



27 May 2020

Otago Regional Council

P O Box 1954

DUNEDIN 9054

Tēnā koutou, ko tēnei mihi atu ki a koutou, ngā mema o te komiti, ngā kaiwhakawa o ngā mea e pa ana tēnei kaupapa taumaha, me ki, o tātou nei rohe moana, he taoka o tātou nei whānau, hapū me te iwi. Ki a rātou kua whetu rangitia, te hunga wairua, haere, moe mai, oki mai, kati.

Resource Consent Applications – RM20.039.01 – RM20.039.08 – Pigburn Limited & Others

RM20.039.01 - Natasha Lee Burrell, Ian Joseph Burrell and Canterbury Trustees (2016) Limited being trustees of the Duncan Cleugh Farming Trust (1/3 share), Pig Burn Gorge Limited (1/3 share) and Janine Ruth Smith (1/3 share)

To discharge water taken from the Pigburn to an unnamed tributary of the Taieri River known locally as Harpers Creek, for the purpose of subsequent re-taking for the purpose of irrigation, domestic use and stock drinking water.

RM20.039.02 - Natasha Lee Burrell, Ian Joseph Burrell and Canterbury Trustees (2016) Limited being trustees of the Duncan Cleugh Farming Trust (1/3 share), Pig Burn Gorge Limited (1/3 share) and Janine Ruth Smith (1/3 share)

To take and use surface water as primary allocation from an unnamed tributary of the Pig Burn, and to retake from a tributary of the Taieri River known locally as Harpers Creek for the purpose of irrigation, domestic use and stock drinking water.

RM20.039.03 - En Hakkore Limited

To take and use surface water as primary allocation from the Pig Burn for the purpose of irrigation, stock drinking water and domestic supply.

RM20.039.04 - Greenbank Pastoral Limited

To take and use surface water as primary allocation from the Pig Burn for the purpose of irrigation, stock drinking water and dairy shed use.

RM20.039.05 - Hamilton Dairy Limited

To take and use surface water as primary allocation from the Pig Burn for the purpose of irrigation, dairy shed use and stock drinking water.

RM20.039.06 - Hamilton Runs Limited

To take and use surface water as primary allocation from the Pig Burn for the purpose of irrigation and stock drinking water.

RM20.039.07 - Concept Farms Ltd and Christopher Patrick Mulholland and Dale Evelyn Mulholland and Hamiltons Dairy Limited

To take and use surface water as primary allocation from the Pig Burn for the purpose of irrigation, stock drinking water and dairy shed use.

RM20.039.08 - Concept Farms Ltd

To take and use surface water as primary allocation from the Pig Burn for the purpose of irrigation, dairy shed use and stock drinking water.

This is a submission on a publicly notified resource consent application pursuant to Section 95A of the Resource Management Act 1991.

Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga (Ngā Rūnanga) **oppose** this application.

We **do wish** to be heard in support of this submission at a hearing.

1. INTRODUCTION

- 1.1 The takiwā of Kāti Huirapa Rūnaka ki Puketeraki centres on Karitane and extends from the Waihemo River/Shag River to Purehurehu/north of Heywards Point. Kāti Huirapa Rūnaka ki Puketeraki share an area of interest in the inland roto and mauka with Kāi Tahu Papatipu Rūnanga within Otago, and with those Papatipu Rūnanga located beyond the boundaries of the Otago region.
- 1.2 The takiwā of Te Rūnanga o Ōtākou centres on Muaūpoko/Otago Peninsula and extends from Purehurehu Point/north of Heyward Point to the Clutha River/Mata-au River. Te Rūnanga o Ōtākou share an area of interest in the inland roto and mauka with Kāi Tahu Papatipu Rūnanga within Otago, and with those Papatipu Rūnanga located beyond the boundaries of the Otago region.
- 1.3 The takiwā of Hokonui Rūnanga centres on the Hokonui region and includes a shared interest in the lakes and mountains between Whakatipu-Waitai and Tawhitarere and other Murihiku Rūnanga and those located from Waihemo southwards.
- 1.4 To acknowledge the association with the district and its resources, Māori words (underlined) are used within this document. See Appendix 1 for translation.

