

**I MUA I TE KOOTI TAIAO O AOTEAROA
TĀMAKI MAKĀURĀU ROHE**

ENV-2023-AKL-000160

IN THE MATTER OF an application for direct referral under section 87G of the Resource Management Act 1991

AND an application by **ALLIED ASPHALT LIMITED** for resource consents to discharge contaminants to air, construct a new plant, emit noise as part of construction and ongoing operations, store and use hazardous substances, and discharge stormwater to waste water.

AND **TAURANGA CITY COUNCIL & BAY OF PLENTY REGIONAL COUNCIL**

AND **OTHERS**

**STATEMENT OF EVIDENCE OF
AWHINA KIMI PUA NGĀTUERE
WHAREROA MARAE AND NGĀTI KUKU
11 APRIL 2024**

INTRODUCTION

1. My name is Awhina Ngātuere and I am authorised to give this statement of evidence on behalf of Ngāti Kuku Hapū.
2. I am a direct descendant of Taiaho Hori Ngatai who was the chief of Ngāi Te Rangi and Ngāti Kuku in the late 1800s. Hori Ngatai established our kāinga (ancestral home) at Whareroa and to this day, Ngāti Kuku holds 'ahi kaa' or continuous occupation at Whareroa and across the wider Mount Maunganui area in Tauranga.
3. I was raised at Whareroa along with my brothers since I was 11 years old. My mother and brothers still reside in our family homestead at Whareroa to this day.
4. In around 2014 I moved back to Whareroa so that my children could be raised on their whenua. In 2020 my husband and I were forced to uplift our children away from their whenua due to the discharges from heavy industry and the stress associated with fighting for our survival on a daily basis.
5. I am employed as the Chief Executive of a regional Māori economic development Trust working across the wider Bay of Plenty region. I have held this position for 3 years. Prior to this, I was working full time as managing director of August & August Ltd, a strategic project management company that specializes in the delivery of kaupapa Māori initiatives.
6. I have a Bachelor of Commerce degree with a double major in Commercial Law and Management from the University of Auckland (2008) and a Master's Degree in Māori and Indigenous Leadership from the University of Canterbury (2021).
7. My Masters research explored the interconnected relationship between our ancestral waterways and the people of Whareroa. My research involved looking into the current state of our waterways and unpacking how it changed from once being a thriving and abundant resource to the compromised state that it is today. Suffice to say the process of unravelling this became a harrowing experience reading reports and accounts of the injustices suffered by my people (and others) who became products of land confiscation and forced land sales. The impact of this resulted in the

severing of ties to ancestral waterways and whenua and my hapū becoming dispersed, displaced, and disconnected.

8. I am a product of kohanga reo and kura kaupapa and have been raised to recognise the interconnected relationship to our natural world and the inherent responsibility we were born with to take care of our natural environment knowing that when that is done well, our communities will thrive.
9. Given my experience living at Whareroa and engaging in our cultural practices, I have had extensive engagement through nearly two decades on the air quality issues affecting our marae and people.

SCOPE OF EVIDENCE

10. My evidence covers
 - (a) Ngāti Kuku's experience within the RMA space
 - (b) Views on the proposal
 - (c) The need for a unique solution to address cultural impacts

NGĀTI KUKU AND THE RESOURCE MANAGEMENT ACT

11. I have been the chairperson of Ngāti Kuku Hapū since November 2019.
12. During this time, I have experienced the significant inadequacies within the RMA process, especially where it comes to treating Māori and any impacts we may have.
13. The Whareroa context is unique in that our community is pegged right up against heavy industry and we are neighbours to the largest Port in New Zealand. Our people have had significant ancestral lands taken for "better utilisation" and have been let down by city plan policies that has designated an industrial zone right on our doorstep. To add insult to injury, the land that surrounds our community today is home to some of the most noxious industries in the country including the likes of Ballance Agri-Nutrients, Waste Management Ltd, Lawter Chemical Solutions and Genera.

