

Section 42A Hearing Report

Proposed Otago Regional Policy Statement 2021

Chapter 4:

MW – Mana whenua

James Adams



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4. MW – Mana whenua

4.1. Introduction

1. The mana whenua provisions relate to context and process. Other provisions related to mana whenua are integrated throughout the pORPS.
2. This chapter of the pORPS draws heavily on content created by mana whenua for the Partially Operative Regional Policy Statement 2019. It provides historic context for Kāi Tahu's arrival in the South Island and describes the relationship of local rūnaka with the rohe.
3. The chapter includes a description of Kāi Tahu's environmental management approach and provides explanations of a few key values and significant resources. Kāi Tahu has generally avoided direct translations of Kāi Tahu concepts in the pORPS because such translations often fail to adequately convey cultural concepts. Proper understanding and integration of mātauraka comes from an ongoing process of partnership and collaboration.
4. The chapter also canvasses the content of the Ngāi Tahu Claims Settlement Act 1998 and its impact on the RPS. Also addressed are relationship agreements with local authorities in Otago, and iwi planning documents lodged with local authorities.
5. Following the above explanation and context, the chapter provides a set of high-level provisions that relate to incorporating Te Tiriti o Waitangi and partnering with Kāi Tahu in resource management in Otago.

4.2. Author

6. My name is James Adams and I am a Senior Policy Analyst employed by Otago Regional Council. I hold a Bachelor of Laws and a Bachelor of Arts from Otago University.
7. I have around 8 years of resource management and planning experience, based at Otago Regional Council. During this time, I have worked mainly on Regional Policy Statements, both the Partially Operative Otago Regional Policy Statement 2019 and the proposed Otago Regional Policy Statement 2021. This has included associated section 32 evaluation reports, section 42A reports and participating in Environment Court processes such as expert conferencing and mediation.
8. I have been involved in the review of the Partially Operative Otago RPS 2019 and the preparation of the pORPS 2021 since late 2019. I have been involved in drafting various sections of the pORPS, the section 32 evaluation report, and this section 42A report, as well as being involved in community, stakeholder and mana whenua engagement processes.

4.3. Definitions

4.3.1. Introduction

9. There are a range of submissions relating to defined terms used in this chapter, some of which are addressed in other parts of this report. In summary:

- Defined terms used throughout the pORPS, including in this section, are addressed in Chapter 1: Introduction and general themes.
- Defined terms, including requests for new definitions of terms, used only in the Mana Whenua chapter are addressed in this section of this report.

10. I have addressed the following term in this section:

- General use of te reo terms
- Mahika Kāi
- Taoka
- Kawa
- Tikaka
- Rakatirataka
- Nohoaka
- Papakāika
- Mātauraka

4.3.2. Submissions

11. OWRUG makes a general proposal to include te reo terms in the interpretation section (including, in particular, terms used in MW-AER2).¹

12. Kāi Tahu ki Otago proposes a new definition for Mahika Kāi: ²

“**Mahika kai** means gathering of food and natural materials by Kāi Tahu whānui in accordance with tikaka, the places where those resources are gathered, and the work, methods and cultural activities involved in obtaining them.”

13. QLDC seeks several definitions to be added to the pORPS, though drafting is not provided:

- Taoka³
- Kawa⁴
- Tikaka⁵

¹ 00235.020 OWRUG

² 00226.038 Kāi Tahu ki Otago

³ 00138.030 QLDC

⁴ 00138.051 QLDC

⁵ 00138.050 QLDC

14. Yellow-eyed Penguin Trust seeks an amendment to include a definition for rakatirataka, though drafting is not provided.⁶
15. Kāi Tahu Ki Otago seeks an amendment to the definition of “Nohoaka or nohoanga” to correct the spelling of “Kai” to “Kāi”.⁷
16. Cain Whanau seeks an amendment to the definition of Papakāika:
 “Papakāika or papakāinga means subdivision, use and development by mana whenua or others as allowed by mana whenua, of ancestral or tribal lands and resources to provide for sustain themselves and others in general accordance with tikanga Māori, which may include residential activities and non – residential activities for cultural, social, recreational, environmental or ~~limited~~ commercial purposes.”⁸
17. Kāi Tahu ki Otago also seeks an amendment to the definition of Papakāika:
 “[...] residential activities for cultural, social, educational, recreational, environmental or limited commercial purposes.”⁹
18. Jim Hopkins requests adding a definition of *mātauraka*, including some means by which its precepts may be evaluated.¹⁰

4.3.3. Analysis

19. MW-AER2 uses the te reo terms:
 - rakatirataka, which is discussed in the Mana Whenua chapter
 - kaitiakitaka, which is also discussed in the Mana Whenua chapter
 - mana whenua, which is a defined term, and
 - taoka tuku iho, which is not discussed or defined.
20. The terms “taoka” and “tikaka” are similarly discussed in the Mana Whenua chapter.
21. Many of the te reo terms used in the RPS are either defined or discussed conceptually through the context sections of the RPS. Kā Rūnaka have a strong preference that te reo terms are not merely translated, but that they are explained and discussed in the context of related mana whenua values. The meaning of te reo terms and concepts cannot always be adequately expressed through a simple English translation. For this reason, the interpretation section is not necessarily the best place to provide an understanding of te reo terms. The best way to do this may not be through a document at all, but rather through face-to-face discussion and ongoing relationships, to ensure terms and concepts are understood.
22. Given the term ‘taoka tuku iho’ does appear in the document several times, it may be worth discussing the concept in the Mana Whenua chapter. The same follows for the

⁶ 00120.010 Yellow-eyed Penguin Trust

⁷ 00226.031 Kāi Tahu Ki Otago

⁸ 00010.003 Cain Whanau

⁹ 00226.032 Kāi Tahu ki Otago

¹⁰ 00420.007 Hopkins, Jim

term “Kawa”. However, I do not have the expertise to propose wording. I would welcome input on this matter from mana whenua during the hearings process.

23. The concept of mātauraka is already discussed in RMIA-WAI-14. This could perhaps be repeated in the mana whenua chapter for clarity, but I do not consider a definition is appropriate, as discussed in relation to taoka tuku iho above, and do not have the expertise to propose wording. I would welcome input on this matter from mana whenua during the hearings process
24. Including the means by which the precepts of mātauraka may be assessed is not a definitional matter. It is not the business of the pORPS to assess the precepts of Māori knowledge. This is purely the domain of mana whenua. I recommend this aspect of Jim Hopkins submission be rejected.
25. The word “Kāi” in the definition of “Nohoaka or nohoanga” is spelled differently in the .pdf and ePlan versions of the pORPS. It is incorrect in the ePlan version, and this needs to be corrected. I recommend accepting this submission.
26. I am not convinced by Cain Whanau’s proposed additions to the definition of Papakāika. While acknowledging I am not an expert, the proposed changes do not accord with the concept as I have understood it through discussion with mana whenua. The extension into resources other than land, introducing subdivision, and use by people who are not mana whenua, as well as removing the qualification on commercial purposes seem to me to change the concept significantly from the notified definition. I would welcome further discussion of this concept at the hearing but at this point recommend rejecting this submission.
27. In contrast, the addition of “educational” proposed by Kāi Tahu ki Otago fits with the term as I understand it, and I acknowledge the submitter’s expertise in such matters. I recommend accepting this submission.
28. As it is a direct expression of a tikaka concept by mana whenua, I recommend accepting the definition of mahika kai proposed by Kāi Tahu ki Otago.
29. I recommend rejecting the remaining submissions, pending any further recommended wording being provided to explain the concepts of kawa, taoka tuku iho and mātauraka within the Mana Whenua chapter.

4.3.4. Recommendations

30. I recommend amending the definitions section to include a definition of mahika kai as follows:

“**Mahika kai** means gathering of food and natural materials by Kāi Tahu whānui in accordance with tikaka, the places where those resources are gathered, and the work, methods and cultural activities involved in obtaining them.”
31. As a consequential change, “mahika kai” will need to be italicised throughout the document since it is now a defined term.

32. Amend the definition of “Nohoaka or nohoanga” by replacing “Kai” with “Kāi” before “Tahu”, noting that this change is only required in the ePlan version.
33. Amend the definition of papakāika by adding “educational,” after “cultural, social,”.
34. I support including additional text regarding the concepts of kawa, mātauraka and taoka tuku iho in the Mana Whenua chapter. However, I consider this needs to be developed by mana whenua as they see appropriate.

4.4. General themes

4.4.1. Introduction

35. A range of general submissions were made on this chapter that covered a range of matters. This section addresses the submission points related to:
 - General submissions
 - Context and narrative sections
 - Environmental Management Perspectives and Values, and Resources of Significance to Kāi Tahu
 - Ngāi Tahu Claims Settlement Act 1998 and Māori Land Reserves
 - Local Authority Relationships and Involvement and Participation

4.4.2. General submissions

4.4.2.1. Submissions

36. Two submitters support the section as notified.¹¹ The SODR lists an additional submission from NZ Infrastructure Commission supporting this section, however this submission actually relates to cross boundary issues.¹²
37. The submissions of Te Rūnanga o Ngāi Tahu and Ngāi Tahu ki Murihiku note their blanket support for provisions they have not otherwise submitted on.¹³
38. Federated Farmers requests setting up a workstream between primary sector representatives and Kāi Tahu to develop understandings and practical ways to improve and ensure appropriate access over private property to, for example, mahika kai sites.¹⁴

4.4.2.2. Analysis

39. I recommend rejecting federated Farmers’ submission, although I consider the idea has merit. Federated Farmers request seems like a practical approach to access issues, however I consider that this is operational detail that does not belong in pORPS policy.

¹¹ 00212.003 Central Otago Heritage Trust; 00137.018 DOC

¹² 00321.010 New Zealand Infrastructure Commission

¹³ 00223.023 Ngāi Tahu ki Murihiku

¹⁴ 00239.015b Federated Farmers

Rather, it is a means by which the management frameworks established in the pORPS are implemented.

40. I consider this approach is provided for generally by MW-M6 – Incentives and education and more specifically by MW-M7 – Advocacy and facilitation. I also note that Federated Farmers is in a position to pursue such an arrangement without ORC’s intervention.

41. I recommend accepting in part all submissions supporting this section, in respect of those parts that remain as notified.

4.4.2.3. Recommendation

42. I do not recommend any amendments based on general submissions.

4.4.3. Context and Narrative Sections

4.4.3.1. Submissions

43. Federated Farmers requests deletion of the references to websites for Te Rūnanga o Moeraki, Kāti Huirapa ki Puketeraki, Te Rūnanga o Ōtakou, and Hokonui Rūnanga because it may create a need to update or amend as any external site may change.¹⁵

44. Kāi Tahu Ki Otago requests the following amendments:

“Kāi Tahu whānui are takata whenua of the Otago region...

[...] resource use and ahikāroa (the long burning fires of occupation). Te ~~Rūnaka~~
Rūnanga o Ngāi Tahu [...]

[...]

~~Four Three Papatipu Rūnaka~~ papatipu rūnaka are based in Otago[...] ~~Three Ngāi Tahu~~
~~ki Murihiku Rūnaka~~ Four further papatipu rūnaka

[...]”¹⁶

45. Ngāi Tahu ki Murihiku requests amendments along similar lines, in addition to requesting ORC to consider deleting footnote 8. Note that the original submission did not mark the addition of “have marae:

~~“Four Three~~ Kāi Tahu ki Otago Papatipu Rūnaka ~~are~~ have marae based in Otago,
~~These are~~ Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, and Te Rūnanga
o Ōtakou, ~~and whilst the fourth,~~ Hokonui Rūnanga, is based in neighbouring
Southland.”¹⁷

¹⁵ 00239.009 Federated Farmers of New Zealand

¹⁶ 00226.039 Kāi Tahu ki Otago

¹⁷ 00223.024 Ngāi Tahu ki Murihiku

4.4.3.2. Analysis

46. I recommend Federated Farmers submission be declined. I acknowledge the submitter's concern, though I note the National Planning Standards states, at paragraph 26 of Standard 6, that provisions in this section may include links to material outside a policy statement or plan.¹⁸ On the whole, I consider these web addresses are unlikely to change, and may be changed as a minor amendment if required. Meanwhile, they provide a link to more fulsome information about each rūnaka and their activities which is appropriate for this section of the pORPS and, crucially, is not material to the interpretation of pORPS provisions. Because the websites are contextual information as far as the pORPS is concerned, I am comfortable retaining the links.
47. Kāi Tahu Ki Otago and Ngāi Tahu ki Murihiku's submissions request corrections to the existing text, though they do it in slightly different ways. Ngāi Tahu ki Murihiku's proposed amendments provide greater detail, but do not address as many parts of the text. I recommend accepting Ngāi Tahu ki Murihiku's submission in full and accepting Kāi Tahu ki Otago's submission in part, leaving out the parts that overlap with Ngāi Tahu ki Murihiku's.
48. As part of accepting Ngāi Tahu ki Murihiku's submission, I agree that footnote 8 should be deleted. The papatipu rūnaka do not universally use the "k" in their names, making the note confusing.

4.4.3.3. Recommendation

49. I recommend amending the Context and Narrative Sections as follows:

Recognition of hapū and iwi

Kāi Tahu ⁸19

Kāi Tahu whānui²⁰ are *takata whenua* of the Otago region. Waitaha were the first people of Te Waipounamu, the South Island. Led by Rākaihautū, they explored and settled Te Waipounamu, and their exploits are reflected in enduring place names and histories across the motu. Waitaha were followed by the arrival of Kāti Māmoe and finally Kāi Tahu. Through warfare, intermarriage and political alliances a common allegiance to Kāi Tahu was forged. Kāi Tahu means the 'people of Tahu', linking them by name to their common ancestor Tahu Pōtiki.

The Kāi Tahu tribal area extends from the sub Antarctic islands in the south to Te Parinuiowhiti (White Cliffs, Blenheim) in the north and to Kahurangi Point on Te Tai o Poutini (the West Coast).

¹⁸ Ministry for the Environment. November 2019. *National Planning Standards*. Wellington: Ministry for the Environment. p30

⁸ In the south of the South Island, the local Māori dialect uses a 'k' interchangeably with 'ng'. The preference of Kāi Tahu ki Otago is to use a 'k' so southern Māori are known as Kāi Tahu, rather than Ngāi Tahu. In this document, the "ng" is used for the iwi in general, and the "k" for southern Māori in particular.

¹⁹ 00223.024 Ngāi Tahu ki Murihiku

²⁰ 00226.039 Kāi Tahu ki Otago

Relationship of Kāi Tahu with their rohe

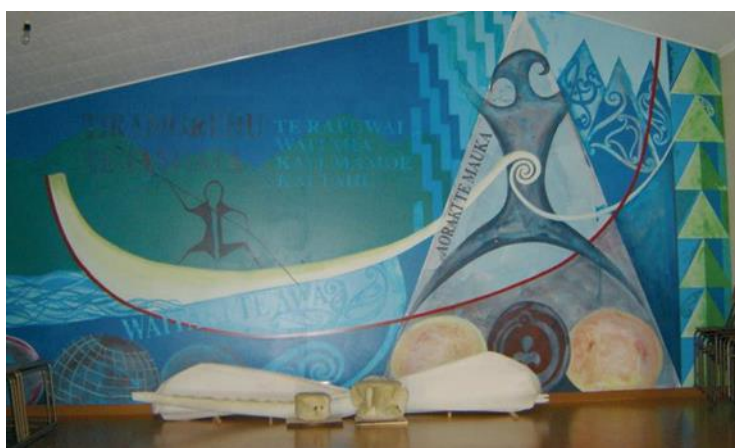
Te Rūnanga o Ngāi Tahu (the iwi authority) is made up of 18 Papatipu Rūnaka papatipu rūnaka²¹, of which seven have interests in the Otago region. Papatipu Rūnaka rūnaka²² are a focus for whānau and hapū (extended family groups) who have *mana whenua* status within their area. *Mana whenua* hold traditional customary authority and maintain contemporary relationships within an area determined by whakapapa (genealogical ties), resource use and ahikāroa (the long burning fires of occupation). Te Rūnanga Rūnanga²³ o Ngāi Tahu encourages consultation with the Papatipu Rūnaka papatipu rūnaka²⁴ and takes into account the views of kā Rūnaka when determining its own position.

~~Four-Three~~ Kāi Tahu ki Otago Papatipu Rūnaka papatipu rūnaka²⁵ are have marae based in Otago. ~~These are~~ Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, and Te Rūnanga o Ōtākou, ~~and whilst the fourth, Hokonui Rūnanga, is based in neighbouring Southland.~~²⁶ Three Ngāi Tahu ki Murihiku Rūnaka – Awarua Rūnanga, Waihopai Rūnanga and Ōraka-Aparima Rūnanga – are based in Southland but also share interests with Kāi Tahu ki Otago in South Otago, the Mata-au Clutha River, and the inland lakes and mountains. The areas of shared interest originate from the seasonal hunting and gathering economy that was a distinctive feature of the southern Kāi Tahu lifestyle. Seasonal mobility was an important means by which hapū and whānau maintained customary rights to the resources of the interior and ahi kā.

Te Rūnanga o Moeraki

The takiwā of Te Rūnanga o Moeraki is centred on Moeraki and extends from the Waitaki River to the Waihemo Shag River and inland to the Main Divide. The coastal interests of Te Rūnanga o Moeraki are concentrated in the Moeraki Peninsula area and surrounds, including Te Raka-a-Hineatea Pā, Koekohe Hampden Beach, and Te Kai Hinaki with its famed boulders.