2. KAITIAKITAKA

- 2.1 The Kāi Tahu ki Otago Natural Resource Management Plans 1995 and 2005 are the principal resource management planning documents for Kāi Tahu ki Otago. The kaupapa of the plans is 'Ki Uta ki Tai' (Mountains to the Sea), which reflects the holistic Kāi Tahu ki Otago philosophy of resource management.
- 2.2 The plans express Kāi Tahu ki Otago values, knowledge and perspectives on natural resource and environmental management issues. The plans are an expression of kaitiakitaka. While the plans are first and foremost planning documents to assist Kāi Tahu ki Otago in carrying out their kaitiaki roles and responsibilities, they are also intended to assist others in understanding tākata whenua values and policy.
- 2.3 The 2005 Natural Resource Management Plan is divided into catchments, with specific provisions for the whole Otago area and each catchment. The current proposal is located within the Taieri Catchments.

2.4 The relevant objectives and policies of the 2005 Natural Resource Management Plan are attached to this submission as Appendix 2.

3. SCOPE OF THE SUBMISSION

3.1 This submission relates to the application in its entirety.

4. REASONS FOR THE DECISION SOUGHT

4.1 Kāi Tahu has a cultural, spiritual, historic and traditional relationship with the Taieri Catchments / Te Riu o Taieri.

4.2 The Taieri Catchments remain of great significance to Kāi Tahu ki Otago and our long association and interaction with the catchment is widely recorded.

4.3 Existing in the consciousness of Kāi Tahu ki Otago is awareness of a significant cultural landscape dominated physically by a series of block mountain ranges and valleys running parallel to the coast.

4.4 When our Tīpuna were walking over these mountains they recognised in their shape and appearance a likeness to the combers and rolling waves of the ocean, waves responsible for causing well-known maritime disasters.

4.5 In traditional accounts the ocean voyaging waka Araiteuru encountered three big waves followed by a cross wave off the Otago coast. The first wave that assaulted the Araiteuru waka ran inland and became the Old Man Range, the second wave followed and became Raggedy Ridge and the third became represented in Rought Ridge.

4.6 These three waves were followed by a giant cross wave, which is represented by the Horse Range. These events are immortalised by these block mountains standing inland, turned to stone and forever stirring the imagination of succeeding generations of the great deeds of the past.

4.7 The large streams and rivers of the Taieri Catchments begin in high altitude sphagnum and cushion bog hollows, flow off bedrock and then lower down flow through deep gorgers before emerging onto the plains.

- 4.8 The Taieri is a classic example of this, emerging onto the plains in the Styx Basin, and meandering down through to the Paerau Gorge (now dammed as part of the Maniototo hydro electric irrigation scheme) from whence it emerges again to flow in a similar but even more extensive fashion across the maniototo Basin. It then enters another confined stretch immediately below Waipiata before emerging once more to flow through wetlands of old Taieri Lake.
- 4.9 Collectively these three areas are known as the Upper Taieri Wetlands. At over 300 hectares, it is one of the largest and most important wetland complexes in the country. The area that is protected is less than 2% of the total area of wetland in the complex.
- 4.10 All water plays a significant role in our spiritual beliefs and cultural traditions the condition of water is seen as a reflection of the health of Papatūānuku. The loss and degradation of this resource through drainage, pollution and damming is a significant issue for Kāi Tahu ki Otago and is considered to have resulted in material and cultural deprivation.
- 4.11 Kāi Tahu had a very distinctive and unique culture and lifestyle in the southern half of the South Island included permanent coastal settlements and seasonal migrations inland over often vast distances to harvest and collect food and resources. The seasonal inland migrations were determined by whakapapa as to who could exercise those rights. This practice is referred to as 'mahika kai' and became a corner stone of our culture. Mahika kai is the basis of culture and the unrelenting cultural imperative is to keep the mahika kai intact, to preserve its productivity and the diversity of species.
- 4.12 Mahika kai literally means "food works". It encompasses the ability to access the resource, the site where gathering occurs, the act of gathering and using resources and ensuring the good health of the resource for future generations. This is enshrined in the Kāi Tahu proverbial saying and tribal motto "Mō tātou, a mō kā uri I muri ake nei – for us and for the generations that come after us."
- 4.13 The primary management principle for Ngā Rūnanga is the maintenance and enhancement of the mauri or life-giving essence of a resource. Mauri can be tangibly represented in terms of elements of the physical health of the land, a river, or surrounding biodiversity. The forest, waters, the life supported by them, together with natural phenomena such as the mist, wind and rocks, possess a mauri or life-force. While there are also many intangible qualities associated with the spiritual presence of a resource, elements of physical health which Ngā Rūnanga use to reflect the status of mauri and to identify the enhancements needed include:

- Aesthetic qualities e.g. natural character and indigenous flora and fauna;
- Life supporting capacity and ecosystem robustness;
- Fitness for cultural usage

4.14 A resource's mauri is desecrated if it no longer supports the traditional uses and values. A water body or other natural resource can be desecrated by improper resource management activities. These may extinguish the mauri and in turn diminish the association upon which a range of values are based, including mahika kai, for Ngā Rūnanga who hold traditional rights and responsibilities in respect to the resource.

