



<b>Application Name:</b>	Chatham Rock Phosphate Ltd Proposed Mining Operation, Chatham Rise
<b>EPA Reference:</b>	EEZ000006
<b>Applicant:</b>	Chatham Rock Phosphate Limited
<b>Notification Date:</b>	12 June 2014
<b>Submission Close:</b>	5:00pm (New Zealand Standard Time), Thursday 10 July 2014

For information on the submission process please see [http://www.epa.govt.nz/EEZ/having\\_your\\_say/Pages/default.aspx](http://www.epa.govt.nz/EEZ/having_your_say/Pages/default.aspx).

This is a submission on the marine consent application lodged by Chatham Rock Phosphate Limited to the Environmental Protection Authority (EPA) to mine phosphorite from the Chatham Rise.

**Part A** *This part provides the EPA with data about you as a submitter and will be removed if your submission is made available on the EPA website.*

**Sections with an asterisk are mandatory.**

## 1. Submitter Details\*

*Please provide your name (or company name) and as much contact information as possible. We may need to contact you during or outside of normal business hours. Please advise us if any of your contact details change. (Please type N/A if you do not use email)*

<b>Name of organisation</b> <i>(if relevant):</i>	Ngāti Mutunga o Wharekauri Iwi Trust		
<b>Title:*</b>	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input checked="" type="checkbox"/> Ms <input type="checkbox"/> Dr <input type="checkbox"/> Other <i>(please tick the appropriate title)</i>		
<b>First name of submitter:*</b>	Paula	<b>Surname of submitter:*</b>	Page
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## 2. Authority to act\*

- We confirm that we have authority to sign this submission on behalf of the submitter(s) named on this form.

10/07/2014

Signature

Date

## 3. Alternative contact person details (optional)

*If you wish to nominate a person to be your point of contact (e.g. a friend, relative, lawyer, professional advisor or any other person), please provide their contact details below. This person will receive all correspondence on your behalf.*

<b>Relationship of contact person to submitter:</b> (e.g. legal counsel)		Chief Executive Officer	
<b>Name of organisation</b> (if relevant):	Ngāti Mutunga o Wharekauri Iwi Trust		
<b>Title:</b>	<input checked="" type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Dr <input type="checkbox"/> Other (please tick the appropriate title)		
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## 4. Privacy Statement

Your personal information included in this form will be held by the EPA, 215 Lambton Quay, Wellington. It will be used by the EPA for the administration of the Chatham Rock Phosphate marine consent application process. You have the right to access and correct personal information held by the EPA. All information held by the EPA is subject to the Official Information Act 1982.

A copy of your full submission, including all personal information, will be provided to the EPA, the applicant, and may also be provided to other parties in the process.

Your name, organisation address for service (if applicable), the information in this form and any attached information may be published on the EPA website, and made available to the general public for use in processing and considering the Chatham Rock Phosphate marine consent application.

Note: If the submitter is a company then full business contact details will be made publicly available. If the submitter is a private individual, full contact details will not be made publicly available.

## Where to send your submission

Your submission must be received by the EPA no later than **5.00pm (New Zealand Standard Time) on Thursday 10 July 2014**. You also need to send a copy of your submission to the applicant. A copy of your submission will automatically be sent to the applicant if you use the online form.

You can send your submission to the EPA either by:

- **Using the online form** available at:  
[http://www.epa.govt.nz/EEZ/chatham\\_rock\\_phosphate/Pages/default.aspx](http://www.epa.govt.nz/EEZ/chatham_rock_phosphate/Pages/default.aspx)
- **Email** CRPapplication@epa.govt.nz (if smaller than 10MB). *Please mark in the subject line: 'Submission: (Your name), Chatham Rock Phosphate'*
- **Post to** Chatham Rock Phosphate Ltd, Environmental Protection Authority, Private Bag 63002, Waterloo Quay, Wellington, 6140.
- **Deliver in person to** Environmental Protection Authority, Level 10, 215 Lambton Quay, Wellington.
- **Fax** (04) 914 0433 *Please mark in the subject line: '[Your name], Chatham Rock Phosphate Submission'*

*You must also send a copy to Chatham Rock Phosphate Limited at the same time that you send a submission to the EPA. You can send this by:*

- **Using the online form.** If you use the online form the applicant will automatically be sent a copy of your submission.
- **Email:** chathamrockphosphate@simpsongrierson.com  
**Post to:** Attention: James Winchester, Chatham Rock Phosphate Limited, C/-Simpson Grierson, PO Box 2402, Wellington 6140, New Zealand  
**Deliver in person to:** Attention: James Winchester, Chatham Rock Phosphate Limited, C/- Simpson Grierson, Level 24, 195 Lambton Quay, Wellington 6011, New Zealand

Application Details			
Application Name:	Chatham Rock Phosphate Ltd Proposed Mining Operation, Chatham Rise		
Applicant:	Chatham Rock Phosphate Limited		
First name of submitter:*	Paula	Surname of submitter:*	Page
Organisation Name (if submission is on behalf of an organisation):	Ngāti Mutunga o Wharekauri Iwi Trust		

**Part B** *This part asks for your position on the marine consent application.*

**Sections with an asterisk are mandatory.**

## 5. What decision do you want the EPA to make and why?\*

*Please state what decision you would like the EPA to make on the Chatham Rock Phosphate marine consent application. Also describe why you think that decision should be made.*

*You may comment on any aspect of the application and there is no restriction on the length of your submission. You can make a general submission and/or respond specifically to any part of the application documentation.*

*If you require more space, please attach additional pages as necessary. Please ensure you include your name and 'Chatham Rock Phosphate Ltd' on each additional document.*

Decision*	Grant	Grant with conditions	Neutral	Decline
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Specific reasons why you seek the decision you have requested</b>	Refer to the attached document for discussion of specific reasons for our request that the marine consent application be declined.			

