

**BEFORE THE GREATER WELLINGTON REGIONAL COUNCIL AND HUTT  
CITY COUNCIL  
EASTERN BAYS SHARED PATH PROJECT**

Under the Resource Management Act 1991

In the matter of applications for resource consents by Hutt  
City Council under section 88 of the Act, to  
carry out the Eastern Bays Shared Path Project

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**STATEMENT OF EVIDENCE OF MORRIS TE WHITI LOVE (CULTURAL  
EFFECTS AND VALUES) ON BEHALF OF THE APPLICANT**

30 November 2020

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## QUALIFICATIONS AND EXPERIENCE

1. Tēnā koutou. Ko **Morris Te Whiti Love** toku ingoa. My name is Morris Te Whiti Love. My tribal affiliations are to Te Atiawa, Taranaki, Ngāti Ruanui and Ngāti Tama iwi of Taranaki.
2. I am the managing director of Raukura Consultants, a resource management consultancy specialising in Māori issues and cultural impact assessments.
3. My evidence is given on behalf of Hutt City Council ("**HCC**") in relation to its applications under section 88 of the Resource Management Act 1991 ("**RMA**") for resource consents for the Eastern Bays Shared Path Project ("**Project**").
4. I have the following qualifications and experience relevant to the evidence I shall give:
  - (a) I have a Bachelor of Engineering (Agricultural) degree from the University of Canterbury, awarded in 1974, and in the early stages of my career I worked for various local authorities in water and soil engineering roles;
  - (b) I have held roles in Central Government advising on Māori Resource Management matters: with Maruwhenua,<sup>1</sup> which was part of the Ministry for the Environment; and in Manatu Māori, which has since been incorporated into Te Puni Kōkiri;
  - (c) I was Director of the Waitangi Tribunal for seven years;
  - (d) I have held governance roles with Iwi Authorities in Wellington<sup>2</sup> and have advised those authorities on Resource Management matters;
  - (e) I have been involved in discussions with Te Atiawa ki te Upoko o te Ika a Maui Potiki Trust (the "**Fisheries Trust**") over fishery and foreshore matters. This also included research into the prospect of farming undaria (Japanese Red Seaweed) somewhere in the Harbour near Eastborne;<sup>3</sup>
  - (f) I had been involved in considerations made under the Fisheries Trust's claim under the Marine and Coastal Area (Takutai Moana) Act 2011 (which is still in progress before the High Court);
  - (g) I am also involved in Waka Kotahi NZ Transport Agency's ("**Waka Kotahi**") Te Ara Tupua – Ngā Ūranga ki Pito-One shared path project along the western side of Te Whanganui-a-Tara / Wellington Harbour, which has been dealing with similar issues of seawalls and revetments

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<sup>1</sup> Now named Kāhui Taiao.

<sup>2</sup> Including as Chairman of the Wellington Tenth Trust, an Ahu Whenua Trust, and as Trustee of Port Nicholson Block Settlement Trust.

<sup>3</sup> Note this project has not progressed.

to enable a shared path to be created on the seaward side of State Highway 2 and the Wellington to Masterton Railway; and

- (h) I am also on the Harbour Islands Kaitiaki Board for Mātiu / Somes, Mākaro / Ward and Mokokuna Islands in Te Whanganui-a-Tara / Wellington Harbour, which among many other things has involvement with kororā / little penguins and their nesting.
5. I confirm that I have read the 'Code of Conduct' for expert witnesses contained in the Environment Court Practice Note 2014. My evidence has been prepared in compliance with that Code. In particular, unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

### **BACKGROUND AND ROLE**

6. I prepared the technical report *Cultural Impact Report Eastern Bays Shared Path* ("**CIR**") dated April 2018 in Appendix H to the Assessment of Effects on the Environment ("**AEE**"), in association with Wellington Tenth Trust, Port Nicholson Block Settlement Trust ("**PNBST**") and the Fisheries Trust.
7. I am familiar with the Eastern Bays from Point Howard to Sunshine Bay and including Windy Point (the "**Project area**"). I have visited the Project area on a number of occasions during the preparation of the CIR between 2016 and 2018. This included periods with flooding and higher seas.
8. In preparing my evidence I have reviewed:
- (a) the CIR that I prepared for the Project;
  - (b) the draft evidence of **Ihakara Puketapu-Dentice** (strategic overview and engagement);
  - (c) the draft evidence of **Caroline van Halderen** (planning and conditions), including the latest set of proposed resource consent conditions appended to her evidence; and
  - (d) the section 42A reports prepared on behalf of both Greater Wellington Regional Council ("**GWRC**") and HCC (as consent authority), as they relate to cultural matters.