14. Historically, Whareroa Block encompassed a much wider geographical footprint that included the existing Whareroa Marae reserve that we know of today and also the Tauranga Airport area, Omanu to the main beach side and the area coming along towards where the New World is and heading back towards the Port of Tauranga.
15. Whareroa landscape was one with views to Mauao, our tupuna maunga, plentiful kaimoana and flourishing people. The impact of raupatu, the Crowns compulsory acquisition policies, the Public Works Act saw Whareroa lands taken for the 'greater public good'.
16. Whareroa Block or what is referred to now as the Mount Industrial zone houses the following types of businesses including fertiliser works, cement depot, oil farm tanks, timber yards, cargo sheds, chemical sites, asphalt companies and various storage facilities.
17. These industries have been allowed to engage in "permitted" activities that discharge to air, land and water systems directly next to our community of elders and tamariki who have been here for generations.
18. The resource consenting process is often described by us at Whareroa as a 'vicious cycle' where consents are applied for, they are ultimately granted and when there is a breach of a consent, the consent holder is allowed to carry on with operations so as long as they pay their fine.
19. The reality for Whareroa is that the damage has been done in terms of the exposure of discharges to people. Cumulatively, as this practice continues on, the risk is further heightened when you take into account the number of industries and consents in our area and the constant exposure over a long period of time.
20. This cycle continues to compromise our ability to re-establish cultural practices and to engage with our natural world the way we need to as tangata whenua.
21. The engagement process generally with industry is problematic and can be extremely stressful. We are forced into a process with industries who only seek to engage with us for their own benefit (consent) and on their own terms.
22. Unfortunately, regardless of our willingness to engage in good faith and our ability to articulate the adverse impacts of their proposal, our people are continually asked to make further compromises.

23. Industry works in silos and are only ever worried about their own discharges and avoid taking any accountability for their collective discharges. This means that there is little attention given to cumulative impacts and long-term exposure. Meanwhile the impacts are perpetuated causing permanent loss of space, forced disconnection of our people and ultimately severing connections to our natural world and therefore losing our ability to be kaitiaki of our taonga.
24. As a result of our negative experiences, in 2020, Whareroa and the wider Mount Maunganui community called for a managed retreat of heavy industries in our area within 10 years.
25. The recent Toi Te Ora Public Health Report published in 2023 reaffirmed the risk and urgency in our area and highlighted that around 14 people are dying prematurely because of poor air quality in the Mount Maunganui Area. Our view is that this report reconfirms what our people have been saying from our lived experiences for many years. That is, air quality in Mount Maunganui is harmful to human health. This occurs because of individual discharges and on a cumulative basis.
26. Additionally, the worry for Whareroa is the significant growth planned for the Mount Maunganui to Arataki area as part of Tauranga's growth plan. This will mean more traffic on the road and more pollution and further risk to human health.

VIEWS ON THE PROPOSAL

27. Allied Asphalt is situated on ancestral lands and is within the Mount Maunganui Air Shed (MMAS).
28. It is our view that given the context, Industries that contribute negatively to the MMAS should not be allowed to operate unless they have a 100% recapture operation.
29. Allied Asphalt is seeking to build another Plant that is supposedly going to be more environmentally friendly. Even if this is the case, given the backdrop of the 'vicious cycle' that I described earlier, the risk is far too high when we take into account the new plant will have the capacity to have increased

production which among other things will equate to more trucks which is going to contribute to elevated pollution levels in the MMAS.

30. From an engagement point of view, Allied Asphalt has attempted to engage Whareroa/ Ngāti Kuku over the course of time to discuss their application. There are only 2 engagements that I can recall that eventuated with a formal meeting. Each of these engagements left Ngāti Kuku with more questions than answers. The minutes that were sent to us as a record of those meetings we felt did not capture the true essence of what was discussed from a cultural impact point of view. This was made clear to them each time.
31. Although Allied Asphalt is not directly in our immediate vicinity, their Plant is on ancestral lands.
32. Allied Asphalt is part of the group of industries who are on ancestral lands within Ngāti Kuku's tribal boundary and part of the MMAS, collectively their activities are undoubtedly impacting on our traditional cultural practices.
33. As a person from Whareroa who actively engages in her cultural practices there, it is heartbreaking to see my elders suffering from the pollution in the air when they are welcoming people to our marae. It is heartbreaking to see our kids at the kohanga struggling to breathe from time to time because of the pollution in our air. It is heartbreaking to experience our visitors coming to the marae and being distracted by the odours in our area. I'm seeing more and more of my extended relations choosing not to engage with our marae because of the growing pollution in our area. This has longstanding irreversible impacts that must be addressed with urgency.
34. The recent interim decision from the Environment Court for the Port of Tauranga in our opinion reaffirms our struggle at Whareroa.