<https://www.terunangaomoeraki.org/>



²¹ 00226.043 Kāi Tahu ki Otago

²² 00226.043 Kāi Tahu ki Otago

²³ 00226.039 Kāi Tahu ki Otago

²⁴ 00226.043 Kāi Tahu ki Otago

²⁵ 00226.043 Kāi Tahu ki Otago

²⁶ 00223.024 Ngāi Tahu ki Murihiku

Te Rūnanga o Moeraki Marae, Moeraki

Kāti Huirapa ki Puketeraki

The takiwā of Kāti Huirapa ki Puketeraki centres on Karitāne and extends from the Waihemo, Shag River to Purehurehu Heyward Point, and includes an interest in Ōtepoti and the greater ~~harbour~~ harbour²⁷ of Ōtākou. The takiwā extends inland to the Main Divide sharing an interest in the *lakes* and mountains to Whakatipu-Waitai with kā Rūnaka to the south. The kaimoana resources of the coast from Karitāne to Okahau Blueskin Bay and Pūrākaunui, and the kai awa of the ~~Waikouaiti~~ Waikōuaiti²⁸ River and estuary are treasured and well utilised ~~mahika kai~~ mahika kai²⁹ for Kāti Huirapa ki Puketeraki.

<http://www.puketeraki.nz/>



Puketeraki Marae

Te Rūnanga o Ōtākou

The takiwā of Te Rūnaka o Ōtākou centres on ~~Muaupoko~~ Muaupoko³⁰ Otago Peninsula, and extends from Purehurehu Heyward Point, to Te Mata-au Clutha River, and inland, sharing an interest in the *lakes* and mountains to the western coast with kā Rūnaka to the north and south. The Otago ~~Harbour~~ harbour³¹ has a pivotal role in the well-being of Ōtākou people. The ~~harbour~~ harbour³² is a source of identity, a bountiful provider of kaimoana, and it is the pathway to the fishing grounds beyond. Traditionally it was the mode for other hapū to visit, and in today's world it is the lifeline to the international trade that benefits the region. The ebb and flow of the ~~harbour~~ harbour³³ tides is a valued certainty in a world of change, a taoka to be treasured and protected for the benefit of current and future generations.

²⁷ 00120.007 Yellow-eyed Penguin Trust

²⁸ 00226.041 Kāi Tahu ki Otago

²⁹ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

³⁰ 00226.024 Kāi Tahu ki Otago

³¹ 00120.007 Yellow-eyed Penguin Trust

³² 00120.007 Yellow-eyed Penguin Trust

³³ 00120.007 Yellow-eyed Penguin Trust

<http://www.otakourunaka.co.nz/>



Ōtākou Marae, Otago Peninsula

Hokonui Rūnanga

The takiwā of Hokonui Rūnaka centres on the Hokonui region and includes a shared interest in the *lakes* and mountains between Whakatipu-Waitai and Tawhitarere with other Murihiku Rūnanga and those located from Waihemo southwards. Although Hokonui Rūnanga is based in Gore, their interests in the Otago area, especially South Otago, are significant. They hold this in common with other Otago Rūnaka through whakapapa, history and tradition.

<https://www.hokonuirunanga.org.nz/>



Hokonui Marae

Te Rūnanga o Awarua

The takiwa of Te Rūnanga o Awarua centres on Awarua and extends to the coasts and estuaries adjoining Waihopai sharing an interest in the *lakes* and mountains between Whakatipu-Waitai and Tawhitarere with other Murihiku Rūnanga and those located from Waihemo southwards.

Waihopai Rūnaka

The takiwa of Waihopai Rūnaka centres on Waihopai and extends northwards to Te Mata-au Clutha River, sharing an interest in the *lakes* and mountains to the western coast with other Murihiku Rūnaka and those located from Waihemo southwards.

Te Rūnanga o Ōraka Aparima

The takiwa of Te Rūnanga o Ōraka Aparima centres on Ōraka and extends from Waimatuku to Tawhititarere sharing an interest in the *lakes* and mountains from Whakatipu-Waitai to Tawhititarere with other Murihiku Rūnaka and those located from Waihemo southwards.

4.4.4. Environmental Management Perspectives and Values, and Resources of Significance to Kāi Tahu

4.4.4.1. Submissions

50. The New Zealand Infrastructure Commission supports the holistic approach encapsulated by the whakatauki and ki uta ki tai.³⁴

51. Te Rūnanga o Ngāi Tahu supports the section regarding resources of significance as notified.³⁵

52. Otago Rock Lobster requests amending the RPS to recognise Kai Tahu's fishing interests and rights beyond customary ones, encompassing commercial and recreational fishing.³⁶

53. Ngāi Tahu ki Murihiku seeks a grammatical correction to include a comma in final sentence of the first paragraph: "...and the Treaty principles, the ORPS ..." ³⁷. It also seeks amendments to the description of rakatirataka:

"Rakatirataka is about having the mana and authority ~~to give effect to that~~ enables Kāi Tahu cultural and traditions to be given effect to in the management of the natural world."³⁸

54. Kāi Tahu ki Otago makes a more fulsome submission that overlaps with both points raised by Ngāi Tahu ki Murihiku and covers a range of te reo usage corrections and refinements to expression of concepts. I have separated and slightly reordered the requested amendments under the RPS section subheadings below to aid with comprehension, and added in underlining where the submitter has neglected to do so to mark changes to the original text. Note that some transcription in the submission from the pORPS is incorrect, and I have not adjusted this:

- *Introductory text* (this has no subheading in the RPS)

³⁴ 00321.011 and 00321.012 New Zealand Infrastructure Commission

³⁵ 00234.004 Te Rūnanga o Ngāi Tahu

³⁶ 00125.013 Otago Rock Lobster

³⁷ 00223.025 Ngāi Tahu ki Murihiku

³⁸ 00223.026 Ngāi Tahu ki Murihiku

~~[...] In the spirit of this partnership and the~~ Under the articles and principles of Te Tiriti o Waitangi, Treaty principles the ORPS seeks to facilitate Kāi Tahu engagement in resource management processes and decision – making in Otago, as a Treaty partner.

[...]

- *Kāi Tahu values*

[...]

Kāi Tahu do not see their existence as separate from ~~Te Ao Tūroa~~ te ao tūroa, the natural world[...]. Whakapapa is central to ~~Te Ao~~ te ao Māori (a Māori worldview), [...]

[...]

[...] The nurturing of all taoka and protection of their mauri is a prime concern and a ~~kaitiaki~~ significant obligation for Kāi Tahu whānui as mana whenua and mana moana, and as an expression of rakatirataka.

[...]

~~[...] This political and operational authority over an area is undertaken by Kāi Tahu mana whenua and encompasses kaitiakitaka and rakatirataka as an expression of rakatirataka, mana whenua, and mana moana. The exercise of these powers in te taiao is through the action of kaitiakitaka. An integral element of recognising kaitiakitaka and Recognition of the rakatirataka and mana of Kāi Tahu as kaitiaki whenua can in part, be achieved by is the recognition that Kāi Tahu have their own traditional means of enabling Kāi Tahu to identify and exercise their preferred means of managing and maintaining resources and the environment te taiao [...]~~

The resources in any given area are a taoka; they are a source of prestige for mana whenua of that area and are a statement of their identity [...]

- *Rakatirataka*

~~Rakatirataka is about having~~ refers to the exercise of mana or authority to give effect to Kāi Tahu culture and traditions across all spheres in their takiwā, including the management of the natural world te taiao.

- *Kaitiakitaka*

~~Kaitiakitaka means~~ refers to the exercise of guardianship over natural and physical resources ~~and includes~~. It is an expression of rakatirataka and mana, and includes the ethic of stewardship [...]

[...] kaitiakitaka is not passive custodianship, nor is it simply the exercise of ~~traditional~~ customary property rights, but it entails an active exercise of responsibility and rakatirataka in a manner beneficial to the resource to ensure long-term sustainability of resources as taoka, and for the benefit to future generations – mō tātou, ā, mō kā uri a muri ake nei.

- *Taoka*

[...] Taoka are treasured resources that are highly valued by Kāi Tahu, derived from the atua (gods), linked to the people through whakapapa, and left by the tūpuna (ancestors) to provide for and sustain life.[...]

- *Mahika Kai*

[...] Maintaining mahika kai sites, gathering resources, and continuing to practice the tikaka that governs each resource, is an important means of maintaining and honouring whakapapa connections to land, taoka and tūpuna, and passing on cultural values and mātauraka to the next generation.

- *Air and atmosphere (kōhauhau)*

[...] Pollution in the air and atmosphere adversely affects and degrades the mauri of this taoka, of te taiao, and of other taoka such as plants and animals. Poor air quality damages and degrades ancestral lands, mahika kai sites, and other sites such as rock art, adversely affecting the mauri of the landscape and the mana of the people.

- *Coastal environment (taku tai moana me te wai māori)*

~~The tūpuna of Kāi Tahu were great ocean travellers. Like many other Pacific peoples, Kāi Tahu are connected by whakapapa to those people who spread across Te – Moana – Nui – a – Kiwa, the Pacific Ocean. Takaroa is the atua who is central to these beliefs, which influence the way Kāi Tahu relate to and manage marine resources, associated with the oceans and seas, and their ecosystems. The marine environment is a moving force, a reminder of the power of Takaroa. As one of the children of Rakinui and Papatūānuku, Kāi Tahu are connected to Takaroa by whakapapa, affording rights and responsibilities in relation to te takutai moana.~~

The tūpuna of Kāi Tahu were great ocean travelers, having navigated by waka across Te Moana – nui – a – Kiwa, the Pacific Ocean for generations before settling in Te Wai Pounamu. Knowledge and practices brought with these were adapted to meet the challenges and opportunities of the new environment. Over time, Kāi Tahu whānui developed the tikaka and mātauraka of takutai moana and mahika kaimoana that is used today. [...]³⁹

4.4.4.2. Analysis

55. I note that Te Rūnanga o Ngai Tahu's further submission supports Otago Rock Lobster's submission described above.⁴⁰ However, I share the concern voiced in that further submission that the purpose of the amendment requires further consideration. Otago Rock Lobster's submission does not provide wording for inclusion. It is not clear to me that this section needs to be concerned with commercial and recreational interests. Insofar as they relate to customary rights and practices, the section already deals with

³⁹ 00226.040 Kāi Tahu ki Otago

⁴⁰ FS00234 Te Rūnanga o Ngai Tahu

these. Where they do not relate to those rights and practices, other relevant provisions are sufficient. I recommend declining this submission, but I am open to revising my opinion in response to evidence produced during the hearing.

56. Kāi Tahu ki Otago's submission on the introductory text would render Ngāi Tahu ki Murihiku's proposed grammatical correction to that part obsolete.
57. However, I do not think the rewording in Kāi Tahu ki Otago's submission results in an accurate statement. ORC and the RPS do not operate under the articles of Te Tiriti o Waitangi. The principles apply via the RMA and the Local Government Act 2002. I consider the wording is appropriate as it stands.
58. The addition of "processes and decision making" is consistent with the principle of partnership. However, not accepting the changes to the earlier parts of the paragraph makes the words "as a treaty partner" superfluous.
59. Accordingly, I recommend accepting Ngāi Tahu ki Murihiku's submission and accepting the addition of "processes and decision making" from Kāi Tahu ki Otago's submission.
60. Kāi Tahu Ki Otago and Kāi Tahu ki Murihiku also present submissions on the "Rakatirataka" section. Both are expressions of a mana whenua perspective and appropriate to include, but they are not consistent. In this case, I recommend rejecting Ngāi Tahu ki Murihiku's submission and accepting this part of Kāi Tahu ki Otago's submission, as the more detailed.
61. The remainder of Kāi Tahu Ki Otago's submission is an expressions of a mana whenua perspective. I recommend accepting the remainder of the submission, with the addition of some minor changes for clarity. In the "Coastal environment (taku tai moana me te wai māori)" section, I recommend a minor correction to submission's spelling for the word "travellers" and replacing the word "these" with "the tūpuna" in the sentence "Knowledge and practices brought with these were adapted to meet the challenges and opportunities of the new environment."
62. I therefore recommend accepting Kāi Tahu ki Otago's submission in part, as described above.
63. I recommend accepting in part submissions in support.

4.4.4.3. [Recommendation](#)

64. I recommend amending the Environmental Management Perspectives and Values, and Resource of significance to Kāi Tahu as follows:

Environmental management perspectives and values of Kāi Tahu

He taura whiri kotahi mai anō te kōpunga tai nō i te pū au

"From the source to the mouth of the sea, all things are joined together as one"

Te Tiriti o Waitangi establishes a partnership between Kāi Tahu and the Crown. The RMA ~~1991~~⁴¹ requires that the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taoka, is ~~recognized~~ recognised⁴² and provided for and that the principles of the Treaty of Waitangi are taken into account. In the spirit of this partnership and the Treaty principles,⁴³ the ORPS seeks to facilitate Kāi Tahu engagement in resource management processes and decision-making⁴⁴ in Otago.

This chapter acknowledges the principles of Te Tiriti o Waitangi and sets out general considerations for the incorporation of Kāi Tahu values and interests into resource management planning, consenting, and implementation processes. These are integrated throughout this document, and this chapter serves to tie the strands together. It reflects the philosophy embraced by Kāi Tahu of holistic resource management, ki uta ki tai – often described as “from the mountains to the sea”.

Kāi Tahu values

The following description is a guide to assist in understanding Kāi Tahu values. It is not a complete list of all the values held by Kāi Tahu.

Kāi Tahu do not see their existence as separate from ~~Te Ao Tūroa~~ te ao tūroa,⁴⁵ the natural world, but as an integral part of it through whakapapa (genealogy). Whakapapa is central to ~~Te Ao~~ te ao Māori (a Māori world view),⁴⁶ connecting the origins of everything, past and present. It is the foundation upon which all things are built, the web that connects all things together, the anchor which holds all things in place and the means by which all things link back to the beginning of time. It is through whakapapa that all things are intricately linked, as well as having their individual place in the world. Whakapapa binds Kāi Tahu to the mountains, forests and waters and the life supported by them, and this is reflected in attitudes towards the natural world and resource management.

Whakawhanaukataka, the process of maintaining relationships, embraces whakapapa through the relationship between people, and between people and the *environment*. The nature of these relationships defines people's rights and responsibilities in relation to the use and management of resources.

All things have the qualities of wairua (spiritual dimension) and mauri (life force),⁴⁷ and have a genealogical relationship with each other. Mauri is found in all things organic and inorganic. The nurturing of all taoka and protection of their mauri is a prime concern and a ~~kaitiaki~~ significant obligation for Kāi Tahu whānui as mana whenua and mana moana, and as an expression of rakatirataka.⁴⁸

Each ~~Papatipu Rūnaka~~ papatipu rūnaka⁴⁹ has its own takiwā determined by whakapapa and its ahi-kā-roa (historical use and occupation). Takiwā are often defined by natural boundaries

⁴¹ Clause 16(2), Schedule 1, RMA

⁴² Clause 16(2), Schedule 1, RMA

⁴³ 00223.025 Ngāi Tahu ki Murihiku

⁴⁴ 00226.040 Kāi Tahu ki Otago

⁴⁵ 00226.040 Kāi Tahu ki Otago

⁴⁶ 00226.040 Kāi Tahu ki Otago

⁴⁷ Clause 16(2), Schedule 1, RMA

⁴⁸ 00226.040 Kāi Tahu ki Otago

⁴⁹ 00226.043 Kāi Tahu ki Otago

such as heads, mountain ranges and rivers. ~~This political~~ Political and operational authority over an area is undertaken by ~~mana whenua and encompasses kaitiakitaka and rakatirataka~~ Kāi Tahu as an expression of rakatirataka, mana whenua, and mana moana. The exercise of these powers in te taiao is through the action of kaitiakitaka.⁵⁰ ~~An integral element of the concepts of kaitiakitaka and rakatirataka is the recognition that Kāi Tahu have their own traditional~~ Recognition of the rakatirataka and mana of Kāi Tahu as kaitiaki whenua can in part, be achieved by enabling Kāi Tahu to identify and exercise their preferred means of managing and maintaining resources and the environment (te taiao).⁵¹ This system of rights and responsibilities (encompassing tikaka and kawa) is inherited from previous generations and has evolved over time.

The resources in any given area are a taoka; they are a⁵² source of prestige for *mana whenua* of that area and are a statement of their identity. Traditionally, the abundance or lack of resources directly determines the welfare of every hapū, and so affects their mana.

Ki uta ki tai

Ki uta ki tai is a philosophy that has become synonymous with the way Kāi Tahu think about natural resource management. Ki uta ki tai is the concept used to describe holistic natural resource management, recognising all environmental elements are interconnected and must be managed as a whole. It is a way of understanding the natural environment, including how it functions, how people relate to it and how it can be looked after appropriately.

Rakatirataka

~~Rakatirataka is about having~~ refers to the exercise of mana or authority to give effect to Kāi Tahu culture and traditions across all spheres in their takiwā, including in the management of the natural world te taiao.⁵³ Recognition of the relationship of Kāi Tahu and their culture and traditions with their ancestral lands, *water*, sites, wāhi tapu, and other taoka ~~are~~ is⁵⁴ embedded in the RMA-1991⁵⁵ and the Treaty of Waitangi.

Kaitiakitaka

~~Kaitiakitaka means~~ refers to the exercise of guardianship over natural and physical resources. It is an expression of rakatirataka and mana,⁵⁶ and includes the ethic of stewardship. This statutory definition of *kaitiakitaka* is only a starting point for Kāi Tahu, as *kaitiakitaka* is a much wider cultural concept than guardianship.