## **SCOPE OF EVIDENCE**

9. The purpose of my evidence is to outline the potential cultural effects of the Project, as well as the opportunities that the Project presents for recognising and strengthening cultural values.
10. My evidence:
  - (a) summarises the CIR;
  - (b) addresses the benefits of the Project from a Te Ao Māori perspective;
  - (c) discusses the proposed measures for avoiding and/or minimising potential adverse effects, and how they interact with the CIR's recommendations; and
  - (d) briefly addresses submissions and the section 42A reports.

## **EXECUTIVE SUMMARY**

11. The shoreline of the Project area is adjacent to areas occupied by Māori from the earliest times some 800 years ago.
12. Te Whanganui-a-Tara / Wellington Harbour has statutory acknowledgements registered in the Deeds of Settlement for Taranaki Whānui ki Te Upoko o Te Ika and Ngāti Toa Rangatira (to mean high water springs).
13. The Project is unlikely to directly affect any of the Pā and kāinga sites along the coastline of the Project area, or the two Māori sites of significance in the Project area. An accidental discovery protocol will ensure a proper process is applied to taonga Māori if discovered during the construction of the Project.
14. The Project presents an important opportunity to provide for cultural expression and realise cultural benefits, including to enhance the kaitiaki role of iwi mana whenua. HCC intends that that iwi mana whenua will be closely involved in the further development and implementation of the Project, through a partnership approach. HCC will invite Taranaki Whānui and Ngāti Toa Rangatira representatives to establish a Mana Whenua Steering Group ("**MWSG**") to facilitate ongoing engagement, provide for kaitiaki inputs into the Project, and ensure tikanga and kawa are followed.
15. I also welcome the further measures for avoiding/minimising potential adverse effects proposed by HCC, including protection areas for kororā / little penguins and shoreline foragers, textured seawalls, careful management during construction, and signage and story boards. These measures will lead to improved environmental outcomes.
16. Mana whenua have particular interests in the sea fishery and freshwater fishery of the Project area, including the shellfish beds (noting that water quality prohibits the take of shellfish in the area), and recognise that the freshwater species such as tuna / eel, inanga / whitebait and kokopu are

indicators of stream health. The careful management of construction in the Project area proposed by HCC and the fish passage provided in the conditions will help ensure that the sea and freshwater fisheries are not further degraded.

## **CULTURAL IMPACT REPORT**

17. As noted earlier, I prepared the CIR for the Project. In summary, the findings expressed in the CIR are:
- (a) there is a long and rich history of Māori occupation of the Eastern Bays coastline by various tangata whenua groups over many centuries. However, the Project is unlikely to reveal any Māori archaeology as little remains of the Pā sites and kāinga. Therefore, an accidental discovery process is sufficient, and an archaeological authority is not required;
  - (b) within the Project area there are two Māori sites of significance: Whio-rau / Lowry Bay, which is listed in HCC's District Plan, and Ngau-matau / Point Howard;
  - (c) within the Project area, Taranaki Whānui ki Te Upoko o Te Ika and Ngāti Toa Rangatira have statutory acknowledgements over Te Whanganui-a-Tara / Wellington Harbour. Most Taranaki Whānui mana whenua are represented by the PNBST and the Wellington Tenth's Trust. There are also claims under the Marine and Coastal Act (Takutai Moana) 2011 within the Project area;<sup>4</sup>
  - (d) provision has been made for kororā / little penguin and fish passage throughout the Project;<sup>5</sup>
  - (e) Te Whanganui-a-Tara / Wellington Harbour has central importance to Māori and is still a fishery of significance despite a decline in water quality and the harbour fishery. If care is taken during construction of the Project, there should be few if any adverse effects on the marine environment;
  - (f) the Project has connectivity and safety benefits, and is in a modified environment (approximately 90% of the shoreline in the Project area already has a seawall); and
  - (g) the Project would be a welcome addition to the area for all and should have only minor cultural impacts.

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<sup>4</sup> Sections 24.3.3 and 24.8.1.3 of the AEE note that HCC has sought the views of groups in the Project area that have applied for recognition of customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011, but no feedback has been received.

<sup>5</sup> See, for example, proposed conditions EM.5, EM.12 and LV.7.

