our rohe.</li> </ul> <p>b) PTB, councils and other agencies and stakeholders will work together to ensure there is ongoing provision of opportunities to instil traditional values and knowledge in our rangatahi through involvement in restoration projects and customary mahinga kai practices.</p>	Pages 28 - 29
<b>3.2 Te Tiriti o Waitangi</b>		
3.2.1 Issues	a) There is a lack of proper recognition of and provision for, Te Tiriti o Waitangi as the basis for the relationship between Patuharakeke and local government.	Page 32
3.2.2 Objectives	a) Te Tiriti o Waitangi forms the basis of the relationship between Patuharakeke and local government.	Page 33
3.2.3 Policies	<p>a) Te Tiriti o Waitangi is an agreement between Patuharakeke tupuna and the Crown, but in contemporary times Treaty obligations also sit with local government in addition to central government agencies.</p> <p>b) The articles of Te Tiriti o Waitangi should be given effect to in accordance with the significance of the treaty to Māori as the founding document of the nation.</p>	Page 33

	c) In giving effect to Te Tiriti, government agencies and local authorities must recognise and provide for kaitiakitanga and rangatiratanga. As the tangata whenua who hold manawhenua in our rohe, Patuharakeke interests in resource management extend beyond 'generic' stakeholder or community interests.	
3.2.4 Methods	Section 2.9(e) – (h)	Page 24
<b>4. Ranginui</b>		
4.2 Climate Change		
4.2.1 Issues	a) Climate Change will impact the cultural, economic, social, and environmental wellbeing of Patuharakeke. b) The magnitude, nature and timing of these effects on Patuharakeke and our taonga tuku iho have not been assessed. d) There is a lack of preparedness planning for adaptation to the effects of climate change within Tai Tokerau and Aotearoa as a whole.	Pages 37 - 38
4.2.2 Objectives	a) Our Patuharakeke hapu and whanau community have sufficient information to allow us to plan for the effects of climate change. b) The potential impacts of climate change on Takahiwai marae, papakainga, and other sites of significance are identified and Patuharakeke are enabled to proactively develop responses and strategies for adapting to or accommodating those changes. e) Climate change is an integral part of community-based integrated catchment management planning led by tangata whenua.	Page 38
4.2.3 Policies	b) PTB require that the relevant local authorities and agencies recognise and provide for the potential effects of climate change on resources and values of importance to Patuharakeke, for example: i. effects of sea level rise on our coastal marae and waahi tapu, including urupā; ii. increased salination of rivers and estuaries, affecting mahinga kai resources and customary use; iii. warming of oceans and effects on marine ecosystems, including those on the sea floor; iv. changes to the amount of rainfall, and effects on aquifer recharge; v. changes to the habitats of indigenous flora and fauna, including taonga species; vi. increased pressure on already failing infrastructure; vii. changes in tourism (especially eco-tourism markets); viii. increased transportation costs and energy costs (the end of cheap oil and security of supply); ix. health impacts (e.g. tropical diseases) e) Restoration planning for wetlands and lagoons must take into account the potential for future sea level rise associated with climate change.	Pages 38 - 39

4.2.4 Methods	<p>a) Patuharakeke will work proactively with all agencies and individuals who are seeking positive and pragmatic solutions and responses to climate change.</p> <p>b) PTB will seek funding and support from appropriate agencies and stakeholders to examine the risks climate change poses, our vulnerability and adaptive strategies we can take to protect our community, values and taonga tuku iho.</p> <p>c) PTB will not support to any development proposals in the coastal environment where climate change poses an undue risk.</p>	Page 39
<b>8. Waahi Tapu me Waahi Taonga</b>		
8.1 Issues	<p>a) Ongoing damage, destruction and mismanagement of waahi tapu and areas or sites of significance that contribute to, or are a part of, our cultural landscape and seascape.</p> <p>b) Areas or sites of customary value are often limited to western definitions, such as “archaeological”.</p>	Page 63
8.2 Objectives	<p>a) The protection and enhancement of areas or sites of customary value.</p> <p>b) All councils implement more appropriate provisions for cultural landscapes under their cultural and heritage responsibilities, such as the development and implementation of cultural landscape strategies.</p>	Page 63
8.3 Policies	<p>a) The recording of our cultural landscapes and seascapes, will be supported by Councils.</p> <p>c) Our cultural landscapes and seascapes should be afforded at least as high a priority as other landscape values when being considered as part of any process under the RMA, the Conservation Act, the Reserves Act or the LGA.</p> <p>d) Preparation of landscape assessments for resource consent applications and similar processes should be done in conjunction with PTB RMU to ensure that the cultural aspects of the landscape are given full recognition alongside other values such as natural character and amenity values.</p> <p>e) Monitoring of effects on cultural landscapes and waahi tapu (including marine cultural heritage) within our rohe is the responsibility of the ahi kaa and kaitiaki. This should be reflected in all relevant consent conditions. This function should be formally transferred to PTB RMU as mana whenua and resourced appropriately.</p> <p>f) Any areas and sites of customary value that contribute to, or are a part of our cultural landscape must be defined by Patuharakeke.</p> <p>h) The original names of all parts of our rohe as named by our tupuna should be used in all maps, charts, plans and other records.</p>	Page 65