4.15 Across the rohe, one of the principle indicators by which Ngā Rūnanga assesses the mauri of a resource is its productivity and the food and other materials sourced from it. Hence Ngā Rūnanga use the nature and extent of mahika kai as an environmental indicator. If the mauri of an entity is desecrated or defiled, the health and well-being of the resource itself, resource users and others depending on the resource are at risk

4.16 Ngā Rūnanga are not confident in the current regional planning framework, and therefore request a short-term consent that allows for a new regional planning framework to be established before a longer-term consent is applied for by the applicant; one that is compliant with:

- the purpose and principles of the Resource Management Act 1991, including Section 6(e), Section 8 and Section 7(a);
- the *National Policy Statement for Freshwater Management 2014*, as amended in 2017 (the Freshwater NPS);
- the partially operative *Otago Regional Policy Statement 2019 (Otago RPS)* (including both the already operative parts, and those that still await sign-off from the Environment Court); and
- *Te Rūnanga o Ngāi Tahu Freshwater Policy Statement 1999* and the *Kāi Tahu ki Otago Natural Resource Management Plan 2005*, which have not yet been incorporated into the *Regional Plan: Water*.

4.17 Kāi Tahu aspirations for freshwater management are recorded in the *Te Rūnanga o Ngāi Tahu Freshwater Policy Statement 1999*, and the *Kāi Tahu ki Otago National Resource Management Plan 2005*. These documents both allude to water ownership as an outstanding matter for resolution, which is relevant to the manner in which water continues to be allocated. Kāi Tahu

iwi management plan objectives and policies provide guidance to decision-makers working within the context of the *Resource Management Act 1991 (RMA)*. Notable priorities include protection and restoration of mahika kai habitats and ensuring that environmental flows are sufficient to sustain the range of Kāi Tahu rights, interests and values associated with waterbodies.

- 4.18 The Freshwater NPS requires consideration and recognition of Te Mana o te Wai, through identification of values and management of those values. The Freshwater NPS specifically provides for the involvement of iwi and hapū to ensure that tākata whenua values and interests are identified and reflected in the management of freshwater. Included within freshwater objectives is intent to phase out over-allocation.
- 4.19 Under the National Policy Statement for Freshwater Management (NPS-FM), it is a matter of national significance that fresh water is managed through a framework that considers and recognises Te Mana o Te Wai as an integral part freshwater management. When speaking about Te Mana o te Wai we are referring to the integrated and holistic wellbeing of a freshwater body. Upholding Te Mana o te Wai acknowledges and protects the mauri of water.
- 4.20 The Regional Plan: Water for Otago and the Regional policy Statement were both written prior to the 2017 amendment of the NPS-FM and therefore Ngā Rūnanga believe kaupapa as significant as Te Mana o te Wai and Ki Uta Ki Tai should be considered above the issues, objectives and policies of the Regional Plan: Water for Otago and the Regional Policy Statement.
- 4.21 Otago Regional Councils' (the Council) permissive rules have allowed most of the catchments to become 'over-allocated' meaning that the volume of water abstracted through resource consents exceeds the volume of water available in the catchment. The current rules of the Regional Plan: Water for Otago are permissive and set default minimum flow levels well below the national average.¹
- 4.21 The Minister for the Environment, Hon David Parker (the Minister), in the letter to the Councilors of the Otago Regional Council, has set direction for the Council to "... develop a fit for purpose freshwater management planning regime that gives effect to the relevant national instruments and sets a coherent framework for assessing all water consent applications..."². The Minister identifies that granting long term resource consents for water abstractions would

¹ *Investigation of Freshwater management and Allocation Functions at Otago Regional Council: Report to the Minister for the Environment*. Professor Peter Skelton. Page 9.

² Communication: Letter from Officer of Hon David Parker, Minister for the Environment, to Chair and Councilors of Otago Regional Council.

be unwise. This is because this would “... lock in unsustainable water use, inhibiting the council from effectively implementing the outcomes of its intended new RPS (*Regional Policy Statement*) and LWRP (*Land and Water Regional Plan*)”³. Direction from the Minister requires Council to prepare a plan change to provide for interim planning and consenting framework to manage freshwater, which includes processing of recourse consents. These consents should be issued with a short consent term, for example, a maximum term of 5 years.