Kaitiakitaka is fundamental to the relationship between Kāi Tahu and the *environment*. The objectives of *kaitiakitaka* are to protect the mauri and life supporting capacity of the *environment* and to pass the *environment* on to future generations in an enhanced state. For Kāi Tahu, *kaitiakitaka* is not passive custodianship, nor is it simply the exercise of ~~traditional~~ customary property rights, but it entails an active exercise of responsibility ~~in~~

⁵⁰ 00226.040 Kāi Tahu ki Otago

⁵¹ 00226.040 Kāi Tahu ki Otago

⁵² 00226.040 Kāi Tahu ki Otago

⁵³ 00226.040 Kāi Tahu ki Otago

⁵⁴ Clause 16(2), Schedule 1, RMA

⁵⁵ Clause 16(2), Schedule 1, RMA

⁵⁶ 00226.040 Kāi Tahu ki Otago

a manner beneficial to the resource and rakatirataka to ensure long-term sustainability of resources as taoka, and for the benefit to future generations – mō tātou, ā, mō kā uri a muri ake nei.⁵⁷

Tikaka

Tikaka Māori encompasses the beliefs, values, practices, and procedures that guide appropriate codes of conduct, or ways of behaving. In the context of natural resource management, observing tikaka is part of the ethic and exercise of *kaitiakitaka*. It is underpinned by a body of mātauraka (traditional knowledge) and is based on a general understanding that people belong to the land and have a responsibility to care for and manage the land. It incorporates forms of social control to manage the relationship of people and the *environment*, including concepts such as tapu, noa and rāhui.

Tikaka is based on traditional practices but is dynamic and continues to evolve in response to different situations.

Taoka

All natural resources - air, *land*, *water*, and indigenous *biological diversity* - are taoka. Taoka are treasured resources that are highly valued by Kāi Tahu, derived from the atua (gods), linked to the people through whakapapa, and left by the tūpuna (ancestors) to provide for and sustain life.⁵⁸ In the management of natural resources, it is important that the habitats and wider needs of taoka species are sustainably managed and enhanced.

~~Mahika kai~~ Mahika kai⁵⁹

~~Mahika kai~~ Mahika kai⁶⁰ is one of the cornerstones of Kāi Tahu cultural identity. ~~Mahika kai~~ Mahika kai⁶¹ is a term that literally means "food workings" and refers to the customary gathering of food and natural materials and the places where those resources are gathered or produced. The term also embodies the traditions, customs and collection methods, and the gathering of natural resources for cultural use, including raraka (weaving) and rokoā (traditional medicines). Maintaining ~~mahika kai~~ mahika kai⁶² sites, gathering resources, and continuing to practice the tikaka that governs each resource, is an important means of maintaining and honouring whakapapa connections to land, taoka and tūpuna, and passing on cultural values and mātauraka to the next generation.⁶³

Resources of significance to Kāi Tahu

~~Wai Maori~~ Wai Māori⁶⁴

Like all things, *water* has a whakapapa. All *water* is seen to have originated from the separation of Rakinui and Papatūānuku and their continuing tears for one another. Rain

⁵⁷ 00226.040 Kāi Tahu ki Otago

⁵⁸ 00226.040 Kāi Tahu ki Otago

⁵⁹ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

⁶⁰ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

⁶¹ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

⁶² Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

⁶³ 00226.040 Kāi Tahu ki Otago

⁶⁴ Clause 16(2), Schedule 1, RMA

is Rakinui's tears for his beloved Papatūānuku and mist is regarded as Papatūānuku's tears for Rakinui.

From Rakinui and Papatūānuku came the offspring who were responsible for creating the elements that constitute our total world today, both animate and inanimate - the mountains, *rivers*, forests and seas, and all fish, bird and animal life. The realm of atua such as Rakinui and his many wives and offspring overarches and informs the Kāi Tahu whānui world view, values and beliefs.

Water plays a significant role in Kāi Tahu spiritual beliefs and cultural traditions. Kāi Tahu have an obligation through whakapapa to protect wai and all the life it supports, as *ko te wai te ora o kā mea katoa (water is the life giver of all things)*. The condition of *water* is seen as a reflection of the condition of the people. *Toitū te Marae o Tane, toitū te Marae o Takaroa, toitū te Iwi (Protect and strengthen the realms of the land and sea, and they will protect and strengthen the people)*. When the natural environment is strong and healthy, the people are strong and healthy and so too is their mana.

Taoka species and habitats

Taoka species and habitats are those that are treasured by Kāi Tahu, and Kāi Tahu regard all indigenous species as taoka. In many cases taoka species are also ~~maḥika kai~~ *maḥika kai*⁶⁵, treasured for their use as a resource. The ~~Ngāi Tahu Claims Settlement Act 1998 (NTCSA 1998)~~ NTCSA⁶⁶ recognises the relationship Kāi Tahu has with some of these species through the Statutory Acknowledgement for Taonga Species. However, Kāi Tahu do not consider this list to be comprehensive as important taoka species such as tuna are not included.

Wāhi tūpuna

The value Kāi Tahu attached to land is evident from the fact that every part of the landscape is known and named. *Wāhi tūpuna* (ancestral landscapes) are made up of interconnected sites and areas reflecting the history and traditions associated with the long settlement of Kāi Tahu in Otago. The landscape of Otago includes many *wāhi tūpuna* and areas of significance, reflecting the relationship of Kāi Tahu with the land across the region. These places should not be seen in isolation from one another but are part of a wider cultural setting. For example, an archaeological site adjacent to a *wetland* is likely to be associated with ~~maḥika kai~~ *maḥika kai*⁶⁷ resources in the *wetland*. The character of *wāhi tūpuna* in past times is retained in tribal memory, for example through songs, place names and proverbs. When these references to the character of the *wāhi tūpuna* become incorrect due to modification of the *environment*, it negatively affects the Kāi Tahu relationship with that landscape. For example, a waterway named Kaituna would be expected to contain many tuna. A waterway with this name used to exist in central Dunedin, but no longer exists because there is now a city where the waterway once was.

Air and atmosphere (kōhauhau)

⁶⁵ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

⁶⁶ Clause 16(2), Schedule 1, RMA

⁶⁷ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

In Kāi Tahu traditions, air and atmosphere emerged through the creation traditions and the movement from Te Kore through Te Pō to Te Ao Marama. Following the separation of Raki and Papatūānuku, one of their many children, Tāwhirimātea, fled with Raki into the sky. From there he controls the wind and weather. The air and atmosphere are integral parts of the *environment* that must be valued, used with respect, and passed on intact to the next generation. Pollution of the air and atmosphere adversely affects and degrades the mauri of this taoka, of te taiao, and of other taoka such as plants and animals. Poor air quality damages and degrades ancestral lands, mahika kai sites, and other sites such as rock art, adversely affecting the mauri of the landscape and the mana of the people.⁶⁸

Coastal environment (taku tai moana me te wai māori)

~~The tūpuna of Kāi Tahu were great ocean travellers. Like many other Pacific peoples, Kāi Tahu are connected by whakapapa to those people who spread across Te — Moana — Nui — a — Kiwa, the Pacific Ocean. Takaroa is the atua who is central to these beliefs, which influence the way Kāi Tahu relate to and manage marine resources, associated with the oceans and seas, and their ecosystems. The marine environment is a moving force, a reminder of the power of Takaroa. As one of the children of Rakinui and Papatūānuku, Kāi Tahu are connected to Takaroa by whakapapa, affording rights and responsibilities in relation to te takutai moana.~~

The tūpuna of Kāi Tahu were great ocean travellers, having navigated by waka across Te Moana — nui — a — Kiwa, the Pacific Ocean for generations before settling in Te Wai Pounamu. Knowledge and practices brought with the tūpuna were adapted to meet the challenges and opportunities of the new environment. Over time, Kāi Tahu whānui developed the tikaka and mātauraka of takutai moana and mahika kaimoana that is used today.⁶⁹

The coastal environment is particularly significant for Kāi Tahu in the southern South Island. Most of the permanent settlements were established on the coast due, in part, to the moderating influence of the sea on temperature, making the winters less bitter. The coast also had a bounty of kaimoana resources to support coastal settlements.

The *coastal waters* and processes were integral to the way of life tūpuna enjoyed, and the coastal environment continues to support significant ~~mahika kai~~ *mahika kai*⁷⁰ resources. The *coastal waters* are a *receiving environment* for fresh water, gravels and sediment from the terrestrial landscape, which are important to maintaining natural processes and the domain of Takaroa. Recognising the interconnection of the *land* and sea environments is consistent with the ki uta ki tai philosophy.

Pounamu

Kāi Tahu customs are intricately linked to this special taoka. The practice of gathering, using and trading pounamu bind Kāi Tahu identity to the landscape. Pounamu conveys

⁶⁸ 00226.040 Kāi Tahu ki Otago

⁶⁹ 00226.040 Kāi Tahu ki Otago

⁷⁰ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

mana and mauri from ages past, and is reflected in its exalted whakapapa lineage, an uri (descendant) of Takaroa.

As an interim measure, until a Regional Pounamu Management Plan is developed for Otago and Murihiku, a rāhui pounamu has been in place in the Otago region since the passing of the Ngāi Tahu (Pounamu Vesting) Act 1997. This is subject to review by the collective Kaitiaki Rūnaka who will determine appropriate protection, access and use policies applicable to their membership and Ngāi Tahu whānui.

4.4.5. Ngāi Tahu Claims Settlement Act 1998 and Māori Land reserves

4.4.5.1. Submissions

65. Kāi Tahu ki Otago requests that the spelling throughout the section be amended as follows:

- ~~Waipori~~ Waipōuri
- ~~Taieri~~ Taiari
- ~~Wakatipu~~ Whakatipu – wai – māori
- ~~Waikouaiti~~ Waikōuaiti
- ~~Otakou~~ Ōtākou
- ~~Purakaunui~~ Pūrākaunui
- ~~Karitane~~ Karitāne
- ~~urupa~~ urupā⁷¹

66. In a separate submission point, Kāi Tahu ki Otago also requests including the map of Native Reserves from the Partially Operative Regional Policy Statement 2019 and cross-referencing this to Table 1 in the Mana Whenua chapter.⁷²

67. Te Rūnanga o Ngāi Tahu's submission requests amendments to the list of Nohoaka and Native reserves:

“Nohoaka:

- Waitaki River (~~two sites~~)
- Waianakarua River
- Taieri River (three sites)
- Lake Hāwea (three sites)
- Hāwea River
- Lake Wānaka (two sites)
- Lake Wakatipu
- Shotover River (two sites)
- Mata-au Clutha River (four sites)”

68. The requested amendment to the list of Native Reserves is:

⁷¹ 00226.041 Kāi Tahu ki Otago

⁷² 00226.329 Kāi Tahu ki Otago

“Hāwea and Wānaka (Wanaka Plantation Reserve), known as Sticky Forest
SILNA”⁷³

69. Cain Whānau seeks an amendment to the list of Māori Land Reserves to include land to be returned to landowners under ancillary claim provisions.⁷⁴

4.4.5.2. Analysis

70. Kāi Tahu ki Otago’s submission provides correct spelling of te reo placenames. This is supported by the pORPS. I recommend accepting this submission in part because the changes will not make sense in some places (for instance, where a water body is identified by both names, e.g.: “Whakatipu Wai Māori (Lake Wakatipu)”. I note that Whakatipu Wai Māori replaces the whole name “Lake Wakatipu” rather than just “Wakatipu”.
71. Introducing a map of native reserves would be helpful. I recommend this submission be accepted. However, I do not consider that the map in the Partially Operative RPS is sufficient, because it does not identify actual areas, only points on a map. Further work will need to be done to ensure the map can be incorporated into the ePlan version of the pORPS. The map in the Partially Operative RPS was supplied by Te Rūnanga o Ngāi Tahu, so I recommend Kāi Tahu ki Otago liaise with that party to review the map to ensure it captures the required values, and provide a version for use in the RPS capable of being incorporated into the ePlan mapping software when they give evidence during the hearing.
72. Te Rūnanga o Ngāi Tahu’s submission seeks to provides corrections to the descriptions of Nohoaka, and an additional native reserve. However, the changes to the Nohoaka list seem to be in error. The submission seeks that “(two sites)” is removed in reference to the Waitaki River. However, schedule 95 of the Ngāi Tahu Claims Settlement Act 1998 does list two sites: Ferry Road and Waitaki River Mouth. Given this, I am hesitant to make this amendment, and recommend the changes to the Nohoaka list be accepted in part, pending further information being brought forth during the hearing. The submission also marks “(Four sites)” as an addition to the entry for the Mata-au Clutha River; this text already exists in the notified pORPS. I recommend the requested amendments to the Nohoaka list be rejected.
73. The requested amendment to the list of native reserves is not presented with the same accompanying information as the rest of the list in Table 1. I support inclusion of this information and suggest the following wording:

<u>Hāwea-Wānaka block (Wanaka Plantation Reserve).</u>	<u>Known as Sticky Forest, 50.7 hectares of land granted by agreement between the Crown and Te Rūnanga o Ngāi Tahu (Te Rūnanga) to be made available for the successors or current living relatives of the original grantees of land at Manuhaea or “The Neck”, which was allocated</u>	<u>South Island Landless Natives Act</u>
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⁷³ 00234.005 Te Rūnanga o Ngāi Tahu

⁷⁴ 00010.002 Cain whānau

	<u>under the South Island Landless Natives Act but not transferred before SILNA was repealed.</u>	
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74. Regarding Cain Whānau’s submission, I support such an inclusion, however I am not an expert in the claims settled under the NTCSA and the ancillary claims section seems to involve some complexity. It is difficult to know what should be reflected in the pORPS without proposed wording or significant additional time to gain a proper understanding of what needs to be included. I invite Cain Whānau to provide further detail and discussion of this inclusion at the hearing.

4.4.5.3. Recommendation

75. I recommend amending the Ngāi Tahu Claims Settlement Act 1998 and Māori Land Reserves sections as follows:

Ngāi Tahu Claims Settlement Act 1998 (NTCSA-1998⁷⁵)

The NTCSA-1998⁷⁶ was enacted to settle historical Ngāi Tahu claims against the Crown. The NTCSA-1998⁷⁷ provides redress for breaches of Te Tiriti o Waitangi and to signal a new age of co-operation of the Crown and its agencies with Kāi Tahu. The Crown apology recorded in section 4 of the NTCSA-1998⁷⁸ explicitly recognises the rakatirataka of Kāi Tahu within its takiwā, and the Act NTCSA⁷⁹ includes specific provisions that provide for exercise of rakatirataka and *kaitiakitaka* by *mana whenua* in respect to ~~mahika-kai~~ *mahika kai*⁸⁰, taoka species and other resource management matters. These include rights in relation to the management of specified significant areas (statutory acknowledgement areas, tōpuni and *nohoaka*) and customary fisheries.

Statutory acknowledgement areas

Statutory acknowledgements are recorded in the NTCSA-1998⁸¹ for several *water bodies*, mountains and coastal features in the Otago Region. These acknowledgements are statements by Te Rūnanga o Ngāi Tahu of the particular cultural, spiritual, historic and traditional association of Kāi Tahu with these areas.

Part 12 of the NTCSA-1998⁸² provides details of statutory acknowledgements, and the responsibilities relating to them. Section 208 of the NTCSA-1998⁸³ requires that *local authorities* have regard to these statutory acknowledgements in *resource consent* processing under Section 95 of the RMA in deciding whether Te Rūnanga o Ngāi Tahu

⁷⁵ Clause 16(2), Schedule 1, RMA

⁷⁶ Clause 16(2), Schedule 1, RMA

⁷⁷ Clause 16(2), Schedule 1, RMA

⁷⁸ Clause 16(2), Schedule 1, RMA

⁷⁹ Clause 16(2), Schedule 1, RMA

⁸⁰ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

⁸¹ Clause 16(2), Schedule 1, RMA

⁸² Clause 16(2), Schedule 1, RMA

⁸³ Clause 16(2), Schedule 1, RMA

may be adversely affected by the granting of a *resource consent* for activities within, adjacent to or impacting directly on the area.

Statutory acknowledgements were intended as a measure to improve opportunities for *mana whenua* engagement in resource management processes, pending broader provision for areas of significance to Kāi Tahu being incorporated into resource management plans in order to protect and restore associated rights, interests and values. The statutory acknowledgements are *wāhi tūpuna*, but *wāhi tūpuna* are not confined to these areas.

The following statutory acknowledgement areas in Otago are recognised in the NTCSA ~~1998~~⁸⁴, and their values are described in Schedules to that Act:

- Ka Moana Haehae (Lake Roxburgh) - Schedule 22
- Kakaunui River - Schedule 23
- Kuramea (Lake Catlins) - Schedule 28
- Lake Hāwea - Schedule 30
- Lake Wānaka - Schedule 36
- Mata-Au (Clutha River) - Schedule 40
- Matakaea (Shag Point) - Schedule 41
- Pikirakatahi (Mount Earnslaw) - Schedule 51
- Pomahaka River - Schedule 52
- Te Tauraka Poti (Merton Tidal Arm) - Schedule 60
- Te Wairere (Lake Dunstan) - Schedule 61
- Tititea (Mount Aspiring) - Schedule 62
- Tokatā (The Nuggets) - Schedule 64
- Waiholo/~~Waipori~~ Waipōuri⁸⁵ Wetland - Schedule 70
- Waitaki River – Schedule 72 ¹¹
- Whakatipu Wai Māori (Lake Wakatipu) - Schedule 75
- Te Tai O Arai Te Uru (Otago Coastal Marine Area) - Schedule 103.

Tōpuni

The concept of tōpuni derives from the traditional Kāi Tahu custom of persons of rakatira status extending their mana and protection over a person or area by placing their cloak over them or it. A number of areas on public conservation land that have significant values to Kāi Tahu because of their cultural, spiritual, historic and traditional associations are recognised in the NTCSA ~~1998~~⁸⁶ as tōpuni. Sections 240 to 246 of the NTCSA ~~1998~~⁸⁷ provide for Kāi Tahu consultation on management of these areas, to protect their values. Although the specific provisions in the NTCSA ~~1998~~⁸⁸ relate only to management of conservation land, the interests of Kāi Tahu should be recognised and provided for when

⁸⁴ Clause 16(2), Schedule 1, RMA

⁸⁵ 00226.041 Kāi Tahu ki Otago

¹¹The Waitaki River lies within both the Otago and Canterbury regions.