	<p>i) The advice and input of Patuharakeke should be sought and observed in the naming of any new places or features within our rohe.</p> <p>j) PTB, in conjunction with agencies and stakeholders, will encourage the use and representation of Māori culture (e.g. tikanga, markers, symbols, names, design) in public open space and the built environment when appropriate, including but not limited to: a. (a) Markers and designs as deemed appropriate. b. (b) Naming of features, roads, reserves, or buildings.</p> <p>k) To support the use of interpretation as a tool to recognise and provide for the relationship of Patuharakeke to particular places, and to incorporate Patuharakeke culture and values into landscape design.</p> <p>l) The interpretation of our values and history is best provided by Patuharakeke, and PTB RMU should be commissioned and resourced to provide this service.</p> <p>m) PTB will ensure any use of names, and other cultural interpretation in such instances will require internal discussion with the relevant whanau and the Patuharakeke taumata prior to any decision being made.</p>	
8.4 Methods	<p><u>Cultural Landscapes and Seascapes</u></p> <p>a) PTB RMU will request that councils and other relevant agencies afford cultural landscape and seascape values at least as high a priority as other landscape values when preparing plans and policies and when considering landscape values during resource consent processes.</p> <p><u>Waahi Tapu</u></p> <p>f) PTB RMU will investigate and prioritise becoming certified as a registered collector of artefacts under the Protected Objects Act 1975. Any museum that knowingly accepts unearthened taonga tuturu (such as adzes, sinkers or carvings) discovered within our rohe must pass such taonga to PTB once registration has occurred and ownership is finalised.</p> <p><u>Access to Sites of Significance</u></p> <p>g) Patuharakeke must have unrestricted access to waahi tapu and other places of cultural significance on Crown land within our rohe.</p> <p><u>Patuharakeke Tikanga Tuturu</u></p> <p>j) To require that the use and representation of Māori culture as per Policy 8.3 (h-m) above, involves and is endorsed by, Patuharakeke as the tangata whenua when it occurs within our rohe. k) To require that any interpretation or information relating to Patuharakeke history, values, traditions or place names is agreed to and approved by PTB RMU.</p>	Pages 66 -68

9. Tangaroa		
9.1 Coastal Water Quality		
9.1.1 Issues	a) The cultural health of Whangarei Terenga Paraoa, Bream Bay and our estuaries is adversely affected by: i. Direct discharges of contaminants, including wastewater and stormwater; ii. Sedimentation iii. Diffuse pollution from rural, urban and industrial land use; iv. Reclamation, drainage and degradation of coastal wetlands; and v. The cumulative effects of activities.	Page 70
9.1.2 Objectives	<p>a) Whangarei Terenga Paraoa, Bream Bay and our estuaries are precious taonga and the home of myriad species and are respected for their taonga value above all else.</p> <p>b) The mauri and cultural health of the harbour, Bream Bay and our estuaries is protected and enhanced in ways that enable Patuharakeke to provide for our physical, social, economic and cultural wellbeing.</p> <p>c) Patuharakeke have a leading role in managing, monitoring and enhancing coastal water quality in our rohe.</p> <p>e) Coastal water quality standards relevant to Patuharakeke are developed and implemented by agencies and monitored by kaitiaki.</p>	Page 70
9.1.3 Policies	<p>a) Coastal water quality is required to be consistent with protecting and enhancing customary fisheries, and with enabling Patuharakeke to exercise their customary rights and safely harvest kaimoana.</p> <p>b) Patuharakeke will participate fully in any decision-making over the management of coastal waters in our rohe.</p> <p>c) Decision-makers will ensure that economic costs do not take precedence over the cultural, environmental and intergenerational costs of degrading coastal water quality.</p> <p>d) The discharge of human effluent, treated or untreated, directly to coastal waters is culturally repugnant. All direct discharges of pollutants or contaminants (wastewater, industrial, storm water and agricultural) to coastal waters should be avoided and existing discharges ultimately eliminated.</p> <p>e) PTB will oppose any new consent applications seeking the direct discharge of contaminants to coastal water, or where contaminants may enter coastal waters.</p> <p>g) NRC will implement rigorous controls restricting the ability of boats to discharge sewage, bilge water and rubbish in our harbour, estuaries and coastal waters.</p>	Pages 70 - 71