In paragraph 173 of the Interim Decision, it states:

'The court acknowledges that a number of matters referred to above are not matters in relation to which the Regional Council has restricted its discretion under the relevant rules in the RCEP. Nevertheless, they raise serious questions about the way in which the area around Whareroa Marae, including the Port, has been allowed to develop by the City and Regional Councils. There has been a lack of consideration of the cumulative effects on the Marae and those who live and visit there. The evidence indicates a systemic failure by the council to undertake their functions in ss 30 and 31 of the RMA. In particular, there has been a failure to achieve integrated management of resources and

of the effects of the use of those resources, including control of the use of land to maintain and enhance the quality of the environment’.

35. Whareroa and Ngāti Kuku support sensitive activities including papakāinga, kaumatua housing, kōhanga reo and obvious activities associated with usual tribal activities including tangihanga, hura kōhatu, hui, wānanga events. The head office of Te Rūnanga o Ngāi Te Rangi Iwi is also located at Whareroa.
36. Cumulative effects are a significant issue in the Whareroa and wider Mount Maunganui context. The concept of cumulative effects was described clearly in *Gargiulo v Christchurch City*:

‘any one incremental change is insignificant in itself, but at some point in time or space the accumulation of insignificant effects becomes significant’.

37. The consent authorities have failed to deal with the cumulative effects arising from the granting of individual resource consents. The consequences of the "effects-based approach" are that environmental degradation becomes a timing issue, a question of "when" rather than "whether".
38. In practice, over 99% of consent applications are granted albeit with conditions imposed to mitigate adverse effects. Cumulatively, this approach results in ongoing degradation as each successive activity contributes its negative impacts. This “mitigation mentality” makes it difficult to address cumulative effects.

THE NEED FOR A UNIQUE SOLUTION TO ADDRESS CULTURAL IMPACTS

39. The default setting for addressing cultural adverse effects has been to create a ‘Kaitiaki Group’. In our experience, these are used as a tool for industry to communicate what they are doing and is usually either filtered down to the extent that there are obvious missing parts that are not being shared in their proposal or the complete opposite where the information they are trying to convey is so technical you have to have a doctorate to clearly understand.
40. When asking Ngāti Kuku to be involved in these mechanisms, it is burdensome and not sustainable given the number of industries in our tribal boundary.

41. Additionally, there is little interest in discussing activities that we know are harming our environment and human health even if it is incremental, because it's like death by one thousand cuts. The result is that these sessions become debilitating over time and impacts on our health especially from a mental wellness perspective.
42. Another popular mechanism used is a matauranga monitoring framework. These have the potential to be useful, but only if they are designed by tangata whenua themselves and resourced appropriately. In a broader context like in the MMAS, these will only work if there was a broader matauranga monitoring framework in place and not in silos with each industry.
43. These traditional mechanisms do not work well in the context of Whareroa and the Mount Maunganui area.
44. We have a unique situation in the Mount Maunganui area which requires a unique solution. One that should be designed and lead out by Ngāti Kuku and Whareroa Marae.

CONCLUSION

45. In our opinion, a cautious approach must be taken with all consent applications in our area especially where the applications involve significant capital investment like a new Plant in this case.
46. A call to action of a managed retreat of heavy industries in our area within 10 years from 2020 is in place.
47. We would not oppose a short-term extension of Allied Asphalt's current consent (with the current Plant) as long as it will have more stringent controls in place to manage discharges within the MMAS.
48. The term should align with the managed retreat of heavy industry timeframes which will be around 5-years.
49. This period will allow for Allied Asphalt to grow its relationship with mana whenua and thoroughly investigate other relocation options that will not compromise the health and safety of our local communities.
50. Additionally, this timeframe will allow for further investigation into the extent of the cumulative impacts in the Whareroa/ Mount Maunganui area.