⁸⁶ Clause 16(2), Schedule 1, RMA

⁸⁷ Clause 16(2), Schedule 1, RMA

⁸⁸ Clause 16(2), Schedule 1, RMA

considering activities in nearby areas that may impact on the values of tōpuni or *waters* flowing from them.

Tōpuni recognised in Otago are:

- Matakaea (Shag Point) – Schedule 83
- Maukaatua Scenic Reserve – Schedule 84
- Pikirakatahi (Mount Earnslaw) – Schedule 87
- Te Koroka (Dart/Slipstream) – Schedule 91
- Tititea (Mount Aspiring) – Schedule 92.

Nohoaka

Nohoanga (or *nohoaka*) entitlements provide a right of seasonal occupation and use for Kāi Tahu whānui on specified areas of Crown-owned land near *water bodies* for harvest of natural resources (sections 255 to 268 of the NTCSA-1998⁸⁹). These rights are intended as partial redress for the loss of ~~māhika kai~~ *māhika kai*⁹⁰ through alienation of land.

Kāi Tahu interests in these areas should be recognised and provided for when considering management of associated *water bodies* or activities on nearby land. The ability of Kāi Tahu whānui to access and use *nohoaka* as intended is reliant upon protection and restoration of ~~māhika kai~~ *māhika kai*⁹¹ values associated with them.

Nohoaka entitlements are listed in Schedule 95 of the NTCSA-1998⁹². In Otago, sites are identified adjacent to the following *water bodies*:

- Waitaki River (two sites)
- Waianakarua River
- ~~Taieri~~ *Taieri*⁹³ River (three sites)
- Lake Hāwea (three sites)
- Hāwea River
- Lake Wānaka (two sites)
- ~~Lake Wakatipu~~ *Whakatipu Wai Māori*⁹⁴
- Shotover River (two sites)
- Mata-au Clutha River (four sites).⁹⁵

Customary fisheries

Sections 297 to 311 of the NTCSA-1998⁹⁶ include provisions recognising Kāi Tahu rights and interests in customary fisheries, and provide for involvement in management of these resources through the Conservation Act 1987 and the Fisheries Acts 1983 and 1996.

⁸⁹ Clause 16(2), Schedule 1, RMA

⁹⁰ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

⁹¹ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

⁹² Clause 16(2), Schedule 1, RMA

⁹³ 00234.005 Te Rūnanga o Ngāi Tahu

⁹⁴ 00226.041 Kāi Tahu ki Otago

⁹⁵ 00234.005 Te Rūnanga o Ngāi Tahu

⁹⁶ Clause 16(2), Schedule 1, RMA

The interests of Kāi Tahu should be recognised and provided for when considering activities under the RMA⁹⁷ that may impact on customary fisheries, to enable protection and restoration of fisheries habitat. Mātaitai and taiāpure are mechanisms under the Fisheries Act that provide for management of customary fisheries areas and are applicable to both coastal and *freshwater* fisheries environments.

The East Otago Taiāpure is constituted by the Fisheries (East Otago Taiāpure) Order 1999. It includes the estuarine and inshore marine waters between Cornish Head and Potato Point.

There are also four mātaitai in Otago:

- Moeraki Mātaitai Reserve includes areas of *coastal waters* at Moeraki and Katiki (<https://www.mpi.govt.nz/dmsdocument/15220-Moeraki-North-Otago-Mataitai-Reserve>)
- ~~Waikouaiti~~ Waikōuaiti⁹⁸ Mātaitai Reserve includes *freshwater* and estuarine waters of the ~~Waikouaiti~~ Waikōuaiti⁹⁹ River (<https://www.mpi.govt.nz/dmsdocument/12954-Waikouaiti-South-Canterbury-Mataitai-Reserve->)
- Ōtākou Mātaitai Reserve includes most of the Otago ~~Harbour~~ Harbour¹⁰⁰ north of a line from Harwood to Pulling Point (<https://www.mpi.govt.nz/dmsdocument/14077-Otakou-mataitai-reserve>)
- Puna-wai-Tōriki (Hays Gap) Mātaitai Reserve includes an area of *coastal waters* north of Nugget Point (<https://www.mpi.govt.nz/dmsdocument/15223-Puna-wai-Toriki-Hays-Gap-South-Otago-Mataitai-Reserve>)

Māori land reserves

A Native Reserve is any property or site that is a:

- Native Reserve excluded from the Ōtākou Land Purchases (1844)
- Native Reserve excluded from the Kemps Land Purchases (1848)
- Reserve granted by the Native Land Court (1868)
- Half Caste Reserve (1881)
- Landless Native Reserve (1896)
- Other reserve (1890 and 1900)

A number of Māori reserves exist that were excluded from the land sales of the 1840s. These reserves are steeped in history and association and are places of belonging. Remaining reserves are located at Moeraki, ~~Waikouaiti~~ Waikōuaiti,¹⁰¹ Ōtākou, Onumia, Taieri Mouth, and Te Karoro, Kaka Point. Other categories of Māori land exist at ~~Koputai~~

⁹⁷ Clause 16(2), Schedule 1, RMA

⁹⁸ 00226.041 Kāi Tahu ki Otago

⁹⁹ 00226.041 Kāi Tahu ki Otago

¹⁰⁰ 00120.007 Yellow-eyed Penguin Trust

¹⁰¹ 00226.024 Kāi Tahu ki Otago

Kōpūtai,¹⁰² Port Chalmers, and Ōtepoti, Dunedin, where tauraka waka, landing sites, were recognised. In addition, land was held at Manuhaea, Lake Hāwea, Aramoana, Clarendon, Taieri Mouth, Tautuku-Waikawa and Glenomaru amongst others. Landing reserves were allocated at Matainaka, ~~Waikouaiti~~ Waikōuaiti,¹⁰³ and the former Lake Tatawai on the Taieri Plains.

The following table lists the reserves in Otago. Many of the sections within these Native Reserves now have the status of general land. While some of this general land is still in Māori ownership, many of the general titled sections have been sold to non-Māori or taken under various pieces of legislation such as the Public Works Act 1981. Although these sections are no longer in whānau ownership, descendants of the original owners retain an ancestral relationship with these lands.

Table 1: Native reserves located within the Otago region

Location	Comments	Reserve Type
Tautuku	Southern block of Tautuku sections	South Island Landless Natives Act
	Northern sections are Reserved lands	Native Reserve
Glenomaru	Located south of Kaka Point	South Island Landless Natives Act
Maranuku	Granted in 1844 as part of the Otakou <u>Ōtākou</u> ¹⁰⁴ Purchase. Originally called Te Karoro, split into two reserves	Native Reserve
Clarendon	Located inland from Taieri Mouth	Clarendon Half Caste Reserve
Taieri <u>Taiari</u> ¹⁰⁵	Granted in 1844 as part of the Otakou <u>Ōtākou</u> ¹⁰⁶ Purchase Deed. Split into three reserves; A, B and C	Native Reserve
Lake Tatawai	Located on the Taieri <u>Taiari</u> ¹⁰⁷ Plain, south of the ¹⁰⁸ Dunedin	Native Reserve
Lake Tatawai	Lake that is now drained	Landing Reserve
Otago Heads Native Reserve	Granted in 1844 as part of the Ōtākou Purchase Deed. Split into four reserves	Native Reserve
Port Chalmers	Granted in 1848 as part of the Ōtākou Purchase Deed. A further grant adjacent to the Reserve was made in approximately 1888	Native Reserve

¹⁰² 00226.024 Kāi Tahu ki Otago

¹⁰³ 00226.024 Kāi Tahu ki Otago

¹⁰⁴ 00226.041 Kāi Tahu ki Otago

¹⁰⁵ 00226.041 Kāi Tahu ki Otago

¹⁰⁶ 00226.041 Kāi Tahu ki Otago

¹⁰⁷ 00226.041 Kāi Tahu ki Otago

¹⁰⁸ Clause 16(2), Schedule 1, RMA

Aramoana	This reserve resulted from the Purakaunui <u>Pūrakaunui</u> ¹⁰⁹ Half Caste grant	Half Caste Reserve
Purakaunui <u>Pūrakaunui</u> ¹¹⁰	Granted in 1848 as part of Kemp's Purchase Deed. Further allocations were made in 1868 at Wharauwerawera	Native Reserve
Brinns Point	Granted in the latter part of the nineteenth century	Half Caste Reserve
Karitane <u>Karitane</u> (Waikouaiti <u>Waikōuaiti</u> ¹¹¹ Native Reserve)	Granted in 1848 as part of Kemp's Purchase Deed	Native Reserve
Matainaka and Hawksbury Fishing Easement	Two fishing easements fall under this reserve, Matainaka, located at Hawkesbury Lagoon at Waikouaiti <u>Waikōuaiti</u> ¹¹² and the Forks Reserve located inland from Karitane <u>Karitane</u> . ¹¹³ The legal description for the latter reserve is Section 1N Town of Hawksbury	Fishing Easement
Hawksbury	Located north of Waikouaiti <u>Waikōuaiti</u> ¹¹⁴ , in the vicinity of Goodwood	Hawksbury Half Caste Reserve
Moeraki	Granted in 1848 as part of Kemp's Purchase Deed. Further awards were made in 1868	Native Reserve
Kuri Bush	10 acre reserve of timber	Native Reserve
Kakanui	Granted in 1848 as part of Kemp's Purchase Deed. By 1853, this Reserve was noted as being abandoned and the 75 acre allocation was added to the southern edge of the Moeraki Native Reserve	Native Reserve
Korotuaheka	Located south of the Waitaki River mouth. Now Reserved as an urupa <u>urupā</u> . ¹¹⁵ It appears this originated as an occupational reserve and Fishing Easement	Partitioned in 1895 Possibly awarded as part of the 1868 awards
Punaomaru	376 acre reserve located approximately 14 miles from the Waitaki River mouth on the south bank of the river	Native Reserve
Lake Hāwea	Reserve of 100 acres situated in the western extremity of the middle arm of Lake Hāwea near a Lagoon. Part of the Reserve was taken for power development in 1962 and the balance of the land was alienated by the Māori Trustee in 1970	Fishing Easement

¹⁰⁹ 00226.041 Kāi Tahu ki Otago

¹¹⁰ 00226.041 Kāi Tahu ki Otago

¹¹¹ 00226.041 Kāi Tahu ki Otago

¹¹² 00226.041 Kāi Tahu ki Otago

¹¹³ 00226.041 Kāi Tahu ki Otago

¹¹⁴ 00226.041 Kāi Tahu ki Otago

¹² Available from <https://www.es.govt.nz/repository/libraries/id:26gi9ayo517q9stt81sd/hierarchy/about-us/plans-and-strategies/regional-plans/iwi-management-plan/documents/The%20Charter%20of%20Understanding.pdf> (accessed 26 May 2021)

¹¹⁵ 00226.041 Kāi Tahu ki Otago

<u>Hāwea-Wānaka block (Wānaka Plantation Reserve)</u> ¹¹⁶	<u>Known as Sticky Forest, 50.7 hectares of land granted by agreement between the Crown and Te Rūnanga o Ngāi Tahu (Te Rūnanga) to be made available for the successors or current living relatives of the original grantees of land at Manuhaea or “The Neck”, which was allocated under the South Island Landless Natives Act but not transferred before SILNA was repealed.</u>	<u>South Island Landless Natives Act</u>
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76. I also recommend adding a map to Part 5, cross referenced to the Mana Whenua chapter, as requested, provided that details of this map are resolved through the hearings process.

4.4.6. Local Authority Relationships and Involvement and Participation

4.4.6.1. Submissions

77. Kāi Tahu Ki Otago seeks corrections to te reo usage – “Hapu” to be replaced with “Hapū”, capitilisation removed from “Papatipu Rūnaka” and “Oamaru” changed to “Ōamaru”.¹¹⁷

78. Ngāi Tahu ki Murihiku seeks the following amendments to bullet point three, and the final sentence under “Kāi Tahu relationships with local authorities”:

“He Huarahi mō Ngā Uri Whakatupu – Charter of Understanding signed with 2016 between Te Ao Marama Inc. Incorporated, representing Ngāi Tahu ki Murihiku, and Southland Rūnanga councils

[...]

and Hokonui Rūnanga) and the local authorities, including Otago Regional Council, and Queenstown Lakes District Council and Clutha District Council. are signatories to Huarahi mō Ngā Uri Whakatupu as it applies in their areas of jurisdiction.”¹¹⁸

79. Wise Response requests a correction to the Involvement and participation with mana whenua text that accurately records the authority for delegations and transfers, noting that ORC cannot delegate under s33 RMA to an iwi, it can only transfer.¹¹⁹

4.4.6.2. Analysis

80. All submissions on this section request valid corrections that improve RPS clarity. I recommend they all be accepted. As a consequential change, these changes are applied throughout the section.

¹¹⁶ 00234.005 Te Rūnanga o Ngāi Tahu

¹¹⁷ 00226.042 and 00226.043 Kāi Tahu ki Otago

¹¹⁸ 00223.027 Ngāi Tahu ki Murihiku

¹¹⁹ 00509.024 Wise Response

4.4.6.3. Recommendation

81. I recommend amending the Local Authority Relationships and Involvement and Participation sections as follows:

Mana whenua – local authority relationships

Kāi Tahu relationships with local authorities

There are a number of relationship agreements between Kāi Tahu Ki Otago and *local authorities* in Otago. These include:

- Memorandum of Understanding and Protocol between Otago Regional Council, Te Rūnanga Ngāi Tahu and Kāi Tahu ki Otago for Effective Consultation and Liaison (2003)
- Te Roopū Taiao Otago Charter and Hui (ORC, QLDC, DCC, WDC, CDC, CODC)
- He Huarahi mō Ngā Uri Whakatupu – Charter of Understanding signed with 2016 between Te Ao Marama Inc. Incorporated, representing Ngāi Tahu ki Murihiku, and Southland Rūnanga (2016) councils¹²⁰.

Kāi Tahu and Otago Regional Council use the Mana to Mana forum as a means to build a strengthened relationship between the two entities.

He Huarahi mō Ngā Uri Whakatupu¹²¹ is the Charter of Understanding between Ngāi Tahu ki Murihiku (Awarua Rūnanga, Waihopai Rūnanga, Ōraka-Aparima Rūnanga and Hokonui Rūnanga) and the local authorities, including Otago Regional Council, and Queenstown Lakes District Council and Clutha District Council, are signatories to He Huarahi mō Ngā Uri Whakatupu as it applies in their areas of jurisdiction.¹²¹

Hapu Hapū¹²² and iwi planning documents

There are four iwi planning documents lodged with the *local authorities* in the Otago Region:

- Te Rūnanga o Ngāi Tahu Freshwater Policy 1999
- Kāi Tahu ki Otago Natural Resources Management Plan 2005
- Te Tangi a Tauira: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008
- Waitaki Iwi Management Plan 2019

How the iwi planning documents have been taken into account in this Regional Policy Statement

Objectives and policies of the iwi management plans are reflected in the Resource Management Issues of Significance to Kāi Tahu and have been taken into account in the development of provisions across the whole of this Regional Policy Statement.

How iwi planning documents are used in Otago

¹²⁰ 00223.027 Ngāi Tahu ki Murihiku

¹²¹ 00223.027 Ngāi Tahu ki Murihiku

¹²² 00226.042 Kāi Tahu ki Otago

The iwi management plans are used to provide cultural context and guidance as to the natural resource values, concerns and issues of Kāi Tahu ki Otago and Ngāi Tahu ki Murihiku.

The iwi planning documents are to be used in the development of planning policy and assist decision-makers to make informed decisions, recognising the local knowledge of the *environment* held by ~~Papatipu Rūnaka~~ papatipu rūnaka¹²³ and the significance of the natural resource values to Kāi Tahu.

The iwi planning documents are also used to guide consultation with ~~Rūnaka rūnaka~~¹²⁴ and set out the expectations for consultation. The iwi management plans are not a substitute for direct communication with ~~Papatipu Rūnaka~~ papatipu rūnaka¹²⁵.

Involvement and participation with *mana whenua*

ORC and the *local authorities* will establish and maintain effective resource management relationships with Kāi Tahu based on a mutual obligation to act reasonably and in good faith. The *local authorities* and Otago Regional Council will consult Kāi Tahu at an early stage in resource management processes and implementation, and facilitate efficient and effective processes for applicants to consult Kāi Tahu on *resource consent* applications and private plan change requests.

Local authorities may also ~~delegate and transfer~~ transfer and delegate¹²⁶ any one or more of their functions, powers or duties to an iwi authority in accordance with ~~section~~ sections 33 (transfer) and 34A (delegation)¹²⁷ of the RMA, and where this provides an effective service.

***Mana whenua* consultancy services**

The ~~Papatipu Rūnaka~~ papatipu rūnaka¹²⁸ consultancy services, Aukaha, representing Kāi Tahu ki Otago, and Te Ao Marama Inc, representing Ngāi Tahu ki Murihiku, facilitate Kāi Tahu engagement in resource management processes and provide a first point of contact for the public seeking to engage with ~~Papatipu Rūnaka~~ papatipu rūnaka¹²⁹.

Other iwi, hapū and mātāwaka

Otago is also home to Māori from other iwi, hapū, and mātāwaka. The Araiteuru marae in Dunedin and Te Whare Koa in ~~Oamaru~~ Ōamaru¹³⁰ are important pan-tribal cultural centres for mātāwaka and sit within the manaakitaka of *takata whenua*.