	<p>h) Councils and other relevant agencies will recognize and support the use of cultural monitoring and assessment tools by Patuharakeke to compile base line data and assess the state of coastal water resources, including but not limited to: v. Cultural Audits; vi. GIS Mapping of harbour, estuaries and mahinga kai; vii. Cultural Health Index; and viii. the use of customary management tools for protecting freshwater values.</p>	
<p>9.1.4 Methods</p>	<p>a) Councils and Patuharakeke will together jointly develop integrated catchment management strategies including mechanisms for allocating water and monitoring for all waterbodies in our rohe.</p> <p>c) PTB will take positive action to enhance our coastal water quality and will develop and implement a monitoring programme using cultural health indicators and other assessment tools as needed.</p> <p>d) PTB will advocate for the enhancement of coastal water quality and will work with any party promoting or implementing positive actions in this regard. PTB request statutory authorities to: i. ensure that coastal water quality standards in our rohe are set based on the elevated standard of water quality we want to achieve, as opposed to establishing a minimum lower standard that we can degrade to; ii. promote and provide incentives for the rehabilitation, enhancement and protection of estuarine areas and coastal margins; iii. develop a strategy to deal with sedimentation by identifying the key sources and activities; implementing effective controls on those activities; and promoting indigenous reforestation, riparian margin enhancement and soil conservation as measures to address sedimentation in our harbour and estuaries; iv. prevent the discharge of liquid waste (e.g. stormwater, sewage and farm effluent) to coastal waters; v. unrestricted stock access to coastal margins is prevented; vi. Where data shows that there is an adverse effect on coastal water quality then activities must cease; and vii. resource consents for works stipulate regular cultural health monitoring by appropriately resourced kaitiaki as part of compliance monitoring.</p> <p>e) PTB, councils and other agencies with responsibilities in the coastal marine area will formalise a programme of cultural health monitoring of the health of the Whangarei Harbour, Bream Bay and Estuaries in our rohe. The programme will be carried out by kaitiaki and focus on matters such as: i. Quality of mahinga kai habitat; ii. Species diversity and abundance; iii. Water quality; and iv. Suitability of traditional mahinga kai areas for customary use</p>	<p>Page 71</p>
<p>9.2 Foreshore and Seabed</p>		