## 6. Do you have an existing interest that may be affected by what's proposed in this application?

Tick as many boxes as appropriate. Further explanation of what an existing interest is can be found on the EPA website [http://www.epa.govt.nz/EEZ/working\\_eez/Pages/existing\\_interests.aspx](http://www.epa.govt.nz/EEZ/working_eez/Pages/existing_interests.aspx).

<input checked="" type="checkbox"/>	Lawfully established existing activity, whether or not authorised by or under any Act or Regulations, including rights of access, navigation and fishing
<input type="checkbox"/>	Any activity that may be undertaken under the authority of an existing marine consent
<input type="checkbox"/>	Activity permitted by existing resource consent
<input type="checkbox"/>	Settlement of a historical claim under the Treaty of Waitangi Act 1975
<input checked="" type="checkbox"/>	Settlement of a contemporary claim under the Treaty of Waitangi as provided for in an Act, including the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992
<input type="checkbox"/>	Protected customary right or customary marine title as recognised under the Marine and Coastal Area (Takutai Moana ) Act 2011

If you have an existing interest and have ticked one or more of the above boxes, please describe your existing interest and a brief explanation of how your interest may be affected by the application.

You can comment on any matter, and you may want to comment on:

- The area that the application activity(s) has in common with your existing interest
- To what degree would your existing interest be impacted by other activities taking place in the same area.
- Whether your existing interest can be carried out only in the area to which the application relates.

If you require more space, please attach additional pages as necessary. Please ensure you include your name and 'Chatham Rock Phosphate' on each additional document.

<b>What is your existing interest and how may it be affected by this application?</b>	Refer to the attached document for discussion of existing interests and anticipated effects of the proposed activity.
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**Part C** This part provides the EPA with information to assist with administration of the hearing. **Sections with an asterisk are mandatory.**

## 7. Electronic correspondence

Documents will be posted on the EPA website at [www.epa.govt.nz](http://www.epa.govt.nz).

You will receive emails notifying you of new information available on the website such as evidence, hearing schedules, committee directions and reports.

The EPA sends correspondence via email and we usually provide links to documents on our website rather than emailing documents.

If you cannot receive information via email, please indicate below

We cannot receive electronic copies of information and updates.

Please note if you cannot receive information via email you will receive letters notifying you of where information can be found on the EPA website. However, it may not always be feasible for letters with updates to be posted to you in a timely manner (for example, the hearing schedule may change daily during the hearing).

## 8. Do you wish to speak to your submission at the hearing?\*

A hearing for the application may be held. As a submitter you may speak about your submission (and present evidence) at the hearing. Your submission will be read and considered as part of the decision making process, regardless of whether or not you are heard.

If you want to be heard at the hearing you must state that this is the case by ticking the box below.

If you do not indicate to the EPA that you wish to be heard, you will not receive notices about hearing locations, starts dates, or schedules and you will not be scheduled to speak at the hearing.

Even if you do state that you wish to be heard, if there is likely to be repetition of issues at the hearing, the EPA may limit the circumstances in which parties raising similar topics and issues are heard.

Tick as many as apply to you.

We **do not wish** to speak about my / our submission. OR

We **wish** to speak about ~~my~~ our submission

If others make a similar submission, ~~+~~ we will consider presenting a joint case with them at the hearing.

We wish to present in Te Reo Māori.

We wish to present in NZ Sign Language.

We intend to have legal representation

We intend to have expert witnesses to support ~~my~~ our submission.

This is the end of the form.

**Ngāti Mutunga o Wharekauri**  
**Submission on Chatham Rock Phosphate Ltd Proposed Mining**  
**Operation, Chatham Rise**

**Environmental Protection Agency**

Prepared by:

**Ngāti Mutunga o Wharekauri Iwi Trust**

July 2014

**Wharekauri te moutere  
Noninga remu Taiko e  
He pā akeake  
Ngana hau au e**

**Puhia ra e te hau  
Uaina e te ua e  
Ko Matipo, ko Kopi  
Hei whakamāurutanga e**

**Korihi te Tui korari  
Koē te weka one e  
Ngā mihi whakatau  
Maioha e**

**Whakatau ki Te One  
Te iti, te rahi e  
Ki te takapou whāriki  
Whakamaharatanga e**



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## 1. INTRODUCTION

This document establishes a view of Ngāti Mutunga o Wharekauri in response to the proposal from Chatham Island Rock Phosphate to mine the Chatham Rise. The purpose of this submission is to inform deliberations regarding the proposed mining of the Chatham Rise for rock phosphate.

Chatham Rock Phosphate has submitted their Marine Consent Application and Environmental Impact Assessment to the Environmental Protection Agency seeking consent to mine phosphate on the Chatham Rise.

