

## **Submission to the Environmental Protection Authority (EPA)**

**In the matter of** An application from Coastal Resources Limited for a marine dumping consent to dump dredged material at a deep-sea site east of Great Barrier Island.

**In accordance with** Section 46 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the EEZ)

**This submission does not support this application in its current form and objects to the granting of this consent.**

I present this submission in opposition as a trustee for the Freda Pene Reweti Whanau Trust, current applicant under the Marine and Coastal Area (Takutai Moana) Act 2011, and also as a proposed interim trustee for the Ngati Rehua Ngatiwai ki Aotea Trust.

### **Background**

Ko Aotea te moutere rongonui  
Ko Hirakimata te Maunga tapu  
Ko te Moananui o Toi te huatahi te Moana  
Ko Rehua raua ko Rangituangahuru nga tupuna  
Ko Ngati Rehua te iwi  
Ko te Tuatara raua ko te Mauri nga kaitiaki

Ngati Rehua is tangata whenua and holds mana whenua and mana moana over Aotea (Great Barrier Island), and all outlying islands, rocky outcrops with a jurisdictional area that includes the area in question.

The Ngati Rehua Ngatiwai ki Aotea Trust is currently rudderless and without trustees. Justice Palmer is soon to appoint interim trustees. I am one of four that have been proposed after having been nominated by a hui a hapu.

## **Introduction**

In preventing the excesses of waste pollution, international law, the 1972 London Dumping Convention along with the 1982 United Nations Convention on the Law of the Sea now make dumping at sea illegal. Harmless matter including dredged material, sewerage sludge, organic material, ships, platforms and other structures may be dumped but only under permit.

The Basel Convention 1989, significant international waste law, applies to household and hazardous waste disposed of, or intended for disposal, that aims to control and limit the movement of waste. Importantly, this is based upon a process of prior informed consent, a fundamental right included in the United Nations Declaration on the Rights of Indigenous Peoples and a standard higher than that of consultation.

## **Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012**

Adopted in 2012, the Exclusive Economic and Continental Shelf (Environmental Effects) Act (EEZ), colloquially known as the Resource Management Act 1991 (RMA) at sea, aims to “promote the sustainable management of the natural resources of the EEZ and Continental Shelf” through a robust consent process. The general rule is that no person or company may undertake any activity within the exclusive economic zone or continental shelf unless the activity is authorised by a marine consent. Unlike the Crown Minerals Act, the focus is not economics, but the environment.

## **Environmental Protection Authority**

The Environmental Protection Authority (EPA) is responsible for issuing marine consents and ensuring that permit holders comply with the relevant environmental and safety standards. Permitted activities under the EEZ Act do not require a marine consent, however activities categorized as “discretionary” require a marine permit.

When applying for a marine consent, companies must submit an impact assessment, prepared in accordance with s 39 of the EEZ Act. The purpose of an impact assessment is twofold.

First, it requires consent applicants to identify the effects of the proposed activities on the environment and on persons with an existing interest, including Ngati Rehua Ngatiwai ki Aotea who have a Treaty settlement within the area; and a customary marine title application under the Marine and Coastal Area (Takutai Moana) Act 2011. The impact assessment must describe any consultation undertaken with persons whose existing interests are likely to be adversely affected by the proposal.

Second, the impact assessment must ensure that the applicant take steps to avoid, remedy and mitigate any adverse effects identified, and if necessary, look for alternative solutions.

In deciding whether to grant a marine permit, the EPA must “give effect” to the principles of the Treaty of Waitangi (section 12). This is a stronger than the requirement to “have regard to” Treaty principles under the Crown Minerals Act. To give effect to the Treaty, the EEZ establishes an independent Māori Advisory Committee, the Ngā Kaihautū Tikanga Taiao, to provide advice and assistance to the EPA on matters relating to policy, process, and decisions of the EPA.

### **The Application**

Ngati Rehua Ngatiwai ki Aotea and the Whanau Trust have a significant and an undeniable interest within the area; recognized as holding mana whenua and mana moana. The proposed activity will have an irreversible impact on our moana, in particular the hapuka, matiri and other species that breed in these fishing grounds. This is compounded by the fact that many of these species do not start breeding until they are 4 to 5 years old, subsequently the long-term affect is unknown.

We object to this application for the following reasons:

1. The applicant has not consulted with Ngati Rehua Ngatiwai ki Aotea nor the Whanau Trust regarding this application.
2. There is no, received, report from Ngā Kaihautū Tikanga Taiao.
3. The effects of this application are more than minor.
4. As Ngatiwai iwi, people of the water, the dumping of this waste within the sea

- environs is of particular distress. This activity impacts adversely on the mauri and wairua of Moana nui o Toi and is in direct contravention to our tikanga.
5. If the harm caused by this activity is not checked the harm will be irreparable to the wairua and mauri of Moana nui o Toi, adversely affecting the marine environment upon which our iwi have relied on mai rano for sustenance and also as an area recognized by our tikanga as an important pathway.
  6. As the effects are more than minor this is contrary to the United Nations Convention on the Law of the Sea that now make dumping at sea illegal. This is compounded by the fact that the EEZ Act 2012 aims to “promote the sustainable management of the natural resources of the EEZ and Continental Shelf” with a focus on the environment.
  7. The applicant has not undertaken any steps to mitigate or remedy these effects in the context of the adverse effect on Ngati Rehua Ngatiwai ki Aotea nor the Whanau Trust

This submission does not support, and objects to, this application.

It is further submitted that the applicant engage meaningfully with the Trust Board, hapu and Marae on Aotea regarding their application. This has not occurred.



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