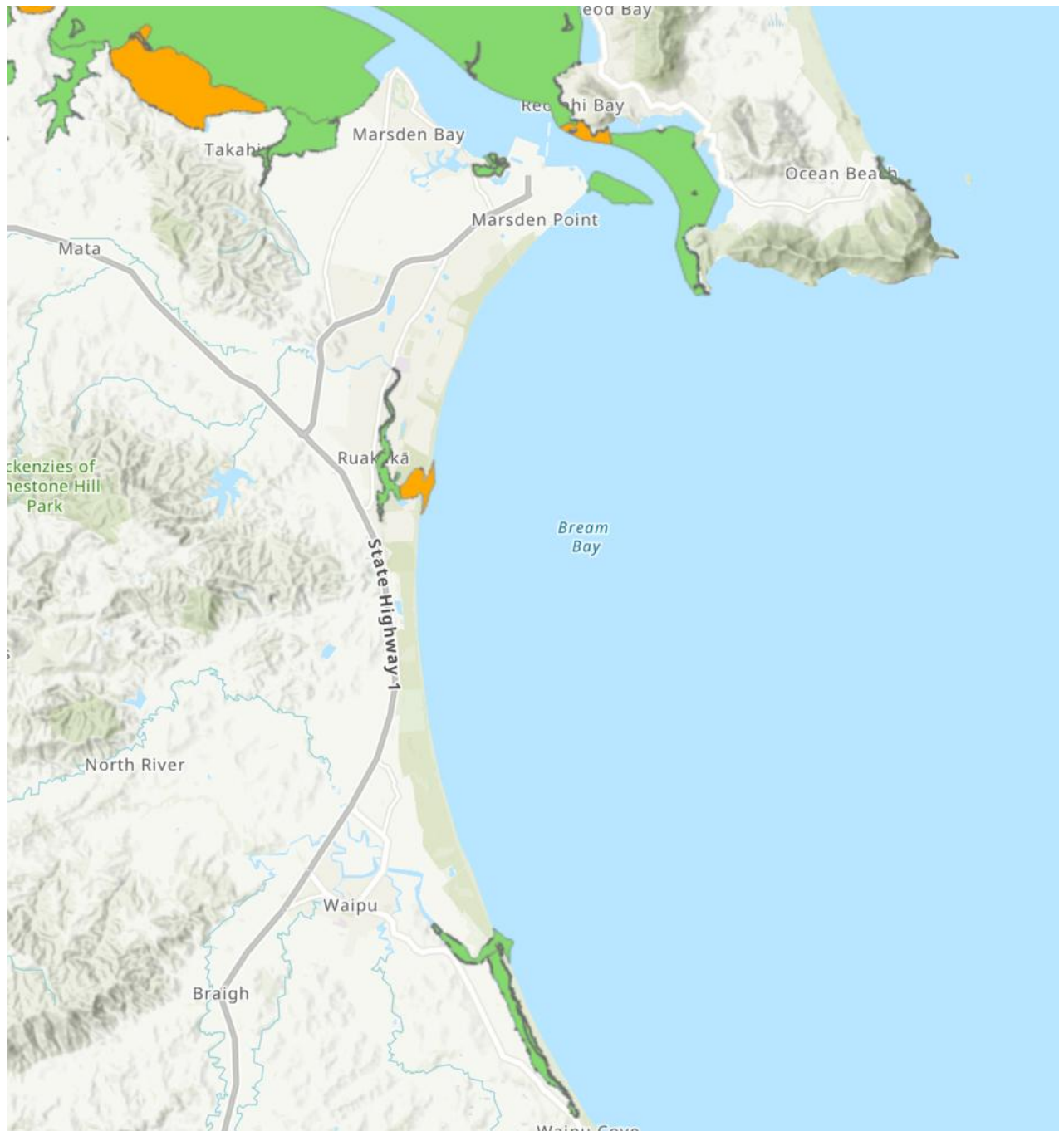
9.2.1 Issues	a) The historical loss of our foreshore and seabed rights has resulted in adverse cultural, environmental, social and economic impacts on Patuharakeke. These are perpetuated in the contemporary context by the lack of appropriate statutory recognition of our customary rights over the foreshore and seabed.	Page 73
9.2.2 Objectives	a) Recognition of, and appropriate provision for the longstanding rights and interests of Patuharakeke in relation to the foreshore and seabed.	
9.2.3 Policies	b) Patuharakeke will continue to seek ways to express our customary rights and interests over particular sites and areas within our takutai moana (eg. see policies in section 9.8.3 of this plan).	
9.2.4 Methods	a) PTB's Treaty of Waitangi claims progression committee will continue to pursue these matters as set out in our amended statement of claim inter alia before the Waitangi Tribunal.	
9.3 Access to the Coastal Environment		
9.3.1 Issues	a) Patuharakeke access to the coastal marine area and customary resources has been reduced and degraded over time.	Page 74
9.3.2 Objectives	b) Customary access is protected and enhanced.	Page 74
9.3.3 Policies	<p>a) Customary access to the coastal environment is a customary right, not a privilege, and must be recognised and provided for independently from general public access.</p> <p>b) Policies and plans prepared by statutory agencies must recognise the rights of access that Patuharakeke have: v. to all waahi tapu; vi. for the harvesting and collection of kai; vii.to taonga prized for traditional, customary and cultural uses; and viii. for the purposes of kaitiaki/cultural health monitoring.</p> <p>d) PTB will oppose coastal land use and development that results in the further loss of customary access to the coastal marine area, including any activity that will result in the private ownership of the foreshore.</p>	Pages 74 – 75