¹²³ 00226.043 Kāi Tahu ki Otago

¹²⁴ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00226.043 Kāi Tahu ki Otago

¹²⁵ 00226.043 Kāi Tahu ki Otago

¹²⁶ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00509.024 Wise Response

¹²⁷ 00509.024 Wise Response

¹²⁸ 00226.043 Kāi Tahu ki Otago

¹²⁹ 00226.043 Kāi Tahu ki Otago

¹³⁰ 00226.043 Kāi Tahu ki Otago

4.4.7. New Material

4.4.7.1. Submissions

82. Jim Hopkins requests that the RPS clarify how potential conflict either between mana whenua/runaka groups or the various roles and responsibilities of mana whenua may be managed in relation to planning decision making processes.¹³¹
83. Te Rūnanga o Ngāi Tahu seek additional text be inserted following the Ngāi Tahu Claims Settlement Act 1998 (NTCSA 1998) section:

“Māori Commercial Aquaculture Claims Settlement Act 2004

The Māori Commercial Aquaculture Claims Settlement Act 2004 provides full and final settlement of Māori commercial aquaculture claims since 21 September 1992. Settlement is delivered via Regional Aquaculture Agreements (RAA) which may describe areas to be provided to iwi for the purposes of commercial aquaculture. Any future Settlement outcomes will need to be provided for in Regional and District plans.”¹³²

4.4.7.2. Analysis

84. I recommend declining Jim Hopkins’ submission. If the conflicts mentioned arise they would be for mana whenua to resolve as they see fit. It is not for the RPS to resolve such issues or determine a path to resolution – it does not have the authority to do so.
85. Te Rūnanga o Ngāi Tahu’s submission includes relevant legislative context. I recommend accepting this submission.

4.4.7.3. Recommendation

86. I recommend amending the MW – Mana whenua chapter by inserting the additional relevant legislative context after the ‘Customary fisheries’ subsection, as follows:

Māori Commercial Aquaculture Claims Settlement Act 2004

The Māori Commercial Aquaculture Claims Settlement Act 2004 provides full and final settlement of Māori commercial aquaculture claims since 21 September 1992. Settlement is delivered via Regional Aquaculture Agreements which may describe areas to be provided to iwi for the purposes of commercial aquaculture. Any future settlement outcomes will need to be provided for in *regional plans* and *district plans*.¹³³

¹³¹ 00420.009 Hopkins, Jim

¹³² 00234.006 Te Rūnanga o Ngāi Tahu

¹³³ 00234.006 Te Rūnanga o Ngāi Tahu

4.5. MW-O1 – Principles of Te Tiriti o Waitangi

4.5.1. Introduction

87. MW-O1 sets the active protection of mana whenua values as an outcome, incorporating the principles of Te Tiriti o Waitangi and a partnership approach into Otago’s resource management practices.

88. As notified, MW-O1 reads:

MW-O1 Principles of Te Tiriti o Waitangi

The principles of Te Tiriti o Waitangi are given effect in resource management processes and decisions, utilising a partnership approach between councils and Papatipu Rūnaka to ensure that what is valued by *mana whenua* is actively protected in the region.

4.5.2. Submissions

89. One submission from Te Rūnanga o Ngāi Tahu has been logged incorrectly in the SODR against MW-O1 – it should be logged against MW-P1 and will be addressed in that section.¹³⁴

90. Two submitters support the objective as notified.¹³⁵ Fish and Game requests the objective be retained and clarification added regarding whether the PORPS 2021 is practically able to give effect to the Treaty of Waitangi.¹³⁶

91. Some submitters want the words “are given effect to” replaced with “taken into account” as this reflects the wording in s8 of the RMA.¹³⁷ Other alternatives requested for the notified wording are “applied”¹³⁸, and “Considered”.¹³⁹

92. There are various requests for revising the wording regarding active protection of what is valued by mana whenua:

- “[...] ~~what is valued by mana whenua is actively protected in the region~~ Kāi Tahu values, interests and customary resources are recognised and provided for”¹⁴⁰
- “[...] to ensure that what is valued by mana whenua is actively protected in the region support Kai Tahu Values and Resources of significance.”¹⁴¹
- “to ensure that what is valued by mana whenua is ~~actively protected~~ considered in decision – making the region.”¹⁴²

¹³⁴ 00234.007 Te Rūnanga o Ngāi Tahu

¹³⁵ 00137.019 Director-General of Conservation; 00139.009 DCC

¹³⁶ 00231.020 Fish and Game

¹³⁷ 00239.010 Federated Farmers; 00213.011 Fonterra; 00235.015 OWRUG

¹³⁸ 00223.028 Ngāi Tahu ki Murihiku

¹³⁹ 00419.002 Wilson, Terry

¹⁴⁰ 00239.010 Federated Farmers

¹⁴¹ 00235.015 OWRUG

¹⁴² 00411.023 Wayfare

- Restricting the areas of influence of Kai Tahu and the other tribes to the Māori land reserves and property that they own.¹⁴³
- “utilising a collaborative or partnership approach between councils and ~~Papatipu Rūnaka~~ mana whenua to ensure that ~~agreed what is valued by mana whenua~~ values are is actively protected in the region.”¹⁴⁴
- “[...] to ensure that what is valued by mana whenua, taoka tuku iho, is actively protected in the region.”¹⁴⁵

93. Kāi Tahu ki Otago requests the following amendment, correcting spelling and incorporating the articles of Te Tiriti o Waitangi:

“MW – O1 – Principles and articles of Te Tiriti o Waitangi

The principles and articles of Te Tiriti o Waitangi are given effect in resource management processes and decisions, utilising a partnership approach between councils and ~~Papatipu Rūnaka~~ papatipu rūnaka to ensure that what is valued by mana whenua is actively protected in the region.”¹⁴⁶

4.5.3. Analysis

94. Regarding Fish and Game’s submission, the objective indicates that the desired outcome, i.e giving effect to the principles of Te Tiriti o Waitangi, applies to resource management decisions and processes. In my opinion, this is within the ambit of the roles and responsibilities that arise under the RMA. There is no indication that this responsibility is intended to apply more broadly. I recommend the submission be declined.
95. This dovetails with the submissions on the wording “give effect to” and whether it should be replaced by “take into account” for consistency with the wording in RMA s8, or by some other term.
96. In focusing on the words “give effect to” these arguments fail to consider the objective as a whole and how it implements the RMA provisions. The objective describes how the principles should be taken into account in Otago – through a partnership approach and actively protecting what is valued by mana whenua. I consider no change is needed.
97. Active protection is a principle of Te Tiriti o Waitangi that the pORPS seeks to take into account. I consider active protection requires more than “supporting”, “considering”, or “applying” the principles. Nor is it sufficient to restrict consideration of mana whenua values to Māori land reserves and property. These approaches allow mana whenua values to be disregarded; the principle of active protection is not limited in this manner. “Recognising and providing for” may be a reasonable option, but I do not see a benefit to the clarity or direction of the objective in making this change. In my view, it does not

¹⁴³ 00419.004 Wilson, Terry

¹⁴⁴ 00420.008 Hopkins, Jim

¹⁴⁵ 00223.028 Ngāi Tahu ki Murihiku

¹⁴⁶ 00226.044 Kāi Tahu ki Otago

capture the concept of protection; rather it may dilute that concept. I consider the existing words are appropriate for the outcome sought by the RPS in this objective

98. Regarding Jim Hopkins' submission, I do not consider that collaboration is required as an alternative to partnership. A collaborative approach has a particular meaning in terms of consultation – it may be utilised within a partnership approach but is not alternative to it. I also disagree that it is necessary to specify “agreed” mana whenua values in the objective. In order to actively protect something there must be some level of identification of that thing; the remainder of the RPS identifies ways for this to happen, for example the HCV-WT Wāhi Tūpuna provisions.

99. I am open to including the term “taoka tuku iho” in the objective, but seek assistance from the submitter as to how it is best incorporated. As written, and in comparison with the term's use in AER2, it is unclear whether the inclusion of taoka tuku iho is a specification of “what is valued by mana whenua” or a term used in addition to that statement. My limited understanding of the breadth of the term suggests the former. If that is the case, I suggest the following might be appropriate:

“to ensure that what is valued by mana whenua in relation to their taoka tuku iho is actively protected in the region.”

100. I do not consider that the RPS is in a position to give effect to the articles of Te Tiriti o Waitangi. I am unsure how ORC would do this in practice. ORC's duty via the RMA and Local Government Act 2002 is to the principles. In my opinion it is the principles which provide a clear drive for action and implementation in resource management. I am not convinced recourse to the articles would clarify or improve matters in this regard.

101. Finally, I acknowledge Kāi Tahu ki Otago's correction to the capitalisation of papatipu rūnaka.

102. Accordingly, I recommend rejecting all submissions on this part of the RPS, with the following exceptions:

- a. Accepting in part Ngāi Tahu ki Murihiku's submission regarding the inclusion of “taoka tuku iho”, pending further input from the submitter.
- b. Accepting in part Kāi Tahu ki Otago's submission to correct the capitalisation of papatipu rūnaka.
- c. Accepting in part submissions in support of this provision, insofar as it remains as notified.

4.5.4. Recommendation

103. I recommend MW-O1 is amended as follows:

MW-O1 – Principles of Te Tiriti o Waitangi

The principles of Te Tiriti o Waitangi are given effect in resource management processes and decisions, utilising a partnership approach between councils and ~~Papatipu Rūnaka~~

papatipu rūnaka¹⁴⁷ to ensure that what is valued by *mana whenua* in relation to their taoka tuku iho¹⁴⁸ is actively protected in the region.

4.6. MW-P1 – Treaty obligations

4.6.1. Introduction

104. As notified, MW-P1 reads:

MW-P1 – Treaty obligations

Promote awareness and understanding of the obligations of *local authorities* in regard to the principles of Te Tiriti o Waitangi, tikaka Māori and kaupapa Māori.

4.6.2. Submissions

105. Two submitters support the policy as notified.¹⁴⁹

106. Two submitters seek an amendment to include the articles of Te tiriti o Waitangi in the policy, as follows:

“Promote awareness and understanding of the obligations of local authorities in regard to the principles and articles of Te Tiriti o Waitangi, tikaka Māori and kaupapa Māori.”¹⁵⁰

4.6.3. Analysis

107. While I appreciate the reasoning behind including the articles of Te Tiriti o Waitangi in this policy, and the history this represents, local authorities do not, as a technical matter, have obligations under the articles. ORC’s duty via the RMA and Local Government Act 2002 is to the principles. In my opinion it is the principles which provide a clear drive for action and implementation in resource management. I am not convinced recourse to the articles would clarify or improve matters in this regard. Accordingly, I recommend rejecting these submissions.

108. I recommend accepting all submissions supporting this provision as notified.

4.6.4. Recommendation

109. I recommend retaining MW-P1 as notified.

¹⁴⁷ 00226.044 Kāi Tahu ki Otago

¹⁴⁸ 00223.028 Ngāi Tahu ki Murihiku

¹⁴⁹ 00137.020 DOC; 00139.010 DCC

¹⁵⁰ 00226.045 Kāi Tahu ki Otago; 00234.007 Te Rūnanga o Ngāi Tahu

4.7. MW-P2 – Treaty principles

4.7.1. Introduction

110. As notified, MW-P2 reads:

MW-P2 – Treaty principles

Local authorities exercise their functions and powers in accordance with Treaty principles, by:

- (1) recognising the status of Kāi Tahu and facilitating Kāi Tahu involvement in decision-making as a Treaty partner,
- (2) including Kāi Tahu in resource management processes and implementation to the extent desired by mana whenua,
- (3) recognising and providing for Kāi Tahu values and resource management issues, as identified by *mana whenua*, in resource management decision-making processes and plan implementation,
- (4) recognising and providing for the relationship of Kāi Tahu culture and traditions with their ancestral lands, *water*, sites, wāhi tapu, and other taoka by ensuring that Kāi Tahu have the ability to identify these relationships and determine how best to express them,
- (5) ensuring that *regional* and *district plans* recognise and provide for Kāi Tahu relationships with Statutory Acknowledgement Areas, tōpuni, *nohoaka* and customary fisheries identified in the NTCSA 1998, including by actively protecting the mauri of these areas,
- (6) having particular regard to the ability of Kāi Tahu to exercise kaitiakitaka,
- (7) actively pursuing opportunities for:
 - (a) delegation or transfer of functions to Kāi Tahu, and
 - (b) partnership or joint management arrangements, and
- (8) taking into account iwi management plans when making resource management decisions.

4.7.2. Submissions

111. Two submitters support the policy as notified and seek its retention.¹⁵¹

112. Terry Wilson seeks deletion because the policy bears no similarity to Te Tiriti o Waitangi or its principles.

113. Federated Farmers also seeks deletion or, in the alternative, replacing the policy with policy 2.1.2 from the Partially Operative Otago RPS 2019, with an additional clause. It is

¹⁵¹ 00137.021 DOC; 00139.011 DCC

concerned that the language used in the RPS is a step change from the older policy, referencing the phrase “take into account”, which has been through a robust process:

“Ensure that local authorities exercise their functions and powers, by:

- a) Recognising Kāi Tahu’s status as a Treaty partner; and
- b) Involving Kāi Tahu in resource management processes implementation;
- c) Taking into account Kāi Tahu values in resource management decision – making processes and implementation;
- d) Recognising and providing for the relationship of Kāi Tahu’s culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taoka;
- e) Ensuring Kāi Tahu have the ability to:
 - i. Identify their relationship with their ancestral lands, water, sites, wāhi tapu, and other taoka;
 - ii. Determine how best to express that relationship;
- f) Having particular regard to the exercise of Kāitiakitaka;
- g) Ensuring that district and regional plans:
 - i. Give effect to the Ngāi Tahu Claims Settlement Act 1998;
 - ii. Recognise and provide for statutory acknowledgement areas in Schedule 2;
 - iii. Provide for other areas in Otago that are recognised as significant to Kāi Tahu;
- h) Taking into account iwi management plans; and
- i) Involve Kāi Tahu in freshwater management in line with requirements in the National Policy Statement for Freshwater Management 2020, section 3.4.”¹⁵²

114. Fonterra also requests the words “taking into account”, in the following amendment:

“Local authorities exercise their functions and powers in accordance with taking into account Treaty principles by: [...]”¹⁵³

¹⁵² 00239.011 Federated Farmers

¹⁵³ 00213.013 Fonterra

115. Jim Hopkins requests that the policy is amended to clarify the obligations set out in it, particularly the role of councils and how conflicting interests or concerns can be addressed in relation to the ‘give effect to’ principles.¹⁵⁴

116. Kāi Tahu Ki Otago seeks the following amendments:

“MW – P2 – Treaty principles and articles

Local authorities exercise their functions and powers in accordance with ~~Treaty principles~~ the articles and principles of Te Tiriti o Waitangi, by:

- (1) recognising the status of Kāi Tahu as mana whenua and mana moana and facilitating Kāi Tahu involvement in decision – making as a ~~Treaty~~ partner under Te Tiriti o Waitangi,
- (2) including Kāi Tahu in resource management processes, ~~and~~ implementation and decision – making to the extent desired by mana whenua,
- (3) [...]
- (4) recognising and providing for the relationship of Kāi Tahu culture and traditions with their ancestral lands, wai encompassing wai māori and wai tai, significant sites, wāhi tūpuna, wāhi tapu and wāhi taoka, and other taoka by ensuring that Kāi Tahu have the ability to identify these relationships and determine how best to express them,
- (5) [...]
- (6) having particular regard to the responsibility of ability of Kāi Tahu to exercise their role as kaitiaki ~~taka~~ as an expression of mana and rakatirataka,
- (7) actively pursuing opportunities for:
 - (a) delegation or transfer of function to Kāi Tahu, and
 - (b) partnership or joint managementunder Section 33 of the Resource Management Act or any successor legislation, and
- (8) ~~taking into account~~ having particular regard to iwi management plans when making resource management decisions.¹⁵⁵

117. Te Rūnanga o Ngāi Tahu also seeks the addition of “treaty principles and articles”, and two new subclauses; one to follow clause (5) and the other as a new final subclause:

“(6) ensuring that regional and district plans recognise and provide for aquaculture Settlement outcomes identified under the Māori Commercial Aquaculture Claims Settlement Act 2004

¹⁵⁴ 00420.011 Hopkins, Jim

¹⁵⁵ 00226.046 Kāi Tahu ki Otago

[...]

(10) recognising and providing for mātauraka Tahu and tikaka Tahu in environmental and resource management.¹⁵⁶

118. Ngāi Tahu ki Murihiku request the following amendment to subclause (3):

“(3) recognising and providing for Kai Tahu values, and addressing resource management issues of significance to Kāi Tahu, as identified by mana whenua, in resource management processes and plan implementation”¹⁵⁷

4.7.3. Analysis

119. I recommend rejecting the submission requesting deletion. I consider the policy is consistent with the principles of Te Tiriti o Waitangi, particularly the principle of partnership.

120. I recommend declining Federated Farmers submission. The concerns raised in the submission are not substantiated. The provisions in the pORPS have been considered by ORC and mana whenua as a part of this review process, and I believe the provisions arrived at are appropriate. Further, I consider acting in accordance with Treaty principles is an appropriate way to implement MW-O1. In retrospect the language could be more consistent with the objective by using “give effect to”, but there is not the latitude in submissions to make such a change. Further, I do not think it is necessary to incorporate the NPSFW 2020 in the way suggested; the provision adds nothing to the content of the NPSFM itself. The pORPS has already been crafted to implement the requirements of the NPSFM as they apply at RPS level.

121. Accordingly, I also recommend rejecting Fonterra’s submission.

122. In response to Jim Hopkins, the submitter does not set out how the obligations should be clarified, or what it is about the role of councils that requires this. I note the words “giving effect” are not used in this policy. In my opinion, addressing any conflicting concerns that emerge as part of addressing a concrete issue is part of the process of partnership and discussion around that specific matter. It is a difficult, time consuming, and largely fruitless pursuit in the abstract. I recommend rejecting this submission.

123. I recommend accepting Kāi Tahu Ki Otago’s submission in part. For the most part, I consider this submission provides clarification of Kāi Tahu’s viewpoint, does a better job of supporting mana whenua involvement in resource management, and clarifies expression of the policy. I note the change in clause 8 from “taking into account” to “having particular regard to”. I consider the elevation of iwi concerns through established management plans to be appropriate, and am comfortable with this change.

