

**IN THE ENVIRONMENTAL COURT**

CONCERNING

THE RESOURCE MANAGEMENT ACT

AND

IN THE MATTER OF

The Resource Consent Application by Northport  
Ltd — Port Expansion project at Marsden Point

**CLOSING STATEMENT OF EVIDENCE OF MERE KEPA**

**Dated this 31 day of October 2023**

Mere Kepa, Ahikaa Roa, Te Parawhau Hapu, Takahiwai  
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## MAY IT PLEASE THE COURT

Tena koutou. Tena koutou. Tena tatou katoa.

Ko Tunuiarangi te waka.  
Ko Ngai Tahu Te Iwi.  
Ko Ngati Whatua me Ngapuhi nga Iwi.  
Ko Ngati Tu me Ngati Rangi.  
Ko Te Patuharakeke me Te Parawhau nga Hapu.  
Ko Tiakiriri Kepa Kukupa toku Papa.  
Ko Maraea Hana Te Pou toku Mama.  
Ko Corinthia Apikara Kepa taku Teina.  
Ko Tangiwai Mary Appleton Kepa toku ingoa.  
Ko Manaia te maunga.  
Ko Te Ahi Pupurangi Puta Noa ki Te Wahapu o  
Whangarei Te Rerenga Paraoa te moana.  
Ko te Kainga o Takahiwai nga wahi tapu katoa.

In my first submission dated 1 December 2022, my poem entitled “The Fourth Water” accentuated the relationship that must be recognised and provided for under the Resource Management Act (1991).

### **The fourth water**

Northport positioned at te koutu, te poupouwhenua,  
at the confluence of the waitai and wai Maori: the fourth water,  
the rail link from titahi to te koutu, oakleigh to marsden point,  
public works act, confiscating, opposing,  
northport expanding, invading, excavating, reclaiming,  
changing, cancelling, proposing,  
freighting, handling, storing,  
rails and trains and all that is planned for te koutu, marsden point,  
berths, barges, and tugs,  
toilets, parks, and pontoons,  
criminals and tourists,  
steel containers full of cargo on leviathans,  
squat and long, without grace and beauty,

to the final phase, a haunted-looking setting beneath *Manaia*,  
ko te maunga o nga hapu o te parawhau ki tai me te patu o te harakeke ki takahiwai,  
evocative both of the maori antiquity and a maori dystopian future  
kiwi rail, northport, northland regional council, whangarei district council echo  
unconvincing thoughts and deeds, what mediations, what agreements ...

Associate Professor, Dr Marama Muru Lanning, Director, Te Whare Rangahau Maori o Hemi Henare, the University of Auckland has spelled out that:

When the first voyagers arrived in Aotearoa they sought sheltered bays in which to draw up their canoes and come to land, hundreds of years later the first Europeans did the same. Our harbours are and have always been coveted and contested sites for navigation, industry, fishing, recreation, and settlement. Harbours are sites of intersection between land, freshwater and coast and often contain highly significant biodiversity, landscape and natural values, each with different legal treatment including: Land—generally, private owned with clear boundaries and regulated by territorial authorities; and—Water & Coast—generally now 'owned' by anyone but with rights of access and use regulated by regional councils and government agencies. Historically they are important places of meeting, negotiation and exchange. The law relating to harbours is complex reflecting a web of competing and diverse interests. (1)

The northern Maori, Adjunct Professor Dominic Sullivan at the Faculty of Health and Environmental Sciences, Auckland University of Technology, and Professor of Political Science at Charles Sturt University in New South Wales, Australia has acknowledged that:

[But] all people still have a right to influence policy making in ways that work. We all think in ways that reflect our culture and experience. Saying that's fair for some but not others is to say that Indigenous perspectives and experiences shouldn't be allowed to contribute to policy decisions. (2)

The modern-day challenges of the Tangata Whenua [Indigenous Maori], like me and the *Pest Strategy: Takahiwai Hills and Forest*, are a duty to care for our harbour, the sand and land, the fresh and coast water, the forests on the hills and the ever-changing intertidal zone (3), as well as a responsibility to pass on Maori knowledge for the generations ahead.(4 & 5).