9.3.4 Methods	<p>a) Patuharakeke will continue to advocate that agencies recognise and provide for these policies.</p> <p>c) Patuharakeke will take opportunities to educate the community about our cultural values in relation to the coast and encourage attitudinal change.</p> <p>d) Councils issuing consents that could affect customary access will include consent conditions to protect and enhance customary access.</p> <p>e) PTB will continue to lobby our agency partners and local business and industry to seek funding for a kaitiaki monitor to patrol Ruakaka beach and other important areas on a fulltime basis. We envisage a kaitiaki monitor would undertake the following types of activities: i. Monitoring of kaimoana beds and adherence to any fishing restrictions; ii. Coastal cultural health surveys; iii. Monitoring of sites of cultural significance; iv. Monitoring of wildlife; v. Observation of any dog or horse bylaws; vi. Education and advocacy with general public.</p>	Page 75
9.7 Marine Mammals		
9.7.1 Issues	a) The habitat of marine mammals is facing immense human-induced pressures.	Page 80
9.7.2 Objectives	<p>a) Increased numbers of healthy whales and dolphins inhabiting and migrating through our coastal waters and harbour</p> <p>b) A strong partnership between DOC and Patuharakeke with regard to the management of marine mammal strandings and cultural harvest in our rohe.</p> <p>c) Revival of matauranga and tikanga associated with marine mammal strandings and cultural use.</p>	Pages 80 - 81
9.7.3 Policies	a) The cultural, spiritual, historic and traditional association of Patuharakeke with marine mammals, and the rights to exercise rangatiratanga and kaitiakitanga over marine mammals is guaranteed by Te Tiriti o Waitangi.	Page 81
9.7.4 Methods	<p>a) Patuharakeke will continue to advocate for a clean and healthy marine environment for marine life, including dolphins and whales.</p> <p>d) Patuharakeke will continue to work collaboratively with Ngatiwai and other hapu and iwi to build knowledge and understanding with regard to the cultural harvest of stranded marine mammals.</p>	Page 81
9.8 Customary Fisheries		

9.8.1 Issues	<p>a) Increasing pressure on the kaimoana resources in our rohe as a result of: i. Discharges to the coastal marine area and harbour, and impacts on coastal water quality; ii. Harvesting pressure; iii. Lack of awareness among visitors of the importance of our harbour, bays and estuaries as mahinga kai; iv. industrial activities; and v. Biosecurity risk.</p> <p>b) There is a need to implement appropriate tikanga-based management tools for protecting and enhancing the marine environment and customary fisheries.</p>	Page 83
9.8.2 Objectives	<p>a) That there is diversity and abundance of mahinga kai in our rohe moana, the resources are uncontaminated and healthy, and Patuharakeke have unimpeded access to them.</p> <p>b) The role of Patuharakeke as kaitiaki of the coastal environment and sea is recognised and provided for in coastal and marine management.</p> <p>c) Traditional and contemporary mahinga kai sites and species within our rohe moana, and access to those sites and species, are protected and enhanced.</p> <p>d) Our rohe moana is protected through tikanga-based management of fisheries.</p> <p>e) Te rohe moana o Patuharakeke is managed as a mahinga kai and mataitai, first and foremost.</p>	Page 83
9.8.3 Policies	<p>a) Agencies and stakeholders will support the protection and enhancement of our rohe moana through tikanga-based customary fisheries management tools, and supported by matauranga Maori and western science, including: i. Mataitai; ii. Rahui; and iii. Tangata tiaki/kaitiaki.</p> <p>b) Agencies and stakeholders will support the development of an ongoing monitoring scheme by Patuharakeke using Cultural Health Indicators ('CHI') to assess the health of our rohe moana.</p> <p>c) To continue to jointly investigate and implement kaimoana reseeding projects in the rohe moana where traditional stocks are degraded either through the Whangarei Harbour Health Improvement Fund/Kaitiaki Roopu or another mechanism.</p> <p>d) PTB will continue to develop and establish sound research partnerships with NRC, Crown Research Institutes, government departments, universities and other organisations to address issues of importance to tāngata whenua regarding the management of our rohe moana.</p>	Page 84