### 1.1 Application in Brief

- To mine phosphorite from the crest of the Chatham Rise
- To supply New Zealand's present phosphate needs for the next 25 years
- Application is for the entire 10,192sqm of the licence and permits owned by CRP
- Mining will involve sucking sediment from the seabed with a trailing suction drag head to be returned back to the seabed once phosphorite is extracted
- Thirty cycles of mining per annum

### 1.2 CRP Environmental Impact Assessment

#### ***Immediate impacts of seabed disturbance from drag head operations***

Cannot be mitigated. It will have a small near bed plume associated with drag head operations. This plume will be smaller than that associated with return of non-phosphate sediments once its returned from mining operations.

#### ***Physical impacts of returning non-phosphatic material to the seabed***

Significant impacts of sediment discharge will occur in the first kilometre of the discharge. The plume is 'predicted' to be near background levels within 15km of the drop.

#### ***Impacts on ecological and conservation values***

Benthic habitats and fauna will be lost. This cannot be avoided. Benthic communities immediately adjacent will also be adversely impacted. Recovery is estimated within 'several years' due to lateral movements of fauna from the mining area.

The impact on the food web is unlikely to have a significant impact on the Chatham Rise ecosystem. This ecosystem is largely driven by phytoplankton growth and although the benthic ecosystem does play an important role for some components of the system, the mining block loss is considered to be minor in the context of the marine consent area and the Chatham Rise environment as a whole.

#### ***Impacts of sediment disposal on water and sediment quality***

The risk of adverse impacts on water and sediment quality from the returns has been assessed as very low.

#### ***Impacts associated with vessel and mining related noise, including on marine animals***

Impacts will be restricted to within 2km of the area of mining activities. It is suggested the impacts will be 'small'.

#### ***Vessel lighting impacts on birds***

Acknowledged that lighting at night can adversely impact seabird life.

### ***Vessel waste discharges***

Will comply with regulations on discharge.

### ***Cumulative impacts including current bottom trawling for fish***

Studies have shown that bottom trawling affects organisms living on the seabed, generates a plume of suspended sediment, and that repeated trawling can change the characteristics of the sediments at the seabed. During the 1989/90 to 2010/11 fishing years, the area of the Chatham Rise seabed above the 1,000 m contour, swept by trawling is estimated to be 92,346 km<sup>2</sup>.

## **1.3 Social Cultural and Economic Assessments**

CRP acknowledges that impacts on cultural values have been outlined by Ngāti Mutunga o Wharekauri in our draft Cultural Impact Assessment and Hokotehi Moriori Trust (Moriori) in a letter to CRP. The issues largely revolve around the mining technique, potential impacts on the marine environment including fisheries, rangatiratanga and economic development opportunities. These are similar to the issues raised by other Iwi, particularly impacts on the marine environment and impacts on the broader fishery resource.

Te Rūnanga o Ngai Tahu has identified impacts on marine mammals, a taonga species, as being of cultural significance.

## **1.4 Mitigation Measures**

- A mining system designed to avoid and minimise potential impacts.
- Mining exclusion areas, defined through a broad marine spatial planning exercise, have been incorporated into the proposal to avoid impacts on areas of particular sensitivity or value.
- Ensuring the mining blocks in any year, during the first five years of mining, are sufficiently separated to avoid sedimentation impacts on other blocks. Monitoring will assess the actual impacts of sedimentation.
- Evaluation of the feasibility and viability of creating hard substrate habitat to enhance recolonisation, and, if viable, creating of such habitat.
- Prior to each deployment of the mining system, a 200 m radius from the mining vessel will be checked for marine mammals. If they are observed within this zone then mining will not commence until the area has been clear for at least 30 minutes.
- Adoption of vessel lighting mitigation strategies to minimise impacts on seabirds

## **2. BACKGROUND**

### **2.1 Who is Ngāti Mutunga o Wharekauri?**

Ngāti Mutunga o Wharekauri share common lineage with their whanaunga based at Urenui in Northern Taranaki. The Iwi Waka includes Tokomaru, Okoki, Tahatuna, and Manaia. All Ngāti Mutunga whakapapa from the eponymous ancestor Mutunga and his wife Te Rerehua.

Ngāti Mutunga played a pivotal role in the migration of Northern Taranaki Iwi and Ngāti Toarangatira from Kawhia and Mokau / Urenui / Waitara in the late 1820s eventually settling at Pito One (Petone) in Wellington. In 1835, Ngāti Mutunga, along with Ngāti Tama, Kekerewai and Ngāti Haumia, migrated to the Chatham Islands and established a permanent tribal base.

### **2.2 Population**

At the 2013 census estimates the Ngāti Mutunga population as follows:

- Ngāti Mutunga o Wharekauri – 1,641
- Ngāti Mutunga (Taranaki) – 2,514

The differentiation in numbers is somewhat misleading. All Ngāti Mutunga people can trace a direct lineage to each rohe. The differentiation is potentially a product of the legal entities that reside within each rohe as opposed to any differentiation in whakapapa rights. It is likely the true population of Ngāti Mutunga lies in the 3,000 range (noting that many will tick both boxes in the census data).

The registered members of Ngāti Mutunga o Wharekauri Iwi Trust currently stands at 1069.