The Tangata Whenua, such as the Te Parawhau Hapu, prefer to be the designers of our relationship with Northport Ltd (6 & 7). Liberal democracy exists because we *all* think differently. The Te Parawhau Hapu and Northport's people bring different experiences, values and aspirations to our ideas about what governments and their agencies should and shouldn't do. There is no objective truth in the business of government. Democracy developed to manage these differences. Sometimes, however dominant populations use the democratic system to protect their self-interest rather than accommodate the rights and interests of others. (2)

On a general policy position, I ask the commissioners to take into account in their decision-making;

1. **Northport Ltd.**'s cumulative effects of loss and damage at Te Koutu [Marsden Point];
2. **Section 4** of the Conservation Act requiring anyone working under the Act to give effect to the principles of Kaitiakitanga, Rangatiratanga, and Mana of the 1840 Agreement, at least; and
3. The 'modern paradox' proclaimed by the Waitangi Tribunal 2017 that accepts that a Maori presence and ancestral values underpin Resource Management Act matters.

I invite the Commissioners to protect and provide for:

1. **The rare and endangered species**, Indigenous flora and fauna, marine creatures, and birds at Te Koutu, Te Poupouwhenua from the multiple potential harmful impacts of seabed mining, from the noise of the machinery affecting wildlife, to the activity killing animals and plants on the seabed that are ancient, and cannot be remade.
2. **Maori antiquity**, Tangaroa the god of the sea, Tane Mahuta the god of the forest, Tawhirimatea the god of the winds, Papatuanuku the earth mother] and Ranginui sky father] from the harmful effects of Northport Ltd.'s visions for growth at Te Koutu [Marsden Point], Te Poupouwhenua.
3. **The Te Parawhau hapu' custom of rangatiratanga** [leadership], and the value of mana [dignity & authority] from a Maori dystopian future.
4. **The Te Parawhau Hapu from the modern paradox** whereby the regional interests actively disrespect the local, the global interests disrespect the local and the national, and Ngati Whatua disrespects the Hapu. All citizens are entitled to a "parity of esteem". (2) In other words, a "fair go" that strikes a reasonable balance between the interests of the Hapu, Maori, other publics, and private interests (8). Thinking about what general policy should achieve from an Indigenous cultural perspective or through an Indigenous language should not be a disadvantage. Otherwise, the Te Parawhau Hapu lose our rangatiratanga and mana, the *Pest Strategy*: Takahiwai Hills and Forest, and the wildlife lose our 'voice', and all of life loses equal respect.

More than that, I request the Commissioners to

1. "Recognise and provide for" the whanaungatanga [relationship] of the Te Parawhau Hapu as the Tangata Whenua to Te Koutu, Te Poupouwhenua, and our Whanaungatanga with all life that will be affected by the port expansion (see Section 6(e) RMA). This is a "strong direction" as per the Privy Council in McGuire versus the Hastings District Council; as well as the Supreme Court wherein Justice Joe Williams in Trans-Tasman Resources Ltd described relationships of this type as: ... the longest-standing human-related interests in that place. 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 the common law in 1840.

Finally, I direct the Commissioners' consideration to the *Te Aka Matua o te Ture, Law Commission* about how "to give effect to Maori values in the laws of New Zealand" wherein it is stated that:

If society is truly to give effect to the promise of the Treaty of Waitangi to provide a secure place for Maori (sic) values within New Zealand society, then the commitment must be total. It must involve a real endeavour to understand what tikanga Maori (sic) is, how it is practised and applied, and how integral it is to the social, economic, cultural and political development of Maori (sic), still encapsulated within a dominant culture in New Zealand society.

However, it is critical that Maori (sic) also develop proposals which not only identify the differences between tikanga and the existing legal system, but also seek to find some common ground so that Maori (sic) development is not isolated from the rest of society.

The differences do not need to be seen as overwhelming. Maori (sic) and the courts each have a love of law, precedent and forebears, and these are commonalities that can be built upon. (9)

Thank you for hearing my statement of the harmful effects of the proposed construction on the land and in the sand at Te Koutu, Te Poupouwhenua, and may the statement be useful in helping the commissioners to decide what you should do, so that *all* life on the land and in the sand, in the fresh and coast water, in the forests, on the hills and the ever-changing intertidal zone are protected from the complex, competing, and diverse effects of the port industry.

No reira, ka mihinui. Ka huri ki te tepu.

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