124. On the other matters raised in the submission, I make the following comments:

¹⁵⁶ 00234.008 Te Rūnanga o Ngāi Tahu

¹⁵⁷ 00223.029 Ngāi Tahu ki Murihiku

- a. I do not think the articles of Te Tiriti o Waitangi should be included. ORC's duty via the RMA and Local Government Act 2002 is to the principles. In my opinion it is the principles which provide a clear drive for action and implementation in resource management. I am not convinced recourse to the articles would clarify or improve matters in this regard.. Otherwise, the change to the chapeau is appropriate.
 - b. While "mana moana" is an expression of Kāi Tahu tikaka, through the balance of the document the term mana whenua is often used alone. Using another term here may create doubt about what is meant, unless we proliferate the term throughout the document – I would welcome further discussion of this through the hearing.
 - c. I disagree with the inclusion of "under Section 33 of the Resource Management Act or any successor legislation," in clause 7. I do not think the text is needed for implementation. It is essentially reminder text about the legislative mechanisms for implementing the policy, and I think including it after the subparagraphs leads to unclear drafting that is more difficult to read.
125. Ngāi Tahu ki Murihiku's requested amendments to clause 3 clarify the internal connections in the RPS, and I recommend accepting this submission.
126. I recommend accepting Te Rūnanga o Ngāi Tahu's submission in part. I disagree with inclusion of the articles, as discussed above.
127. The inclusion of the Māori Commercial Aquaculture Claims Settlement Act 2004 seems appropriate to me, as a recognition of points raised in the RMIA section. I recommend some changes to the language of the submission as set out below.
128. I am open to the inclusion of new clause 10, but I am unsure about the application of the terms mātauraka Tahu and tikaka Tahu. Like mana moana, these terms are not used in this way elsewhere in the document which may lead to differences in interpretation of this policy, or a lack of clarity. Are these terms that should be proliferated throughout the RPS, or should they be consistent with other terms used? Are they intended to convey something different? I reserve my position on their inclusion pending further discussion of their application through the hearing.
129. I recommend accepting in part all submissions supporting this provision, in respect of those parts that remain as notified.

4.7.4. Recommendation

130. I recommend amending MW-P1 as follows:

MW-P2 – Treaty principles

Local authorities exercise their functions and powers in accordance with the principles of Te Tiriti o Waitangi Treaty principles¹⁵⁸, by:

¹⁵⁸ 00226.046 Kāi Tahu ki Otago

- (1) recognising the status of Kāi Tahu as mana whenua¹⁵⁹ and facilitating Kāi Tahu involvement in decision-making as a ~~Treaty~~-partner under Te Tiriti o Waitangi,¹⁶⁰
- (2) including Kāi Tahu in resource management processes, ~~and~~ implementation and decision-making to the extent desired by mana whenua,¹⁶¹
- (3) recognising and providing for Kāi Tahu values, ~~and~~ addressing resource management issues of significance to Kāi Tahu, as identified by *mana whenua*, in resource management processes and plan implementation,¹⁶²
- (4) recognising and providing for the relationship of Kāi Tahu culture and traditions with their ancestral lands, ~~water,~~ encompassing wai māori and wai tai, significant sites, wāhi tūpuna, wāhi tapu and wāhi taoka, and other taoka by ensuring that Kāi Tahu have the ability to identify these relationships and determine how best to express them,¹⁶³
- (5) ensuring that *regional plans*¹⁶⁴ and *district plans* recognise and provide for Kāi Tahu relationships with Statutory Acknowledgement Areas, tōpuni, *nohoaka* and customary fisheries identified in the NTCSA–~~1998~~¹⁶⁵, including by actively protecting the mauri of these areas,
- (6) having particular regard to the responsibility ability of Kāi Tahu to exercise their role as kaitiaki kaitiakitaka as an expression of mana and rakatirataka,¹⁶⁶
- (7) actively pursuing opportunities for:
 - (a) delegation or transfer of functions to Kāi Tahu, and
 - (b) partnership or joint management arrangements, ~~and~~¹⁶⁷
- (8) taking into account iwi management plans when making resource management decisions, ~~and~~¹⁶⁸

¹⁵⁹ 00226.046 Kāi Tahu ki Otago

¹⁶⁰ 00226.046 Kāi Tahu ki Otago

¹⁶¹ 00226.046 Kāi Tahu ki Otago

¹⁶² 00223.029 Ngāi Tahu ki Murihiku

¹⁶³ 00226.046 Kāi Tahu ki Otago

¹⁶⁴ Clause 16(2), Schedule 1, RMA

¹⁶⁵ Clause 16(2), Schedule 1, RMA

¹⁶⁶ 00226.046 Kāi Tahu ki Otago

¹⁶⁷ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00234.008 Te Rūnanga o Ngāi Tahu

¹⁶⁸ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00234.008 Te Rūnanga o Ngāi Tahu

(8A) regional plans and district plans recognising and providing for aquaculture settlement outcomes identified under the Māori Commercial Aquaculture Claims Settlement Act 2004.¹⁶⁹

MW-P2 – Treaty principles

Local authorities exercise their functions and powers in accordance with the principles of Te Tiriti o Waitangi Treaty principles¹⁷⁰, by:

- (1) recognising the status of Kāi Tahu as mana whenua¹⁷¹ and facilitating Kāi Tahu involvement in decision-making as a Treaty partner under Te Tiriti o Waitangi,¹⁷²
- (2) including Kāi Tahu in resource management processes, and implementation and decision-making to the extent desired by mana whenua,¹⁷³
- (3) recognising and providing for Kai Tahu values, and addressing resource management issues of significance to Kāi Tahu, as identified by *mana whenua*, in resource management processes and plan implementation,¹⁷⁴
- (4) recognising and providing for the relationship of Kāi Tahu culture and traditions with their ancestral lands, water, encompassing wai māori and wai tai, significant sites, wāhi tūpuna, wāhi tapu and wāhi taoka, and other taoka by ensuring that Kāi Tahu have the ability to identify these relationships and determine how best to express them,¹⁷⁵
- (5) ensuring that *regional plans*¹⁷⁶ and *district plans* recognise and provide for Kāi Tahu relationships with Statutory Acknowledgement Areas, tōpuni, *nohoaka* and customary fisheries identified in the NTCSA-1998¹⁷⁷, including by actively protecting the mauri of these areas,
- (6) having particular regard to the responsibility ability of Kāi Tahu to exercise their role as kaitiaki kaitiakitaka as an expression of mana and rakatirataka,¹⁷⁸
- (7) actively pursuing opportunities for:
 - (a) delegation or transfer of functions to Kāi Tahu, and
 - (b) partnership or joint management arrangements, and¹⁷⁹

¹⁶⁹ 00234.008 Te Rūnanga o Ngāi Tahu

¹⁷⁰ 00226.046 Kāi Tahu ki Otago

¹⁷¹ 00226.046 Kāi Tahu ki Otago

¹⁷² 00226.046 Kāi Tahu ki Otago

¹⁷³ 00226.046 Kāi Tahu ki Otago

¹⁷⁴ 00223.029 Ngāi Tahu ki Murihiku

¹⁷⁵ 00226.046 Kāi Tahu ki Otago

¹⁷⁶ Clause 16(2), Schedule 1, RMA

¹⁷⁷ Clause 16(2), Schedule 1, RMA

¹⁷⁸ 00226.046 Kāi Tahu ki Otago

¹⁷⁹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00234.008 Te Rūnanga o Ngāi Tahu

- (8) taking into account iwi management plans when making resource management decisions, and¹⁸⁰

(8A) regional plans and district plans recognising and providing for aquaculture settlement outcomes identified under the Māori Commercial Aquaculture Claims Settlement Act 2004.¹⁸¹

131. I recommend further consideration on whether to include the term “mana moana”, and whether to include the proposed clause 10 regarding mātauraka Tahu and tikaka Tahu.

4.8. MW-P3 – Supporting Kāi Tahu well-being

4.8.1. Introduction

132. As notified, MW-P3 reads:

MW-P3 – Supporting Kāi Tahu well-being

The natural environment is managed to support Kāi Tahu well-being by:

- (1) protecting customary uses, Kāi Tahu values and relationships of Kāi Tahu to resources and areas of significance, and restoring these uses and values where they have been degraded by human activities,
- (2) safeguarding the mauri and life-supporting capacity of natural resources, and
- (3) working with Kāi Tahu to incorporate mātauraka in resource management.

4.8.2. Submissions

133. Two submitters support the policy as notified.¹⁸²

134. Federated Farmers is opposed to significant changes in language, tone, and direction between this proposed RPS and the Partially Operative Otago Regional Policy Statement 2019, and does not consider the impacts of this change have been appropriately considered or assessed. It requests amending clause 1 to read “(1) Recognise and provide for Kāi Tahu’s customary uses and cultural values.”¹⁸³

135. Kāi Tahu ki Otago seeks the following changes:

“MW – P3 – Supporting the hauora of Kāi Tahu ~~well-being~~

The natural environment is managed to support the hauora of Kāi Tahu ~~well-being~~ by:

¹⁸⁰ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00234.008 Te Rūnanga o Ngāi Tahu

¹⁸¹ 00234.008 Te Rūnanga o Ngāi Tahu

¹⁸² 00137.022 DOC, 00139.012 DCC

¹⁸³ 00239.012 Federated Farmers

- (1) protecting customary uses, Kāi Tahu values and relationships of Kāi Tahu as identified by Kāi Tahu to resources and areas of significance, and restoring these uses and values where they have been degraded by human activities,
- (2) safeguarding the mauri and life-supporting capacity of natural resources, recognising the whakapapa connections of Kāi Tahu with these resources as taoka, and the connections to practices such as mahika kai, and
- (3) working with Kāi Tahu to incorporate mātauraka in resource management processes and decision – making.¹⁸⁴

136. OWRUG seeks the following amendments (note that deletions were not marked in the original submission and have been added in for clarity):

~~The natural environment is~~ Natural and Physical resources are managed to support Kāi Tahu well-being by:

1. protecting customary uses, Kāi Tahu values and relationships of Kāi Tahu to resources and areas of significance, and ~~restoring~~ enhancing these uses and values where they have been degraded by human activities,
2. safeguarding health and well-being ~~the mauri and life-supporting capacity~~ of natural resources so as to provide for the mauri of these resources, and; [...]

137. Ngāi Tahu ki Murihiku requests a grammatical amendment, substituting the word ‘in’ with ‘into’ in clause (3).¹⁸⁵

4.8.3. Analysis

138. I note Federated Farmers concern. However, this concern is not substantiated in the accompanying submission. In my view, protecting customary uses is in accordance with the principles of Te Tiriti o Waitangi and is an appropriate inclusion in the RPS. I recommend rejecting this submission.

139. Kāi Tahu Ki Otago’s submission provides for better expression of mana whenua interests and values, reflecting themes arising in the RMIA section and the context given in the Mana Whenua Chapter. My one caveat is the use of the term “hauora”. I am open to its use and prefer to use te reo terms in the document where it makes sense to do so. However, I am also aware that it is undefined in the RPS, that Kāi Tahu may prefer not to define it in the RPS, and that the term likely has nuances for Kāi Tahu that are not conveyed by the well-worn resource management term “wellbeing”.

140. I am unable to discern what change in meaning “hauora” brings to the policy. Although it is a well-recognised term in New Zealand, I am wary of whether the nuances of meaning it holds will be recognised when it comes to be used and defined in a regulatory or legal context. I would like to hear further discussion of its use through the hearings process,

¹⁸⁴ 00226.047 Kāi Tahu ki Otago

¹⁸⁵ 00223.030 Ngāi Tahu ki Murihiku

particularly its relationship to “wellbeing”. Accordingly, I recommend accepting this submission in part.

141. I recommend rejecting OWRUG’s submission. I prefer the term “natural environment” as more holistic. I acknowledge OWRUG’s concern with the term “restore” – “enhancing” may appear more pragmatic when sites are significantly changed from past useage. However, restoring can be a continual process of improvement and enhancement, and sets an ambitious goal that I think is appropriate in this policy.
142. I recommend accepting Ngāi Tahu ki Murihiku’s request as it improves the wording of the policy.
143. Kāi Tahu has also made a submission on policy HCV-WT-P1 that, in my view, includes content more fitting for this policy as a general principle of resource management in Otago. Accordingly, I recommend inserting a new clause (OA) into policy MW-P3 that recognises the enduring relationship of Kāi Tahu with all whenua, wai māori and coastal waters within their takiwā. I consider including this as the first clause creates a good progression of concepts through the policy from recognising the relationship with all resources, to protecting uses, values and relationships, through safeguarding those connections, to incorporating that mātauraka into resource management processes and decision-making.
144. I recommend accepting in part all submissions supporting this provision, in respect of those parts that remain as notified.

4.8.4. Recommendation

145. I recommend amending MW-P3 as follows:

MW-P3 – Supporting Kāi Tahu well-being

The natural environment is managed to support Kāi Tahu well-being by:

- (1A) recognising that Kāi Tahu hold an ancestral and enduring relationship with all whenua, wai māori and coastal waters within their takiwā,¹⁸⁶
- (1) protecting customary uses, Kāi Tahu values and relationships of Kāi Tahu as identified by Kāi Tahu¹⁸⁷ to resources and areas of significance, and restoring these uses and values where they have been degraded by human activities,
- (2) safeguarding the mauri and life-supporting capacity of natural resources, recognising the whakapapa connections of Kāi Tahu with these resources as taoka, and the connections to practices such as mahika kai, and¹⁸⁸

¹⁸⁶ 00226.277 Kāi Tahu ki Otago

¹⁸⁷ 00226.047 Kāi Tahu ki Otago

¹⁸⁸ 00226.047 Kāi Tahu ki Otago

- (3) working with Kāi Tahu to incorporate mātauraka ~~in~~ into¹⁸⁹ resource management processes and decision-making.¹⁹⁰

4.9. MW-P4 – Sustainable use of Māori land

4.9.1. Introduction

146. This provision aims to provide for Kāi Tahu using their land according to their customs and aspirations. This supports the objective by creating an avenue to use land for purposes consistent with the principles of Te Tiriti o Waitangi, that might otherwise be foreclosed or obstructed by conventional planning approaches.

147. As notified, MW-P4 reads:

MW-P4 – Sustainable use of Māori land

Kāi Tahu are able to protect, develop and use *land* and resources within native reserves and *land* held under Te Ture Whenua Māori Act 1993 in a way consistent with their culture and traditions and economic, cultural and social aspirations, including for *papakāika*, marae and marae related activities, while:

- (1) avoiding adverse *effects* on the health and safety of people,
- (2) avoiding significant adverse *effects* on matters of national importance, and
- (3) avoiding, remedying, or mitigating other adverse *effects*.

4.9.2. Submissions

148. DOC supports the provision as notified.¹⁹¹

149. Cain Whanau considers wording should be included in this provision to ensure the owners can protect, occupy, subdivide, develop, and use their resources (inclusive of land, freshwater, coastal water and coastal marine area) to their benefit. The submitter considers that this provision should be given primacy over other provisions in the RPS either through amendments to this provision, creating a new provision, or amending other provisions Their suggested amendments to MW-P4 are as follows:

MW-P4 – ~~Sustainable~~ Protection, development and use of Māori land and resources

Kāi Tahu are able to protect, subdivide, occupy, develop, and utilise ~~protect, develop and use land and resources within~~ native reserves and land held under Te Ture Whenua Māori Act 1993 for the benefit of its owners, their whānau, and their hapū in a way consistent with ~~their culture and traditions and economic, cultural and social aspirations, including for~~ *papakāika*, marae and marae related activities, while:

¹⁸⁹ 00223.029 Ngāi Tahu ki Murihiku

¹⁹⁰ 00226.047 Kāi Tahu ki Otago

¹⁹¹ 00137.023 DOC

- (1) recognising and providing for the primacy of ahi kā, reconnection with the whenua and continuation of mahinga kai
- (2) avoiding significant adverse effects on the health and safety of people,
- (3) ~~avoiding significant~~ minimising adverse effects on matters of national importance, and
- (4) avoiding, remedying, or mitigating other adverse effects.