18. I confirm that I hold the same views and conclusions as expressed in the CIR. I would also add the following to (e) above:
- (a) the shellfish beds (noting that water quality prohibits the take of shellfish in the area) in the harbour fishery are important to mana whenua;
  - (b) the freshwater fishery in the Project area is also important to mana whenua; and
  - (c) mana whenua recognise that the freshwater species such as tuna / eel, inanga / whitebait and kokopu are indicators of stream health. The mana whenua preference is that these species are not culturally harvested.

### **PROJECT BENEFITS**

19. As discussed below, the Project has environmental benefits with respect to indigenous freshwater fish and kororā / little penguins, along with seawalls that encourage algae/seaweed growth along parts of it.
20. The Project will provide an opportunity to better interpret Māori sites of significance along the Shared Path both in terms of design and through interpretive panels and the like.
21. Other benefits could include, but are not limited to, linkages with other regional projects (like the Te Ara Tupua – Ngā Ūranga ki Pito-One shared path) and any benefits arising from that broader interconnectedness, discussed in more detail in the evidence of **Mr Puketapu-Dentice**.
22. Benefits also include those from an increased partnership relationship between iwi and HCC, elements of the Project through design and development that enhance iwi's kaitiaki role, and the protection of taonga and Māori sites of significance.

### **PROPOSED MEASURES FOR AVOIDING/MINIMISING POTENTIAL ADVERSE EFFECTS**

23. I understand from HCC that since the resource consent applications were lodged, the Project has evolved significantly through discussions and correspondence with GWRC. As a result, a number of improvements (largely ecological) have been added to the Project that are aimed at avoiding and/or minimising adverse effects on the environment. A number of these

improvements also respond to the recommendations I made in the CIR<sup>6</sup> and these are addressed below.

24. I believe the proposed ecological improvements are supported by the iwi mana whenua of Te Whanganui-a-Tara / Wellington Harbour including with respect to avifauna, as well as with respect to the marine algae/seaweeds and fisheries along with the small but significant indigenous freshwater species, which along with similar shellfish and sea fish, prior to colonisation were highly prized (tino taonga).

### **Mana Whenua Steering Group and engagement during construction**

25. As explained by **Mr Puketapu-Dentice**, it is intended that iwi mana whenua will be closely involved in the further development and implementation of the Project, with HCC promoting a partnership approach. This intention is formalised through the proposed consent conditions, which provide for HCC to invite Taranaki Whānui and Ngāti Toa Rangatira representatives to establish a MWSG to meet and advise throughout the Project construction phase. The MWSG will facilitate ongoing engagement with mana whenua, provide for kaitiaki inputs into the Project, and ensure tikanga and kawa are followed.<sup>7</sup> This is a similar framework to that being applied for the Te Ara Tupua – Ngā Ūranga ki Pito-One shared path project.
26. The MWSG will be invited to participate in:<sup>8</sup>
- (a) the development of the Project's detailed design to incorporate cultural values;
  - (b) the required processes under the accidental discovery protocol (discussed below);
  - (c) developing and implementing agreed cultural protocols / tikanga to be applied during construction; and
  - (d) developing and implementing cultural monitoring requirements and measures to be applied during construction.
27. I welcome HCC's intention to actively involve mana whenua in the further development and implementation of the Project, and support the MWSG framework as set out in the proposed conditions.

### **Protection Areas**

28. HCC proposes to create four new fenced protection areas at Sorrento Bay, Whiorau Reserve, the northern end of Bishops Park and HW Shortt Park (a

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<sup>6</sup> See Appendix H to the AEE at 15.

<sup>7</sup> See proposed condition MW.1.

<sup>8</sup> See proposed condition MW.3.

total combined area of 22,100m<sup>2</sup>) for kororā / little penguins and shoreline foragers, including oystercatchers ("**Protection Areas**").

29. The Protection Areas are explained in more detail in the evidence of **John Cockrem**. However, I understand that the Protection Areas will:<sup>9</sup>
- (a) provide areas protected from humans (and dogs) that do not presently exist along the coast;
  - (b) provide kororā / little penguin permanent nesting opportunities (including nesting boxes) and wooden poles for bird roosting;
  - (c) be planted and pest managed;
  - (d) along with other measures proposed by HCC, avoid adverse effects on kororā / little penguins and shoreline foragers; and
  - (e) include provisions for ecological resilience to sea level rise.
30. While the CIR does not specifically address effects on kororā / little penguins and shoreline foragers, it does acknowledge the provision that has been made for kororā / little penguin passage.<sup>10</sup> Therefore, I welcome the addition of the Protection Areas for the ecological and environmental benefits they will provide for kororā / little penguins and shoreline foragers.
31. The MWSG will be invited to advise on and be involved with the development and implementation of the Protection Areas, as well as other proposed ecological management measures.<sup>11</sup>

