

23 September 2021

To

Michael Savage
Chair
Expert Consenting Panel for the Stage 1B1 Papakura to Drury South application

From

Jennifer Caldwell

By email

C/- Environmental Protection Authority

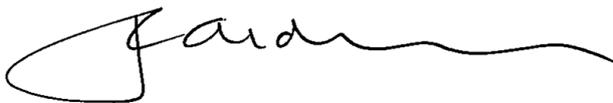
Tēnā koe

1. We are writing further to the issues that have arisen in relation to the cultural impact assessment (**CIA**) and cultural values assessments (**CVA**) that have been filed as part of the above application (**Application**).
2. As noted in our previous correspondence of 13 September 2021, the CIA and CVAs filed were provided to Waka Kotahi by Ngāti Tamaoho, Ngaati Whanaunga and Ngaati Te Ata Waiohua (**Iwi**). Waka Kotahi had not appreciated that, while the Iwi were comfortable with the CIA and CVAs being provided to the Expert Consenting Panel (**Panel**), they did not intend that the documents would be placed on the EPA website and made publicly available. Waka Kotahi accepts that this situation has arisen due to its own oversight and has apologised to Iwi for the offence caused as a result.
3. We have now been made aware of the Panel's response to our letter, by email from the EPA administrator on 16 September 2021. In that response the Panel indicated that their preference would be that the documents are included as part of the application that is able to be seen by persons who have been invited to comment on the Project. However, they accept that this cannot occur where Iwi do not give their consent. The Panel therefore invited Waka Kotahi to discuss the matter of the treatment of the documents with Iwi representatives at its monthly meeting with Iwi, to clarify the following two matters in particular:
 - (a) Whether consent may be given to make the CIA/CVA documents available, but only to those persons invited to comment on the Project; or
 - (b) Whether such disclosure would cause serious offence to tikanga Maori (and the reasons for that).
4. On Friday 17 September 2021, Waka Kotahi met with Iwi to discuss the matters raised in the Panel's response. At this hui, Iwi confirmed that they do not want their CIA/CVA information released to any party, including those invited to comment on the application. Iwi have stated the CIA/CVA documents are their intellectual property, and while they have given permission for these documents to be shared with the Panel, they do not consent to any further disclosure. We note that

the CVAs provided by Ngāti Tamaoho¹ and Ngaati Whanaunga² both contain disclaimers confirming that the information is not be released to any third parties without permission first being obtained from the Iwi. In these circumstances, Iwi consider that option (a) is not appropriate.

5. Iwi have confirmed to Waka Kotahi that in their view, option (b) above applies, as the disclosure would cause serious offence to tikanga Maori, for the following reasons:
 - (a) The CIA/CVAs are a taonga, containing kōrero tuku iho (sacred stories, oral history, traditions); and
 - (b) Keeping this information confidential is necessary to protect their taonga (treasure), whakapapa and tipuna (ancestors).
6. The Iwi have made their position clear, namely that the information contained in the CIA/CVAs belongs to Iwi, is confidential and should not be shared or published further without their consent. They consider that the protection of this information is not just a matter of tikanga; a view endorsed by Waka Kotahi, noting that protection of this information is necessary in light of the principles of the Treaty of Waitangi, as set out in our previous correspondence to the Panel.
7. Waka Kotahi therefore respectfully request that the Panel make an appropriate order under section 7(2)(ba) of the Local Government Official Information and Meetings Act 1987 and clause 16 of Schedule 5 of the COVID-19 (Fast-track Consenting) Act 2020, limiting the disclosure of the CIA/CVAs. Iwi are prepared to consider specific requests for disclosure from individual parties who have been invited to comment on the Application, and request that the EPA contact the Iwi directly if there is request for disclosure.
8. We look forward to hearing from you.

Yours faithfully
Buddle Findlay



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¹ The CVA provided by Ngāti Tamaoho states: "This material is copyright and intended for the client recipient Te Waka Kōtahi - NZTA only. Please contact Ngāti Tamaoho if you want to copy anything or share it with others (info@tamaoho.maori.nz)"

² The CVA provided by Ngaati Whanaunga states "This report has been produced by Ngaati Whanaunga and remains the owner of the information. Ngaati Whanaunga recognises the custodial rights of Waka Kootahi NZ Transport Agency (NZTA) to this report and the right to reasonable use of the information. This report shall not be released to any third parties without the prior written consent of Ngaati Whanaunga, which shall not be unreasonably withheld".