### **2.3 Ngāti Mutunga o Wharekauri Iwi Trust**

The Ngāti Mutunga o Wharekauri Iwi Trust (“Iwi Trust”) represents the collective interests of Ngāti Mutunga o Wharekauri (NMOW), and is a mandated iwi authority for the purposes of the Resource Management Act 1991 and the Māori Fisheries Act 2004.

Section 7.1 of the Trust Deed of the Iwi Trust as the legal representative to represent the view of Ngāti Mutunga o Wharekauri Iwi.

The Iwi Trust currently holds some \$20 million dollars in tribal assets predominantly made up of quota and some land holdings. The Kaupapa of the Trust includes and is not limited to:

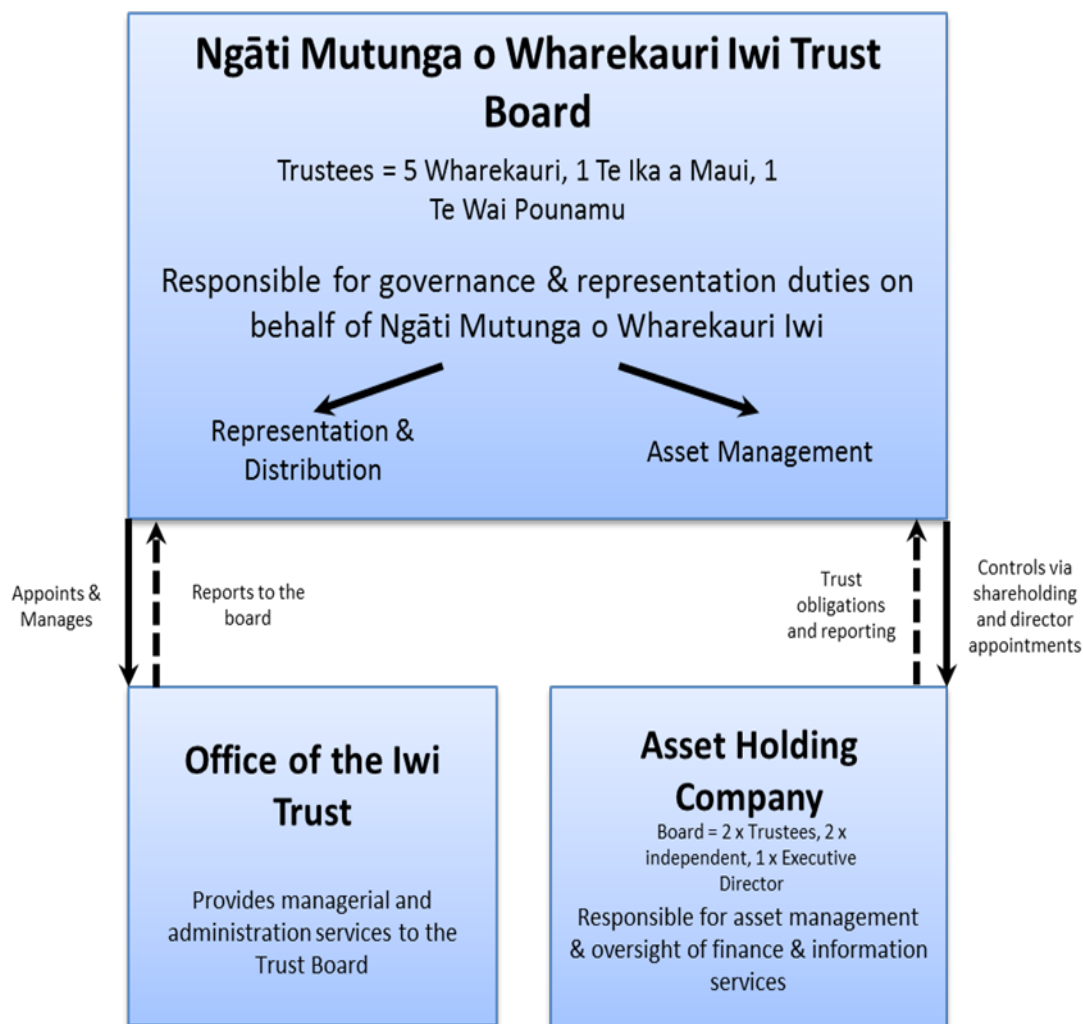
- Improving the health of Ngāti Mutunga o Wharekauri
- Improving the welfare of Ngāti Mutunga o Wharekauri
- Providing financial assistance
- Promoting education and vocational training for Ngāti Mutunga o Wharekauri

### **2.4 Asset Base**

The Iwi Trust has a net equity position of \$22.7 million as at the 2014 annual report. Of that quota comprises \$14 million of the assets held.

Importantly, the total annual fishery is worth well over \$120 million per annum. Maori and Moriori fishermen overwhelmingly rely on this fishery for livelihoods and the health and welfare of the island.