5. DECISION SOUGHT

5.1 Kāi Tahu submits that the application, as applied for, should **be declined**.

5.2 Kāi Tahu would support an amended application or, any consent that would be subject to the following conditions:-

- That the term of consent be no longer than 6 years.
- That at least 50% of the flow in the waterway is left in the waterway.
- That a fish screen is installed over the intake structure at the point of take for each water take.
- That the water take is metered, and results recorded and reported via telemetry.

E noho ora mai

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³ Communication: Letter from Officer of Hon David Parker, Minister for the Environment, to Chair and Councillors of Otago Regional Council.

Appendix: 1

Glossary

Ara tawhito	Ancient trails
Hapū	Sub-tribe
Hukuwai	Type of water
Ika	Fish
Inaka/Inganga	Whitebait
Kaitiaki/Kaitiakitaka	Guardian / to exercise guardianship
Kāi Tahu	Descendants of Tahu, the tribe
Kanakana	Lamprey
Kaupapa	Topic, plan
Kōkōpu	Cockabully
Mahika kai	Places where food is produced or procured.
Mana Whenua	Customary authority or rakātirataka exercised by an iwi or hapū in an identified area.
Manawhenua	Those who exercise customary authority or rakātirataka
Manu	Bird
Mauka	Mountain
Mauri	Essential life force or principle, a metaphysical quality inherent in all things both animate and inanimate
Moa	large extinct flightless bird of nine subspecies
Ngahere	Forest/Bush
Ngā Rūnanga/Rūnaka	Local representative group of Otago
Papatipu Rūnanga	Traditional Kāi Tahu Rūnanga
Papatūānuku	Earth Mother
Puna	spring (of water)
Rakātirataka	Chieftianship, decision-making rights
Rohe	Boundary
Roto	Lake
Takiwā	Area, region, district
Tākata whenua	Iwi or hapu that holds mana whenua (customary authority) in a particular area
Te Mana o te Wai	Concept for fresh water that encompasses the mauri of a water body
Tuna	Eel
Urupā	Burial place
Wāhi Tapu	Places sacred to takata Whenua
Weka	Bird-woodhen
Whakapapa	Genealogy
Whānau	Family

Appendix: 2

The following Issues/Objectives/Policies of the Kāi Tahu ki Otago Natural Resource Management Plan 2005 are seen as relevant to the above proposal. This relates to the holistic management of natural resources from the perspective of local iwi.

Kāi Tahu ki Otago Natural Resource Management Plan 2005

Otago Region / Te Rohe o Otago

Wai Māori

Wai Māori General Issues

Water Extractions

- Inefficient irrigation methods and reluctance to consider alternatives.
- Volume of some extractions being more than is required.
- Cumulative effects of water extractions.
- Lack of water harvesting.
- Long duration of water take consents.

Wai Māori General Policies

- To protect and restore the mauri of all water.

Water Extractions

- To require that resource consent applicants seek only the amount of water actually required for the purpose specified in the application.
- To require that all water takes are metered and reported on, and information be made available upon request to Kāi Tahu ki Otago.
- To oppose the granting of water take consents for 35yrs. Consistent with a precautionary approach, either a review clause or a reduced term may be sought.

Irrigation

- To encourage those that extract water for irrigation to use the most efficient method of application. Flood irrigation, border dyke and contour techniques are less likely to be supported than spray irrigation techniques.
- To require that a consent term for water extractions for irrigation be of 5-10 years where Kā Papatipu Rūnanga considers the method of irrigation to be inefficient to allow for an upgrade to a more efficient method.
- To discourage over-watering
- To encourage irrigation to occur at times when winds are light and evaporation low.
- To encourage dry land farming practices where appropriate.

Taieri Catchments / Te Riu o Taieri

Wāi Māori

Wāi Māori Issues

Water Takes

- Water extractions from the tributaries of the Taieri River can result in dewatering and affect the flows in the main stem.
- Cross mixing of waters.

Land Use

- Intensive land use in both the upper and lower Taieri Catchment is affecting water quality.

Wāi Māori Policies

Water Allocation

- To oppose the allocation of any further water from the Upper Taieri and Strath Taieri
- To require that the cumulative effects and Kī Uta Ki Tai values are addressed in water allocation in the Taieri Catchment.

Mahika Kai and Biodiversity

Mahika Kai and Biodiversity Issues

- Low flows and/or dewatering of significant reaches of waterways is affecting mahika kai habitat

Mahika Kai and Biodiversity Policies

- To encourage the development of the Taieri River as a ‘mountains to the sea’ corridor.
- To encourage native fish migration