MW – P4 shall be given primacy over any other provision in this RPS.¹⁹²

150. DCC seeks amendments to clauses (1) & (3) to allow for some adverse effects while providing for the sustainable use of Māori land.¹⁹³

151. Fonterra requests the addition of a new clause “(4) giving effect to Te Mana o te Wai”.¹⁹⁴

152. Kāi Tahu ki Otago considers that the land covered by the policy should be expanded, as there may be limited land available for the purposes of papakāinga. They are also concerned that clause 2 creates a hierarchy between matters of national importance, and insinuates that as a matter of national importance, section 6(e) holds less weight than other matters of national importance. Marae and papakāinga are often located in outstanding landscapes and western planning approaches can be to the detriment of ahi ka. Accordingly, the submitter requests the following:

“Kāi Tahu are able to protect, develop and use land and resources within native reserves, ~~and~~ land held under the Te Ture Whenua Māori Act 1993, and land with a particular ancestral connection, in a way consistent with their culture and traditions and economic, cultural and social aspirations, including for papakāika, marae and marae related activities, while:

- ~~(1) — avoiding adverse effects on the health and safety of people,~~
- ~~(2) — avoiding significant adverse effects on matters of national importance, and,~~
- ~~(3) — Avoiding, remedying, or mitigating other adverse effects.~~¹⁹⁵

153. Te Rūnanga o Ngai Tahu seeks similar changes for similar reasons, noting that consequential amendments may be required elsewhere in the plan:

“Kāi Tahu whānui are able to protect, develop and use land and resources within native reserves, ~~and~~ land held under the Te Ture Whenua Māori Act 1993, and land with an ancestral connection, in accordance with matauraka and tikaka, and providing for their economic, cultural and social aspirations, including for papakāika, marae and marae related activities, while:

¹⁹² 00010.004 Cain whānau

¹⁹³ 00139.013 DCC

¹⁹⁴ 00213.014 Fonterra

¹⁹⁵ 00226.048 Kāi Tahu ki Otago

- (1) avoiding adverse effects on the health and safety of people,
- ~~(2) avoiding significant adverse effects on matters of national importance, and~~
- (3) Avoiding, remedying, or mitigating other adverse effects.”¹⁹⁶

154. Transpower seeks an additional restraint on the policy, inserted as a new third clause:
“x. avoiding adverse effects, including reverse sensitivity effects, on the National Grid;
and”¹⁹⁷

4.9.3. Analysis

- 155. Because this policy may generate exceptions to planning or zoning rules, it needs to find a balance between providing for land uses that support mana whenua values and upholding reasonable approaches for wider community wellbeing.
- 156. I consider that Cain Whānau, Kāi Tahu Ki Otago, and Te Rūnanga o Ngāi Tahu’s suggestions push the policy too far.
- 157. Cain Whānau’s submission seeks to allow a broad range of activities, including subdivision, and remove the links to cultural and traditional activities. It also seeks to elevate this policy above all others in the RPS. I do not consider that this approach is appropriate in the context of sustainable management. This policy should not be an unfettered right to development. I recommend rejecting the submission.
- 158. Both Kāi Tahu Ki Otago and Te Rūnanga o Ngāi Tahu seek to include land with particular ancestral connections. It is unclear what lands are intended to be included in this description. Kāi Tahu Ki Otago also seeks to remove all the clauses, and Te Rūnanga o Ngāi Tahu to remove clause 2, which avoids significant adverse effects on matters of national importance.
- 159. I disagree that clause 2 creates a hierarchy between the matters of national importance in Section 6 of the RMA. It seems reasonable to me to expect that providing for one matter of national importance should not have a significant adverse effect upon another.
- 160. I acknowledge the concern that certain protection measures could impact on Kāi Tahu’s ability to use a resource in a certain way. However, that is a matter to be dealt with when identifying the values of a particular matter of national importance and the particular methods of protection for it, which are addressed elsewhere in the pORPS. The pORPS takes steps to ensure Kāi Tahu are involved in those processes and decisions throughout this section and others. The corollary outcome from the submission is that use of Māori land should, for example, have carte blanche to have significant adverse effects upon significant indigenous vegetation. I do not accept that this is a reasonable or sustainable outcome.

¹⁹⁶ 00234.009 Te Rūnanga o Ngāi Tahu

¹⁹⁷ 00314.008 Transpower

161. I also consider that avoiding adverse effects on the health and safety of people is important, for example if water supplies or wastewater treatment is intended to be installed in places that do not have access to reticulation. The final clause, avoiding, remedying, or mitigating other adverse effects, is a reasonable expectation in my view, and appropriate to any development.
162. I recommend rejecting Kāi Tahu ki Otago's submission. I recommend accepting Te Rūnanga o Ngāi Tahu's submission in part, to incorporate the following amendment in the chapeau: "[...] in accordance with matauraka and tikaka, and providing for their economic [...]"
163. I remain open to suggestions for clearer wording to expand the kinds of land that could fall under the policy.
164. I consider the needs of the National Grid are provided for by policies within the EIT chapter of the RPS, and generally within this policy. I consider it would be odd to include the National Grid in this policy and not other vital infrastructure, and including all types of infrastructure would make the policy unwieldy. I recommend Transpower's submission be rejected.
165. I recommend accepting in part DOC's submission supporting this provision, in respect of those parts that remain as notified.

4.9.4. Recommendation

166. I recommend amendments to MW-P4 as follows:

MW-P4 – Sustainable use of Māori land

Kāi Tahu are able to protect, develop and use *land* and resources within native reserves and *land* held under Te Ture Whenua Māori Act 1993 in accordance with matauraka and tikaka ~~a way consistent with their culture and traditions and to provide for their~~¹⁹⁸ economic, cultural and social aspirations, including for *papakāika*, marae and marae related activities, while:

- (1) avoiding adverse *effects* on the health and safety of people,
- (2) avoiding significant adverse *effects* on matters of national importance, and
- (3) avoiding, remedying, or mitigating other adverse *effects*.

4.10. MW-M1 – Collaboration with Kāi Tahu

4.10.1. Introduction

167. This method supports policies 2 and 3 in particular by requiring local authorities to collaborate with Kāi Tahu to identify and map a range of important resources, and to

¹⁹⁸ 00234.009 Te Rūnanga o Ngāi Tahu

protect the values of places, areas or landscapes of cultural, spiritual or traditional significance to Kāi Tahu.

168. As notified, MW-M1 reads:

MW-M1 – Collaboration with Kāi Tahu

Local authorities must collaborate with Kāi Tahu to:

- (1) identify and map places, areas or landscapes of cultural, spiritual or traditional significance to them,
- (2) protect such places, areas, or landscapes, and the values that contribute to their significance,
- (3) identify indigenous species and ecosystems that are taoka in accordance with ECO-M3, and
- (4) identify and map outstanding natural features, landscapes and seascapes, and highly valued natural features, landscapes and seascapes and record their values.

4.10.2. Submissions

169. DOC supports this method as notified.¹⁹⁹

170. Cain whanau seeks the following amendments:

“MW-M1 – Collaboration with Kāi Tahu

Local authorities must collaborate with Kāi Tahu to:

- (1) identify and ~~map~~ record places, areas or landscapes of cultural, spiritual or traditional significance to them, using methods and tools meaningful to mana whenua,
- (2) ~~protect~~ assess such places, areas, or landscapes, and the values and tikanga that contribute to their significance and management approach,
- (3) require Te Ao Kāi Tahu paradigms and mātauraka to be included the landscape assessment and the ‘appropriate’ test
- (4) identify indigenous species and ecosystems that are taoka in accordance with ECO – M3, and
- (5) identify and map outstanding natural features, outstanding natural landscapes and seascapes, and highly valued natural features, outstanding landscapes and seascapes and record their values.”²⁰⁰

171. Kāi Tahu ki Otago consider that this policy does not need to spell out every instance where local authorities will collaborate with mana whenua since this detail is provided in

¹⁹⁹ 00137.024 DOC;

²⁰⁰ 00010.005 Cain whānau

other chapters. Rather, this method should set the overall approach for how local authorities and mana whenua will work together. The submitter suggests transferring clauses 1 and 2 of MW-M2 into this method:

“MW – M1 – Collaboration with Kāi Tahu

Local authorities must collaborate with Kāi Tahu to:

1. Identify, and map and protect places, areas, or landscapes, waters, taoka and other elements of cultural, spiritual or traditional significance to them mana whenua,
2. determine appropriate naming for places of significance in Otago, and
3. share information relevant to Kāi Tahu interests.
4. ~~protect such places, areas, or landscapes, and the values that contribute to their significance,~~
5. ~~identify and map outstanding natural features, landscapes and seascapes, and highly valued natural features, landscapes and seascapes and record their values.”²⁰¹~~

172. Meridian requests that the policy be amended as follows:

“(4) ~~identify and map outstanding natural features, landscapes and seascapes, and highly valued natural features, landscapes and seascapes and record their values”²⁰²~~

173. Ravensdown requests that clause 4 be removed.²⁰³

174. Ngāi Tahu ki Murihiku seeks the following amendments:

“[...]

(1) ~~identify and map, including mapping,~~ places, areas or landscapes ...

(3) ~~identify and map, including mapping,~~ particular indigenous species and associated ecosystems that are taoka in accordance with ECO – M3.,~~and~~

~~(4) identify and map outstanding natural features, landscapes and seascapes, and highly valued natural features, landscapes and seascapes and record their values.”²⁰⁴~~

175. Federated Farmers requests a change to the reference to ECO – M3 to accommodate another of its submissions.²⁰⁵

176. John Highton makes two submissions on this method, one supporting collaboration with Kāi Tahu on environmental matters²⁰⁶, and one requesting an amendment to provide for

²⁰¹ 00226.049 Kāi Tahu ki Otago

²⁰² 00306.013 Meridian

²⁰³ 00121.014 Ravensdown Limited

²⁰⁴ 00223.031 Ngāi Tahu ki Murihiku

²⁰⁵ 00239.013 Federated Farmers

²⁰⁶ 00014.001 Highton, John

the substantial recognition and environmental improvement for sites identified in MW – M1.²⁰⁷

4.10.3. Analysis

177. I consider Kāi Tahu ki Otago’s reasoning and associated amendments clarify the policy’s purpose and expression. I recommend accepting this submission. I note the request by Kāi Tahu ki Otago does not mention existing clause (3), so the submission is adapted to retain this clause in my recommendations below.
178. As this results in deleting clause 4, I also recommend that Ravensdown’s submission is accepted and Meridian’s submission is declined.
179. Ngāi Tahu ki Murihiku’s requested changes to clause 3 are rendered inapplicable by Kāi Tahu ki Otago’s submission, and the deletion of clause 4 is in accordance with it. The suggested change from “and map” to “including mapping” in clause 1 recognises that there may be other ways to identify the things in question, which may be appropriate for some culturally important places, though the expression is somewhat awkward. I recommend accepting that submission in part, with adjustments to ensure it fits grammatically into the sentence.
180. I consider that the approaches reflected in Cain Whānau’s submission are largely subsumed by Kāi Tahu ki Otago’s proposed changes. The approaches specified (Using methods and tools meaningful to mana whenua and requiring Te Ao Kāi Tahu paradigms and mātauraka to be used in assessments) are, in my view, already included under the umbrella of collaboration, and supported elsewhere in this set of policies and methods, including MW-M3. I disagree that “assess” is a good replacement for “protect” in these policies. Assessment is part of identification and does not imply protection of what is identified.
181. However, the inclusion of the term “record” dovetails with Ngāi Tahu ki Murihiku’s submission, and can be used to improve the expression of “including mapping”. I therefore recommend accepting this submission in part.
182. Federated Farmers submission is consequential to another of its submissions on the ECO chapter, which has been rejected (00239.106 Federated Farmers of New Zealand). As a result, I recommend rejecting the submission on this chapter also.
183. I acknowledge John Highton’s points. I am unsure what “substantial recognition” means without indicative wording being supplied, and I consider that environmental improvement is already provided for throughout the RPS. I recommend rejecting this submission.
184. I recommend accepting in part DOC’s submission supporting this provision, in respect of those parts that remain as notified.

²⁰⁷ 00014.002 Highton, John

4.10.4. Recommendation

185. I recommend amending MW-M1 as follows:

MW-M1 – Collaboration with Kāi Tahu

Local authorities must collaborate with Kāi Tahu to:

- (1) identify, ~~and map~~ record (including by mapping),²⁰⁸ and protect²⁰⁹ places, areas, or landscapes, waters, taoka and other elements of cultural, spiritual or traditional significance to ~~them~~ mana whenua,²¹⁰
- ~~(2) protect such places, areas, or landscapes, and the values that contribute to their significance,~~
- (3) identify indigenous species and ecosystems that are taoka in accordance with ECO-M3, ~~and~~²¹¹
- ~~(4) identify and map outstanding natural features, landscapes and seascapes, and highly valued natural features, landscapes and seascapes and record their values.~~
- (4A) determine appropriate naming for places of significance in Otago, and
- (4B) share information relevant to Kāi Tahu interests.²¹²

4.11. MW-M2 – Work with Kāi Tahu

4.11.1. Introduction

186. As notified, MW-M2 reads:

MW-M2 – Work with Kāi Tahu

Local authorities must consult with Kāi Tahu to:

- (1) determine appropriate naming for places of significance in Otago,
- (2) share information relevant to Kāi Tahu interests, and
- (3) develop research and monitoring programmes that incorporate mātauraka and are led by *mana whenua*.

²⁰⁸ 00223.031 Ngāi Tahu ki Murihiku

²⁰⁹ 00226.049 Kāi Tahu ki Otago

²¹⁰ 00226.049 Kāi Tahu ki Otago

²¹¹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00226.049 Kāi Tahu ki Otago

²¹² 00226.049 Kāi Tahu ki Otago

4.11.2. Submissions

187. DOC supports this method as notified.²¹³

188. Both Kāi Tahu ki Otago and Ngāi Tahu ki Murihiku request replacing the word consult. Ngāi Tahu ki Murihiku suggests “work with”²¹⁴. Kāi Tahu ki Otago’s submission includes more substantial changes, in line with the changes suggested to MW-M1 including to the title:

MW – M2 – ~~Work with Kāi Tahu~~ Mātauraka Māori

Local authorities must work in partnership ~~consult~~ with Kāi Tahu to:

1. incorporate mātauraka into resource management processes,
2. enable use of mātauraka in decision – making where appropriate, and
3. ~~3.~~ develop research and monitoring programmes that incorporate mātauraka and are led by mana whenua.
- ~~1.~~ determine appropriate naming for places of significance in Otago, and
- ~~2.~~ share information relevant to Kāi Tahu interests.²¹⁵

189. Jim Hopkins suggests amending clause 3 as follows:

“3. develop research and monitoring programmes that incorporate mātauraka and the means by which it is assessed that are jointly led by mana whenua with agreed funding”²¹⁶

4.11.3. Analysis

190. Kāi Tahu ki Otago’s submission seeks a clearer and more useful expression of the policy’s purpose by explicitly refocusing it on mātauraka. In particular, inserting the term “partnership” into the method is a better reflection of the objective and policies, particularly the principles of Te Tiriti o Waitangi. I recommend accepting this submission.

191. I consider Ngāi Tahu ki Murihiku’s concerns are satisfied by Kāi Tahu ki Otago’s suggestions. Accordingly, I recommend accepting this submission to the extent that the redrafted provision addresses the concerns raised in it.

192. I recommend declining Jim Hopkins submission. It is not clear what is meant by the “assessment” of mātauraka; and the addition of “agreed funding” is an operational matter that does not add further value to the policy. Funding will have to be agreed for any operational activity as a matter of course.

193. I recommend accepting in part DOC’s submission supporting this provision, in respect of those parts that remain as notified.

²¹³ 00137.025 DOC

²¹⁴ 00223.032 Ngāi Tahu ki Murihiku

²¹⁵ 00226.050 Kāi Tahu ki Otago

²¹⁶ 00420.012 Hopkins, Jim

4.11.4. Recommendation

194. I recommend amending MW-M2 as follows:

MW-M2 – ~~Work with Kāi Tahu~~ Mātauraka Māori²¹⁷

Local authorities must work in partnership ~~consult~~²¹⁸ with Kāi Tahu to:

~~(1) determine appropriate naming for places of significance in Otago,~~

~~(2) share information relevant to Kāi Tahu interests, and~~

(2A) incorporate mātauraka into resource management processes,

(2B) enable use of mātauraka in decision-making where appropriate, and²¹⁹

(3) develop research and monitoring programmes that incorporate mātauraka and are led by *mana whenua*.

4.12. MW-M3 – Kāi Tahu relationships

4.12.1. Introduction

195. As notified, MW-M3 reads:

MW-M3 – Kāi Tahu relationships

Local authorities must develop processes to:

(1) establish and maintain effective resource management relationships with Kāi Tahu based on a mutual obligation to act reasonably and in good faith,

(2) involve Kāi Tahu at an early stage and throughout resource management processes and implementation, and

(3) facilitate efficient and effective processes for applicants to consult Kāi Tahu on *resource consent* applications, private plan change requests, notices of requirement, and notices of requirement for heritage orders.

4.12.2. Submissions

196. DOC supports the method as notified.²²⁰

197. Federated Farmers seeks to restrict clause 2 to freshwater management processes.²²¹

198. Kāi Tahu ki Otago seeks to amend clause 2 as follows:

²¹⁷ 00226.050 Kāi Tahu ki Otago

²¹⁸ 00226.050 Kāi Tahu ki Otago

²¹⁹ 00226.050 Kāi Tahu ki Otago

²²⁰ 00137.026 DOC

²²¹ 00137.026 Federated Farmers

- (1) Involve Kāi Tahu at an early stage and throughout resource management processes, decision – making and implementation,”²²²

199. Ngāi Tahu ki Murihiku requests the following amendment to clause 3:

“(3) ~~facilitate efficient and effective processes for~~ prepare applicants to consult with Kāi Tahu on [...]”²²³

4.12.3. Analysis

200. Federated Farmers submission considerably restricts the ambit of the method, to the extent that it does not satisfy the method’s purpose of directing partnering with Kāi Tahu throughout resource management processes and decisions. I recommend rejecting this submission.

201. Kāi Tahu ki Otago seeks an appropriate clarification of the partnership relationship. I recommend accepting this submission.

202. I recommend rejecting Ngāi Tahu ki Murihiku’s submission. I consider “preparing” an applicant a more hands on process than is appropriate. “Facilitate” incorporates the aspects of “prepare” that are appropriate and practicable in an RPS. Local authorities should provide for good and easily followed processes for consultation but should not be responsible for preparing each applicant. This should be an applicant’s responsibility.

203. I recommend accepting in part DOC’s submission supporting this provision, in respect of those parts that remain as notified.

4.12.4. Recommendation

204. I recommend amending MW-M4 as follows:

MW-M3 – Kāi Tahu relationships

Local authorities must develop processes to:

- (1) establish and maintain effective resource management relationships with Kāi Tahu based on a mutual obligation to act reasonably and in good faith,
- (2) involve Kāi Tahu at an early stage and throughout resource management processes, decision-making,²²⁴ and implementation, and
- (3) facilitate efficient and effective processes for applicants to consult Kāi Tahu on *resource consent* applications, private plan change requests, notices of requirement, and notices of requirement for heritage orders.