## 2.5 Ngāti Mutunga o Wharekauri Iwi Trust Structure



Iwi Trust Board Trustees	Asset Holding Company Directors
Paula Page (Chair)	Joseph Thomas (Chair)
John Kamo (Deputy Chair)	Robin Page
Monique Croon	Tom McLurg
Melodie Fraser	Andrew Harrison (executive director)
Joseph Thomas (Te Waipounamu Representative)	
Gail Amaru (Te Ika a Maui Representative)	
Dallon Gregory Hunt	
Office of the Iwi Trust	Asset Holding Company Management
Ward Kamo – Chief Executive	Andrew Harrison (Koau Capital Partners Limited)
Jo Clark – Office Administrator	Richard Coleman (Koau Capital Partners Limited)

## 2.6 Ngāti Mutunga o Wharekauri Rohe

Ngāti Mutunga o Wharekauri boundaries (rohe) encompass all of the Chatham and Auckland Islands. Specifically but without limitation:

- Wharekauri / Rekohu
- Rangiauria (Pitt Island)
- Rangatira (South East Island)
- Mangere (The Fort)
- Tapuenuku (Little Mangere)
- Motuhope (Star Keys)
- Rangitatahi (The Sisters)
- Motuhara (The Forty Fours)
- Tarakoikoia (The Pyramids)
- Maungahuka (Auckland Islands) including:
  - Adams Island
  - Enderby Island
  - Disappointment Island
  - Ewing Island
  - Rose Island

Our rohe extends into the proposed mining area. It was a pathway of migration for both ourselves, and our whanaunga the Moriori. The management and control of all resources in our rohe comes under our direct authority as tangata whēnua.

## 2.7 Relationship with Moriori and the Hokotehi Moriori Trust (HMT)

Ngāti Mutunga o Wharekauri and Moriori share close whakapapa ties. Each is a tangata whēnua lwi on the island.

This submission must be read in conjunction with the HMT submission of which we share similar concerns. Importantly, we are both of the view the application must not proceed. We stand as one voice in this respect.

To that end we have thoroughly traversed our Moriori whanaunga submission. We tautoko the whakaaro outlined in it.

## 2.8 Te Rūnanga o Ngāi Tahu

Equally Ngāti Mutunga o Wharekauri and Moriori share a close whakapapa link with Ngāi Tahu. We acknowledge Te Rūnanga o Ngāi Tahu as the authoritative voice for Ngāi Tahu. Equally we acknowledge Ngāi Tahu Mana Moana over the proposed mining area. Te Rūnanga o Ngāi Tahu has expressed grave concerns with the CRP application and we stand as one voice with them in this respect.

### 3. PURPOSE OF THE ASSESSMENT

The purpose of this submission is to provide information and insight into the concerns of Ngāti Mutunga in relation to their taonga. These thoughts have been traversed at an Iwi level and are reflective of the sentiments that have coalesced subsequent to the public hui run by CRP since 2012.

These concerns are summarised as:

- Benthic Ecology
- Seabed and sea life disruption;
- Interference with cultural heritage and whakapapa;
- Impact on other cultural values relating to the Moana (sea) and other general water rights;
- Tino Rangatiratanga;
- Economic Development;
- Fisheries Risk;
- Sinkholes and Underwater aquifers; and,
- Chemicals and other potentially harmful agents in the mining process.

The Ngāti Mutunga o Wharekauri Iwi has no cultural aversion to economic development. And this includes mining whether on or off shore. Rather, the Iwi has a Kaitiaki role for both current and future generations in ensuring the sustainability of proposed ventures.

This is no better encapsulated than in the name of our original Ngāti Mutunga o Wharekauri pa, Te Pa A Tangaroa. The Moana is both the means of economic progress for our people, and the means by which Ngāti Mutunga o Wharekauri expresses its whakapapa relationship to ngā tamariki a Tangaroa and our whanāungatanga to each other, manuhiri, and to those who host us when we travel off island to other Iwi rohe. Our identity as a people is intricately tied to the Moana.

In providing our response we have carefully reviewed the EPA independent reviews of the Impact Assessments provided by CRP as well as responses from CRP to the reviews. These provide the basis of our responses.

We wish it noted that the provision of those responses late June have severely impacted our ability to provide full responses to the EPA. We share the concern of Hokotehi Moriori Trust that the 10 July delivery date has been compromised by the late provisions of the material from both the independent analyses and CRP.

The EPA should note that we are a small Iwi with limited resources to be able to apply to the many resource management issues that pass across our organisation. Long lead-in times are a requirement if we are to respond appropriately.

Finally, we have stated before that to use the environment requires acknowledgement of the taonga that Papatuanuku and her tama Tangaroa are providing for us. We mihi to their awahi of all people. We hold to the environmental approach that is 'if you make a mess, tidy up before you leave'.

### 4. SPECIFIED IWI CONCERNS

#### 4.1 Benthic Ecology, Marine Mammals, Fish & Plankton

The Jacobs SKM report<sup>1</sup> makes the following observations

- Several environmental descriptions rely entirely on a review of limited desktop information
- The environmental values of large areas of the Marine Consent Application area have been inferred from modelling based on survey at other locations

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<sup>1</sup> Review of Technical Reports Relating to CRP Marine Consent Application. Marine Science (Marine Mammals, Fish and Plankton, and Benthic Ecology; Jacobs SKM, 11 June 2014

- Conclusions of many technical reports are qualified with statements that there is relatively little existing information
- Lack of information will present challenges for drawing informed conclusions regarding environmental impacts of the proposed mining activity
- CRP application may be conceding this (page 393 of the IA)
- The available information suggests that some potentially unique and ecologically important assemblages will be highly disturbed and have low potential for recovery
- The available information does not adequately address the potential for indirect effects from sediment plumes on such areas, and the basis for identifying such areas relies largely upon modelled habitat suitability rather than information collected from actual surveys. The key studies supporting the selection of the mining exclusion areas (Rowden et al. 2014a, 2014b) conclude that additional ground-truthing of the habitat suitability modelling is required.