### **Textured seawalls**

32. HCC proposes to include a Seawall and Revetment Habitat Plan in the conditions, incorporate textures and depressions in the seawalls, and drill rock pools in the revetment rock, to enhance the intertidal habitat.<sup>12</sup> These measures are explained in more detail in the evidence of **Shelley McMurtrie**.
33. While the CIR does not specifically address effects on intertidal habitat, it does acknowledge that the Project extends into the intertidal area and that the new seawalls will be resilient to future sea level rise. Therefore, I welcome the addition of the proposed measures as the textured seawalls will provide further ecological resilience to sea level rise and will offset encroachment in intertidal area.

### **Careful management during construction**

34. HCC proposes to carefully manage construction in the Coastal Marine Area ("**CMA**"). Temporary occupation of the subtidal zone during construction is

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<sup>9</sup> See proposed conditions EM.1, EM.1B and EM.7 to EM.9.

<sup>10</sup> See Appendix H to the AEE at [13].

<sup>11</sup> See proposed condition MW.3.

<sup>12</sup> See proposed condition EM.19.

limited to that set out in the plans.<sup>13</sup> Further there will be procedures to manage and control erosion, sediment run-off and contaminants into the CMA.<sup>14</sup>

35. In addition to the ecological and environmental benefits of the proposed construction management measures, they also respond to the CIR's concluding comments that care should be taken around Te Whanganui-a-Tara / Wellington Harbour's margins. This is particularly significant given the importance of the fishery in the harbour to tangata whenua and the decline in water quality from contaminated runoff, among other things.

### **Accidental discovery protocol**

36. HCC has included archaeological protocols in the proposed conditions, including the protocols for discovery of archaeological features or deposits or taonga.<sup>15</sup>
37. The protocols in these conditions respond to one of the recommendations in the CIR, namely that an accidental discovery protocol for the Project is required to cover the eventuality that Māori cultural material or archaeological materials are found in the Project area.

### **Landscape and urban design including signage and storyboards**

38. Iwi mana whenua will be invited to play an active part in the development of the Project's detailed design, to incorporate cultural values.<sup>16</sup>
39. Condition LV.3 provides that the Landscape and Urban Design Plan ("**LUDP**") must be prepared in consultation with the MWSG, among others. The MWSG will be invited in particular to advise on providing for cultural expression in landscape works and plantings through the LUDP.
40. HCC has proposed that signage and storyboards be included in the Project. Condition LV.7 provides that the Bay Specific Urban Design Plans, which are part of the LUDP, must include specific landscape and urban design details for signage and storyboard. The MWSG will specifically be invited to advise on the signage and storyboards.
41. The incorporation of signage and storyboards into the Project, with the MWSG, will provide tangata whenua with the opportunity to share their cultural values with the wider community. Together conditions LV.3 and LV.7 respond to one of the recommendations in the CIR, namely that iwi be consulted over a suitable element in the development that gives recognition of the Māori connection with the Project.

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<sup>13</sup> See proposed conditions C.4 and C.5. Condition MW.3 adds that the MWSG will be invited to be involved in these protocols.

<sup>14</sup> See proposed conditions GC.7, C.6 and C.7.

<sup>15</sup> See proposed conditions AP.1 and AP.2.

<sup>16</sup> See proposed condition MW.1.

## **RESPONSE TO SUBMISSIONS**

42. I have reviewed the summary of submissions for the Project. No submissions raised cultural issues; therefore, I do not respond to any matters raised in submissions in this evidence.

## **RESPONSE TO COUNCIL OFFICERS' SECTION 42A REPORTS**

43. I have reviewed the GWRC section 42A report as it relates to cultural matters, including the summary at pages 99 – 101. The report adds that HCC's proposed conditions providing for iwi involvement in the detailed design of the Project "*will provide an opportunity for local iwi to input in the development of a suitable design element that gives recognition of the Maori connection with the project as requested in the [CIR].*"<sup>17</sup> I agree with this conclusion, noting that the now proposed MWSG framework adds further detail.
44. The report also concludes that the Project is consistent with the relevant planning provisions in respect of cultural values and effects, as well as the Part 2 matters relating to cultural values.
45. I have also reviewed the HCC section 42A report relating to cultural matters. At page 27, the report states that the proposal is acceptable in relation to effects on tangata whenua, and that the proposed conditions are acceptable and appropriate.

**Morris Te Whiti Love**

**30 November 2020**

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<sup>17</sup> At page 126.