	<p>e) NRC will require protection or restoration mechanisms such as bonds, levies and mitigation funds as consent conditions for any application with the potential to adversely impact our rohe moana.</p> <p>f) NRC will require that water quality in the harbour, our bays and estuaries is such that Patuharakeke can exercise customary rights to safely harvest kaimoana.</p> <p>g) PTB will continue to work with local authorities to develop appropriate policies and rules to implement and enforce measures to improve coastal water quality (for example as set out in policies 9.1.3 and 9.6.3 of this plan).</p>	
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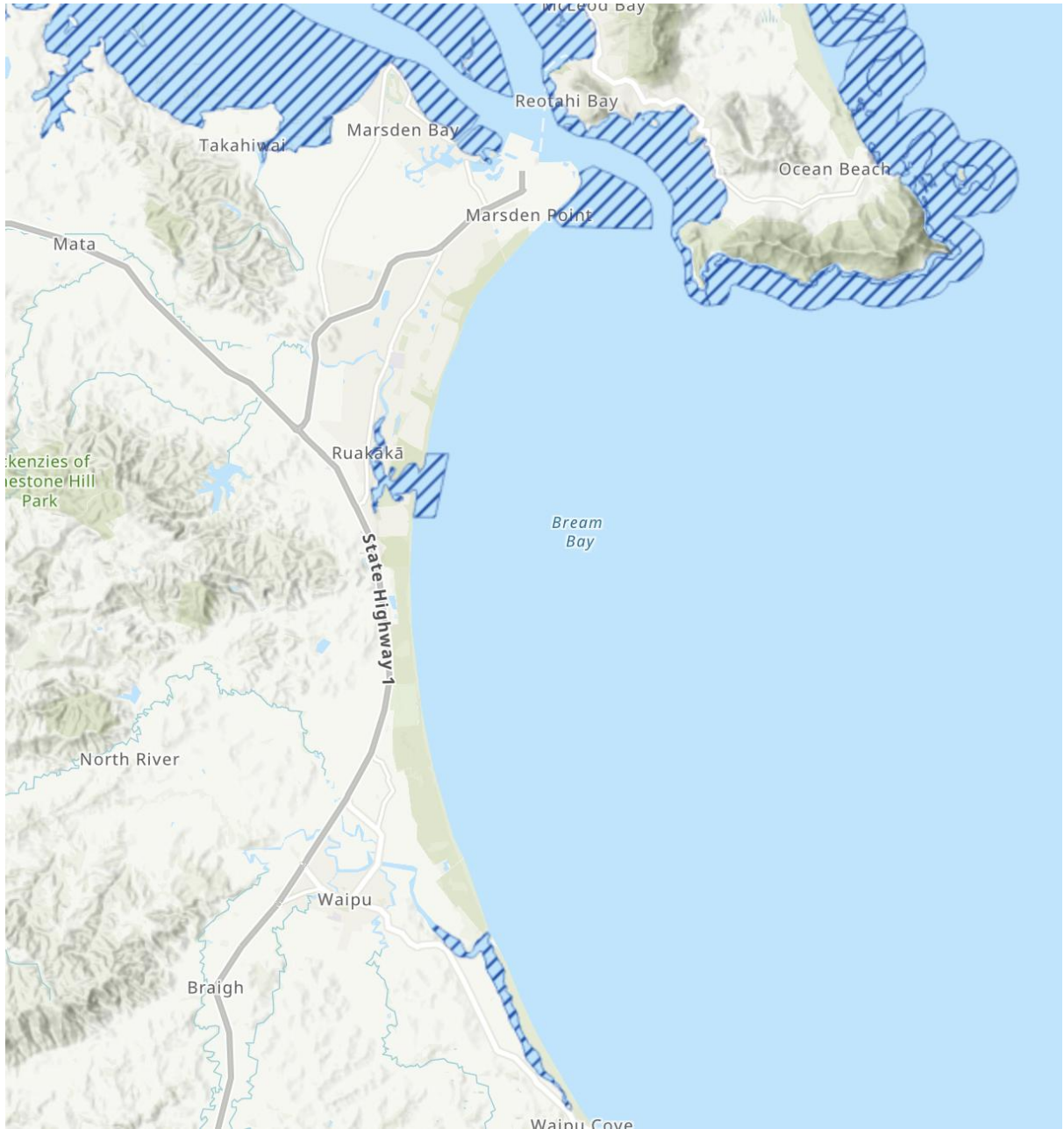
## Appendix B: Maps – Proposed Regional Plan for Northland



Proposed Regional Plan for Northland - Natural Character



**Proposed Regional Plan for Northland – Sites and Areas of Significance to Tangata Whenua**



**Proposed Regional Plan for Northland – Ecological Areas**



**Proposed Regional Plan for Northland – Significant Bird Areas**