We note also a previous NIWA report which stated:

*“In areas being actively mined probably close to 100% of the benthic organisms will be killed during the mining or nodule concentration process ... As the total area affected is likely to be a significant proportion of the total nodule habitat, the functional impact on the benthic ecosystem as a whole, as well as impacts on key species, such as sponges, and protected benthic species, such as deep-water corals, is likely to be severe ... If species are dependent on the presence of phosphorite nodules then recovery may never occur because these fauna rely up [sic] the nodules for attachment in an otherwise soft sediment environment ...”<sup>2</sup>*

There appears no indication the habitat that will be destroyed by the mining process can be restored. We are aware the area is home to slow growing species such as sponges and coral that create a habitat that from the sea bed to the surface create an ecosystem our fish species rely on. We are aware that the phosphate nodules may also be a key contributor to the wider ecosystem. The impact, of what is essentially strip mining, on the food chain and species life cycles are of great concern to Ngāti Mutunga o Wharekauri.

A key requirement of Ngāti Mutunga o Wharekauri support for any mining activities is that proper environmental recovery processes be described. It is troubling the area to mined is unlikely to recover in the foreseeable future if at all. This runs contrary to the kaitiaki role we expect all who use the environment to engage in.

We have previously highlighted in both our Cultural Impact Assessment (June 2013) and our submission to NZ Petroleum & Minerals (September 2013) our concerns over the lack of specified research into the proposed mining consent area. The qualification to much of the provided research that ‘there is relatively little existing information’ is immensely concerning to the Iwi.

## 4.2 Seabird Impacts

The Boffa Miskel Limited review<sup>3</sup> of technical reports makes the following observations:

- There were several instances where the information was either lacking or not current. Furthermore, there was no indication of the level of mining against which the effects were assessed
- Some taxa were excluded from the CRP assessment
- As no monitoring of seabirds is proposed additional information should be sought under section 42 of the EEZ Act to allow an understanding of the of the potential effects of the proposed activity and the spatial

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<sup>2</sup> Refer to pages 65-72 of “Expert Risk Assessment of Activities in the New Zealand Exclusive Economic Zone and Extended Continental Shelf” prepared by NIWA for the Ministry for the Environment, NIWA Client Report No. WLG2011-39, September 2011

<sup>3</sup> Review of Technical Reports Relating to Seabirds Submitted as Part of Chatham Rock Phosphate Ltd’s Proposed Mining Operation on the Chatham Rise; BML, 19 May 2014



and quantitative extent of mining for which effects on seabirds were considered

Our Toroa / Manu venture far out to sea. There have previously been issues with long liners and the impact of those boats on our bird stock. Whilst we appreciate the miners are not long lining, we have limited information on whether there is any risk to our birds as a result of having these boats within the region our birds frequent.

We are further concerned to note that the Chatham Island shag use of the rise has not been properly accounted for. We are well aware of the critically endangered status accorded our taonga. The lack of consideration for our manu is a deal breaker for us.

#### 4.3 Sediment Mobilisation & Transport

The movement of sediment generated via mining plumes has been an ongoing concern of Ngāti Mutunga o Wharekauri. We have significant inshore fisheries that we require not be affected by sediment drift. We have been told this is unlikely to occur. Indeed we are informed that deep sea bottom trawling generates more sediment than the proposed mining activity. Finally we are informed that the area in question is only 820sqm and in the middle of the rise.

We note the section 'Changes to the Chatham Rise ecosystem' at page 336 of the IA. We are particularly focused on page 338 onwards in relation to our Koura and Tuna fisheries. We are well aware the area in question is not a fishing area of koura. We are equally aware the area is unlikely to be a migration area for Koura. Rather we are concerned that the IA does not preclude koura larvae from being affected by sediment plumes stating "larvae within the Wairarapa Eddy are unlikely to be affected by the proposed mining operations due to their distance from the Chatham Rise". The previous reports have included the words 'unlikely' and we have commented accordingly. Chatham Island livelihoods are at risk and words such as 'unlikely' do not give the degree of comfort required for the Iwi to not oppose the application.

We note with concern that the current proposal is to mine at least 30 km<sup>2</sup> of seabed per annum with mining initially occurring within the 820 km<sup>2</sup> mining permit area. However CRP states that in the future that could be extended over an area of 10,192 km<sup>2</sup>.

The Gardline Marine Sciences PTY Ltd report<sup>4</sup> makes the following observations:

- If the modelled plume is more widely dispersed and consequently more diluted and sedimentation spread more thinly as a consequence than is likely to occur, it seems counterintuitive that this can be considered a 'conservative' estimate of effects
- Sensitivity analysis does not investigate the effects of decreasing the fall velocity which is arguably more important since it would lead to larger plume sizes
- The study (IA) investigates the effect of increasing the fall velocity for the clay fraction by a factor of 10 and 100, but this is not undertaken for silt. In this simulation, clay represents 10% of the total discharge whereas silt represents 20%. Sensitivity analysis does not investigate the effects of decreasing the fall velocity which is arguably more important since it would lead to a larger plume size
- The extent of the plume and the region sedimentation have not been quantified for the modelled scenarios
- The application is to mine the whole area (the Consent sought is to include the wider 10,192 km<sup>2</sup> area of the permits and licences that the Applicant holds or has applied for, not just the 820 km<sup>2</sup> permit area) over a 15 year period, not from a single site for 3 months and so ***providing information on the longer term cumulative impacts is critical for impact assessments***<sup>5</sup>

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<sup>4</sup> A Technical Review on Information Provided in Chatham Rock Phosphate's Ltd (CRP) Impact Assessment and Technical Reports in Relation to Sediment Mobilisation and Transport; Gardline Marine Sciences PTY Ltd, 21 May 2014

<sup>5</sup> Emphasis added

- Sediment suspension is likely to be exceeded in winter. It is not clear how often such times are likely to occur and how this will affect model results. ***We consider this a potentially significant matter requiring further consideration.***<sup>6</sup>
- In general the reports are inconsistent in clarifying the occurrence and frequency of re-suspension of sediment.
- While it is possible that no further modelling is required and that model versus measurements cannot be brought more in line through calibration, ***there is a general lack of quantitative information that can be used to assess impacts***<sup>7</sup>
- Quantification and commentary on this is required to put the results (plume extent) in a context useful for impact assessment.

The cumulative effects of the issues raised by the Gardline analysis are troubling. We reiterate that the plumes remain of great concern to us. Considerably more analysis is required to enable us to make an informed decision on the application.

We have previously stated we were not reassured the mining plume drifts were properly measured. Plume drift need not be large or visually present to have an impact. Rather, the accumulation of mining by-product over time is the real risk. Sediment build up over time on paua spawning grounds, koura and tuna (eel) migration to the Chathams must be considered in any environmental impact assessment. Those assessments must include real input from our Iwi and community fishing interests on the island.

In the absence of such analysis that can truly demonstrate that the risks are low we can only remain opposed to the application.

#### 4.4 Fisheries Risk

The mainstay of the Wharekauri economy is fishing. This industry contributes over 2/3rds of the islands income receipts. To put this in perspective, the Iwi Trust runs some \$14 million in quota assets generating upward of \$1.5 million in income annually. Any disruption to this would be both disastrous and unacceptable.

We note the following from the JPEC Ltd report<sup>8</sup> in relation to deep water fisheries. Additional information is sought<sup>9</sup>:

- A more detailed characterisation of the commercial fishing activities in the full marine consent area, in terms of methods, areas, and landed catches, and including the recent data available
- An up-to-date evaluation of the spawning areas used by commercial species in the marine consent area and across the Chatham Rise
- A more focused investigation of information on underwater noise produced by dredging and any known sensitivities of marine fish to noise in this range
- Consideration of the cumulative effects of mining through the entire spatial and temporal extent of the marine consent sought, and including bottom longline fishing, as well as trawl fishing conducted on the sea floor, in that consideration
- Consideration of the effects of displacement and exclusion of fishing effort from the mining area in both environmental and utilisation-focused contexts

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<sup>6</sup> Emphasis added

<sup>7</sup> Emphasis added

<sup>8</sup> "Review of Technical Reports on Commercial Fisheries", JPEC Ltd, 23 May 2014

<sup>9</sup> Ibid, para 95

The JPEC Report is clear at paragraph 99 that the additional information requested above is essential for a robust assessment of the application. The JPEC report makes particular reference to the importance on knowing whether and to what extent commercial species will recolonize the mined area in the short or long term<sup>10</sup>.

We remain concerned that study on the impact of mining on deep sea wet fish has been less comprehensive than we would expect. We have significant quota for bluenose and orange roughy. We need to be reassured the proposed mining will not place undue risk on these deep sea species.

Fishing represents at least 2/3rds of the Wharekauri economy. But this is an underestimation. That figure doesn't account for both up and downstream activities that flow from fishing (freight, employment, shop keeping, schooling etc). Any activity that adversely affects the fishing industry has almost immediate impacts on ancillary services and employment related to fishing.

## 5. NGĀTI MUTUNGA O WHAREKAURI IWI POSITION

### 5.1 Iwi 'Customary' Fisheries and Fishing Interests

Ngāti Mutunga o Wharekauri rejects the term 'customary' to describe our fishing interests as though they are different from commercial. They are not! Whether we use our fishery for the purpose of trading (specifically under the QMS) or for whānau / hapū usage, all are expressions of our tino rangatiratanga right to utilise our taonga under article two of the Treaty of Waitangi.

The IA references a table at page 371 regarding iwi fishing interests. At 9.2.2.2 of the report it concludes "There is no resource or interest apparent in that report that would be directly adversely impacted by CRP's proposal" (page 372). This is a dangerous conclusion.

A Waitangi Tribunal report is not a definitive description of what interests may or may not be settled. That is a process that is exclusively the domain of the settlement process. The Maori Fisheries Act 2004 purports to extinguish future Maori fisheries claims. It does not explicitly extinguish the right to rehearse fisheries matters with the Crown during settlement negotiations. Ngāti Mutunga o Wharekauri intends to raise the Chatham Rise as a component of its Treaty settlement negotiations with the Crown (a settlement distinct from the 2004 fisheries settlement). Our rights and interests have not been extinguished. We can, therefore, assure CRP ***there are unsettled historical and contemporary claims that relate to the Chatham Rise.***

### 5.2 Commercial Fishing Interests

We note the issues raised by the Deepwater Group that have been addressed in the IA. We are particularly aware of market reactions to mining impacting negatively on the perceptions of the quality of our fish products. Chatham Island Food Co is a wholly owned Chatham Island based marketing company run by a Ngāti Mutunga whānau member. It has had considerable success marketing Chatham Island fish as a sustainable, quality niche product. Any negative perceptions on the quality of our product as a result of deep sea mining would undermine a burgeoning marketing aspect of our drive to greater downstream returns from our fish.

### 5.3 Interference with Cultural Heritage and Whakapapa

Many of our whānau still engage in karakia, ceremony and other practices that relate to the spiritual relationship to the Moana. It is not enough to be grateful for the bounty of Tangaroa. Tangaroa must also be acknowledged. That acknowledgement includes the responsibility to actively protect Tangaroa's interest (thereby protecting the Iwi's interests).

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<sup>10</sup> Ibid, para 96

We previously raised the point (albeit reluctantly as ‘the kumara does not sing of its own sweetness) that Ngāti Mutunga o Wharekauri is renowned the length of the country for the bountifulness of its koura, ika, me paua. It is equally renowned for its generosity in providing these taonga at hui. All iwi have an identity that makes them unique. Ngā tamariki a Tangaroa is our identity. The sea that surrounds Wharekauri is ‘te pa a Tangaroa’. Tangaroa provides for the wellbeing of all on the island.

Any negative impact on fish stock on the island would not just be economic. It would create a **terrible** impact on the identity of Ngāti Mutunga o Wharekauri. Our people take pride in the food they provide their manuhiri and their whānau. The cultural identity of Ngāti Mutunga is inherently tied to the island and te pa a Tangaroa.

Much of the Ngāti Mutunga whakapapa relates to our fishermen (and our farmers). Any impact on the fishery impacts our whakapapa, our heritage, and our identity. Ngāti Mutunga o Wharekauri will actively protect its whakapapa if there is a perceived threat to it.

The IA responds to our concerns stating that:

“(The) technical assessment concludes that potential impacts on the fishery are of a low environmental risk”

Risk is a matter of perception. What is low to one person can be high to another, particularly where the losses if they were to occur would have a vastly disproportionate impact. The loss of any part of our fishery would be culturally and economically devastating. We cannot over emphasise this point. Ngāti Mutunga o Wharekauri as with our Moriori and Chatham Island community, rely on the fishery for our livelihoods (as well as identity). The risk to our minds is extremely high.

We make the point that the risk / return offering is totally askew. To put this into perspective the Iwi Trust notes the following:

- The risk to CRP is a large amount of upfront capital. The reward is a large profit generated. This is not a problem for the Iwi.
- The risk to the Iwi is as follows:
  - Its fishery economic base
  - Its cultural base
  - Its whānau base
  - Its identity
- Currently the return to the island (and the Iwi) if the initiative succeeds, is precisely zero.

#### 5.4 Economic Development

We are well aware there is no ‘100%’ certainty on any environmental risks. And nor is the Iwi an adherent of any extreme application of the ‘cautionary principle’ of not allowing activity ‘just in case’. To that end, any activity that opens up new economic prospects for the island will ordinarily be seriously considered.

In this instance, the returns to the island of agreeing to mining would have to outweigh any risk weighting attached to probabilities of harm should there be some negative environmental impacts to the fishery. Given the disastrous impact of harm to the fisheries, the Iwi would expect to see a combination a high premium return to the island.

What we can’t put a price on is the cultural impact should there be a negative consequence of the mining. This is priceless and intergenerational (including the negative impacts). No economic development package could fully cover or potentially compensate Ngāti Mutunga o Wharekauri.

## 6. CONCLUSION

In section 5 we noted that the risk/ return offering is totally askew. To put this into perspective the Iwi Trust notes the following:

- The risk to CRP is a large amount of upfront capital. The reward is a large profit generated. This is not a problem for the Iwi.
- The risk to the Iwi is as follows:
  - Its fishery economic base
  - Its cultural base
  - Its whānau base
  - Its identity
- Currently the return to the island (and the Iwi) if the initiative succeeds, is precisely zero.

There is simply no reason to agree or support the application. We as an Iwi, and a people of the island, are being asked to put our whole life on line with no prospect of any benefit to our island or our Iwi. But we must also state that no pūtea / amount of money could compensate the cultural loss should a negative impact occur. We require reassurance far higher than that outlined.

We have outlined our concerns in section 4 and 5 of this submission. These concerns of such magnitude to our people, pakeke and tamariki alike, that we cannot support the CRP application. We attach as a component of our commitment to Iwi, the associated application of our rangatira Robin Lee Page.

Ngāti Mutunga o Wharekauri Iwi Trust, and the Iwi itself wish to be heard at a hearing on our marae of Whakamaharatanga at Te One on Wharekauri.

Naku noa



Paula Page  
Trust Chair (on behalf of Trustees)

**7. APPENDIX – ROBIN LEE PAGE SUBMISSION**