²²² 00226.051 Kāi Tahu ki Otago

²²³ 00223.033 Ngāi Tahu ki Murihiku

²²⁴ 00226.051 Kāi Tahu ki Otago

4.13. MW-M4 – Kāi Tahu involvement in resource management

4.13.1. Introduction

205. As notified, MW-M4 reads:

MW-M4 – Kāi Tahu involvement in resource management

Local authorities must facilitate Kāi Tahu involvement in resource management (including decision making) by:

- (1) including accredited Kāi Tahu commissioners on hearing panels for *resource consent* applications, notices of requirements, plan changes or plans where Kāi Tahu values may be affected,
- (2) resourcing Kāi Tahu participation in resource management decision making, including funding,
- (3) joint management agreements and full or partial transfers of functions, duties or powers from *local authorities* to iwi authorities in accordance with section 33 of the RMA 1991, and
- (4) entering into a Mana Whakahono ā Rohe with one or more iwi authorities.

4.13.2. Submissions

206. DOC supports the method as notified.²²⁵

207. Kai Tahu ki Otago seeks to amend the policy title as follows: “Kāi Tahu ~~involvement in resource management~~ rakatirataka”.²²⁶

208. Ngāi Tahu ki Murihiku seeks two amendments; one to remove the “s” at the end of “requirements” in clause 1, and the second as follows:

Local authorities must facilitate Kāi Tahu involvement in resource management (including decision – making) to the extent desired by mana whenua, including by: ...²²⁷

209. Waitaki DC requests amendments to reflect that expectations around resourcing requirements to give effect to the RPS are proportionate to the size of the local authority.

4.13.3. Analysis

210. Changing the title of this method to “Kāi Tahu rakatirataka” clarifies its purpose. “Involvement in resource management” does not distinguish it well from method 3. I recommend this submission be accepted.

211. I also recommend accepting Ngāi Tahu ki Murihiku’s submission. The grammar error should be corrected as indicated in the submission. Adding in “to the extent desired”

²²⁵ 00137.027 DOC

²²⁶ 00226.052 Kāi Tahu ki Otago

²²⁷ 00223.034 Ngāi Tahu ki Murihiku

clarifies that there needs to be an agreement about what Kāi Tahu need to be involved in to ensure Kāi Tahu rakatirataka, that values are upheld, and adding the word “including” indicates there may be other ways to facilitate involvement.

212. I recommend rejecting Waitaki DC’s submission I do not think the RPS is the appropriate place to address expectations around resourcing requirements. This is an operational matter better suited to long term and annual plans.

213. I recommend accepting in part DOC’s submission supporting this provision, in respect of those parts that remain as notified.

4.13.4. Recommendation

214. I recommend amending MW-M4 as follows:

MW-M4 – Kāi Tahu rakatirataka involvement in resource management²²⁸

Local authorities must facilitate Kāi Tahu involvement in resource management (including decision making) to the extent desired by mana whenua, including²²⁹ by:

- (1) including accredited Kāi Tahu commissioners on hearing panels for *resource consent* applications, notices of requirements,²³⁰ plan changes or plans where Kāi Tahu values may be affected,
- (2) resourcing Kāi Tahu participation in resource management decision making, including funding,
- (3) joint management agreements and full or partial transfers of functions, duties or powers from *local authorities* to iwi authorities in accordance with section 33 of the RMA~~1991~~,²³¹ and
- (4) entering into a Mana Whakahono ā Rohe with one or more iwi authorities.

4.14. MW-M5 – Regional and district plans

4.14.1. Introduction

215. As notified, MW-M5 reads:

MW-M5 – Regional and district plans

Local authorities must amend their regional and district plans to:

- (1) take Iwi Management Plans and resource management issues of significance to Kāi Tahu (RMIA) into account,

²²⁸ 00226.052 Kāi Tahu ki Otago

²²⁹ 00223.034 Ngāi Tahu ki Murihiku

²³⁰ 00223.034 Ngāi Tahu ki Murihiku

²³¹ Clause 16(2), Schedule 1, RMA

- (2) provide for the use of native reserves and *land* held under Te Ture Whenua Māori Act 1993 in accordance with MW–P4, and
- (3) incorporate active protection of areas and resources recognised in the NTCSA 1998

4.14.2. Submissions

216. DOC supports the method as notified.²³²

217. Cain Whānau requests changes to support its submissions on the policies and context parts of this chapter, and emphasise implementation of the NTCSA 1998:

“MW–M5 – Regional and district plans

Local authorities must amend their regional and district plans to:

- (1) Take Iwi Management Plans and resource management issues of significance to Kāi Tahu (RMIA) into account,
- (2) Recognise Ancillary Claims in the Otago Region
- (2) provide for the occupation, development and utilisation ~~use~~ of native reserves and land held under Te Ture Whenua Māori Act 1993 in accordance with MW–P4, and
- (3) incorporate active protection of areas and resources recognised in the NTCSA 1998, and act in accordance with the purpose of the redress provisions-
When preparing plans or making decisions on applications under those plans (if applicable) MW – P4 shall be given primacy over any other provision in this RPS.²³³

218. Kāi Tahu ki Otago similarly follows up on the earlier submission points:

- “(2) Provide for the use of native reserves, ~~and~~ land held under Te Ture Whenua Māori Act 1993 and land with a particular ancestral connection in accordance with MW – P4”²³⁴

219. Ngāi Tahu ki Murihiku requests the following changes to clause (1):

- “(1) take into account ~~Iwi M~~management ~~P~~plans and address resource management issues of significance to Kāi Tahu ~~(RMIA) into account~~”²³⁵

220. Te Rūnanga o Ngai Tahu seeks to add a new clause 4, recognising the need to implement outcomes of any settlements achieved under the Māori Commercial Claims Aquaculture Settlement Act 2004:

- “(4) set aside areas to achieve Settlement outcomes identified under the Māori Commercial Claims Aquaculture Settlement Act 2004.”²³⁶

²³² 00137.028 DOC

²³³ 00010.006 Cain whānau

²³⁴ 00226.053 Kāi Tahu ki Otago

²³⁵ 00223.035 Ngāi Tahu ki Murihiku

²³⁶ 00234.010 Te Rūnanga o Ngāi Tahu

4.14.3. Analysis

221. In my analysis for MW-P4 I give my reasons for declining Cain Whānau’s requested changes to give that policy primacy over other parts of the RPS. For those same reasons I recommend rejecting the corollary changes to this method.
222. Similarly, in my analyses of the submissions on Ngāi Tahu Claims Settlement Act 1998 and Māori Land reserves, and MW-P4, I suggest that further detail is needed regarding Cain Whānau’s submission to incorporate the ancillary claims, and Kāi Tahu ki Otago’s submission on including land with an ancestral connection, so I reserve my recommendation on these points.
223. Regarding the remainder of Cain Whānau’s requested amendments, I consider that the language in clause (2) should reflect the language used in MW-P4. This would entail the terms “protection, development, and use” rather than “occupation, development and utilisation”. This change is not enabled by a submission. In that case, I recommend leaving the current wording as is rather than introducing new terms. I consider the phrase (both submitted and as notified) is somewhat tautological in any case, as occupation and development are both uses of land in my view.
224. I am unsure what is intended by adding “act in accordance with the purpose of the redress provisions” to clause (3). The NTSCA contains several “purpose” provisions – are these what are intended, or is it more about the overall intent behind the Act, or something more specific to each instance of redress? A further consideration is whether or not the addition of these words advance the purpose of the RMA or is appropriately within the scope of an RPS? In light of the above, I recommend rejecting the submission.
225. Ngāi Tahu ki Murihiku’s submission corrects grammar, adds clarity, and corrects the expression of the method with regard to the issues of significance to Kāi Tahu. I recommend accepting this submission.
226. I concur with the intent behind Te Rūnanga o Ngāi Tahu’s request but am not sure that the expression is correct – I am not sure what it means for an area to be “set aside”. I consider the following wording better achieves the outcome sought by the submitter: “provide for the outcomes of settlements under the Māori Commercial Claims Aquaculture Settlement Act 2004.”. I recommend accepting the submission in part.
227. I recommend accepting in part DOC’s submission supporting this provision, in respect of those parts that remain as notified.

4.14.4. Recommendation

228. I recommend amending MW-M5 as follows:

MW-M5 – Regional plans²³⁷ and district plans

Local authorities must amend their regional plans²³⁸ and district plans to:

²³⁷ Clause 16(2), Schedule 1, RMA

²³⁸ Clause 16(2), Schedule 1, RMA

- (1) take into account ~~iwi Management Plans~~ iwi management plans and address resource management issues of significance to Kāi Tahu ~~(RMA)~~ into account,²³⁹
- (2) provide for the use of native reserves and *land* held under Te Ture Whenua Māori Act 1993 in accordance with MW-P4, ~~and~~²⁴⁰
- (3) incorporate active protection of areas and resources recognised in the NTCSA ~~1998~~²⁴¹, and²⁴²
- (3A) provide for the outcomes of settlements under the Māori Commercial Claims Aquaculture Settlement Act 2004.²⁴³

4.15. MW-M6 – Incentives and education

4.15.1. Introduction

229. This method encourages non-regulatory approaches to pursuing the aims of the policy suite and generally improving awareness and knowledge of te ao Kāi Tahu among local authority staff and stakeholders.

230. As notified, MW-M6 reads:

MW-M6 – Incentives and education

Local authorities are encouraged to use other mechanisms or incentives to assist in achieving Policies MW–P1 to MW–P4, promoting awareness and improving knowledge of tikaka and the principles of Te Tiriti o Waitangi among staff and stakeholders, including through hiring practices, induction programmes, key performance indicators and training activities.

4.15.2. Submissions

231. DOC supports the policy as notified.²⁴⁴

232. Kāi Tahu ki Otago seeks the following amendment:

“[...] promoting awareness and improving knowledge of tikaka and the principles and articles of Te Tiriti o Waitangi”²⁴⁵

²³⁹ 00223.035 Ngāi Tahu ki Murihiku

²⁴⁰ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00234.010 Te Rūnanga o Ngāi Tahu

²⁴¹ Clause 16(2), Schedule 1, RMA

²⁴² Clause 10(2)(b)(i), Schedule 1, RMA – Consequential amendment arising from 00234.010 Te Rūnanga o Ngāi Tahu

²⁴³ 00234.010 Te Rūnanga o Ngāi Tahu

²⁴⁴ 00137.029 DOC

²⁴⁵ 00226.054 Kāi Tahu ki Otago

4.15.3. Analysis

233. ORC's duty via the RMA and Local Government Act 2002 is to the principles of Te Tiriti o Waitangi, not the principles. In my opinion it is the principles which provide a clear drive for action and implementation in resource management. I have made this argument elsewhere in this chapter and have not recommended including reference to the articles as a result. Accordingly, I do not consider that reference to the articles should be included here. I recommend rejecting this submission.
234. I recommend accepting in part DOC's submission supporting this provision, in respect of those parts that remain as notified.

4.15.4. Recommendation

235. I recommend MW-M6 is retained as notified.

4.16. MW-M7 – Advocacy and facilitation

4.16.1. Introduction

236. This is a non-mandatory method for local authorities to facilitate negotiations around access to significant sites for Kāi Tahu.
237. As notified, MW-M7 reads:

MW-M7 – Advocacy and facilitation

Local authorities may facilitate negotiations with landowners to provide Kāi Tahu access to sites of significance to Kāi Tahu that do not have suitable access.

4.16.2. Submissions

238. Two submitters support the method as notified.²⁴⁶
239. Federated Farmers seeks to have the method deleted. It questions whether Council is an appropriate facilitator and considers that access should be sought and approved between Kāi Tahu and landowners, to ensure ongoing engagement and relationship-management.²⁴⁷

4.16.3. Analysis

240. I agree that a direct relationship between Kāi Tahu and landowners is preferable. I note first that the method is not mandatory, and secondly that "facilitation" can encompass a range of activities from coordinating and running a negotiation to merely assisting the parties involved with making contact. I consider the local authorities may have a role to play in this regard and recommend rejecting this submission.

²⁴⁶ 00137.030 DOC; 00226.055 Kāi Tahu ki Otago

²⁴⁷ 00239.015a Federated Farmers

241. I recommend accepting in part the submissions supporting this provision, in respect of those parts that remain as notified.

4.16.4. Recommendation

242. I recommend MW-M7 is retained as notified.

4.17. MW-E1 – Explanation

4.17.1. Introduction

243. This provision provides an explanation of the policy suite as a whole, and how it achieves the objective.

244. As notified, MW-E1 reads:

MW-E1 – Explanation

The policies in this section are designed to achieve MW–O1 by setting out the actions that must be undertaken by *local authorities* to ensure the principles of Te Tiriti o Waitangi are given effect in resource management processes and decisions. The policies also require the development and implementation of planning tools which recognise the role of Kāi Tahu in resource management and ensure their engagement with and participation in resource management.

4.17.2. Submissions

245. Three submitters seek to replace the words “given effect” with “taken into account”.²⁴⁸

246. OWRUG additionally seeks an addition to the final sentence:

“which recognise the role of Kāi Tahu in resource management and ensure their engagement with and participation in resource management that arises from a partnership approach with Local authorities.”²⁴⁹

247. Ngāi Tahu ki Murihiku requests the following amendments:

“...the principles of Te Tiriti o Waitangi are given effect in resource management processes and decisions, and what is valued by mana whenua, taoka tuku iho, is actively protected in the region. The policies and methods also require the development and implementation of planning tools and other mechanisms ~~which that~~: recognise the role of Kāi Tahu in resource management and ensure mana whenua engagement with and participation in resource management; and achieve outcomes that provide for Kāi Tahu values and support Kāi Tahu well-being.”²⁵⁰

²⁴⁸ 00239.016 Federated Farmers; 00213.012 Fonterra; 00235.017 OWRUG.

²⁴⁹ 00235.017 OWRUG.

²⁵⁰ 00223.036 Ngāi Tahu ki Murihiku

4.17.3. Analysis

248. The words “given effect” reflect the wording of the objective, and this issue has been addressed above in relation to MW-O1. Accordingly, I recommend declining Federated Farmers and Fonterra’s submissions.
249. I recommend accepting OWRUGs submission in part. Mentioning the partnership approach here has merit, however the submitted wording does not seem to me to make sense, and I think requires redrafting.
250. This may be combined with the wording provided by Ngāi Tahu Ki Murihiku. While this submission provides a better expression of mana whenua values and approaches, I have outstanding questions on the following points:
- What does taoka tuku iho mean in this context?
 - How does this drafting align with section 62(1)(d) RMA which records that explanations relate only to policies,
 - Why is there a colon after “that”?
 - What contribution does the final added sentence make to the explanation, because it seems to be a repetition of earlier content, though it adds the concept of wellbeing?
251. I recommend accepting this submission in part also, and recommend wording below to address points raised in the discussion above.
- “...the principles of Te Tiriti o Waitangi are given effect in resource management processes and decisions, and mana whenua values and taoka tuku iho are actively protected, supporting Kāi Tahu wellbeing. The policies also require the development and implementation of planning tools and other mechanisms that ~~which~~ recognise the role of Kāi Tahu in resource management and ensure mana whenua engagement with and participation in resource management in partnership with Local Authorities.”

4.17.4. Recommendation

252. I recommend amending MW-E1 as follows:

MW-E1 – Explanation

The policies in this section are designed to achieve MW-O1 by setting out the actions that must be undertaken by *local authorities* to ensure the principles of Te Tiriti o Waitangi are given effect in resource management processes and decisions, and mana whenua values and taoka tuku iho are actively protected, supporting Kāi Tahu wellbeing.²⁵¹ The policies also require the development and implementation of planning tools and other mechanisms that²⁵² ~~which~~ recognise the role of Kāi Tahu in resource management and

²⁵¹ 00223.036 Ngāi Tahu ki Murihiku

²⁵² 00223.036 Ngāi Tahu ki Murihiku

ensure mana whenua engagement with and participation in resource management in partnership with local authorities.²⁵³

4.18. MW-PR1 – Principal reasons

4.18.1. Introduction

253. In accordance with RMA s62(1)(f), this provision provides the principal reasons for adopting the objectives, policies, and methods of implementation set out in this chapter.

254. As notified, MW-PR1 reads:

MW-PR1 – Principal reasons

Te Tiriti o Waitangi creates a special relationship between *takata whenua* and the Crown. Section 8 of the RMA 1991 requires *local authorities* to take the principles of Te Tiriti o Waitangi into account. These principles include *kāwanataka*, *rakatirataka*, partnership, participatory decision making and active protection of Kāi Tahu resources. Section 7(a) of the RMA 1991 requires decision makers to have particular regard to *kaitiakitaka*. Effective *kaitiakitaka* is dependent upon the extent to which Kāi Tahu can exercise *rakatirataka*, which requires the authority and ability to make decisions relating to management of resources.

Local authorities need to incorporate Treaty principles into their decision making and ensure they are properly applied, to account for the *effects* of resource management decisions on Kāi Tahu values, including those described in iwi resource management plans. Deliberate measures need to be taken to ensure the principles are well understood. The principles are broadly expressed, so a measure of flexibility is needed in applying them.

The provisions in this chapter assist in implementing sections 6(e), 7(a) and 8 of the RMA 1991 by requiring a partnership approach which involves Kāi Tahu and considers *mana whenua* rights, interests and values in decision making processes, and enables Treaty principles to be taken into account in an appropriate way.

Implementation of the provisions in this chapter will occur primarily through *regional* and *district plan* provisions. However *local authorities* may also adopt additional non-regulatory methods to implement the policies and support achievement of the objective.

4.18.2. Submissions

255. Federated Farmers seeks the following amendment:

“Deliberate measures need to be taken to ensure the principles are well clearly articulated and readily understood.”²⁵⁴

²⁵³ 00235.017 OWRUG.

²⁵⁴ 00239.017 Federated Farmers

256. OWRUG requests more fulsome changes:
- “Deliberate measures need to be taken by Local Authorities to ensure the principles are well understood. The principles are broadly expressed which can make it difficult for people to understand their implications and a measure of flexibility is needed in applying them. Local authorities have an important role in facilitating and providing clarity about the implementation of the principles at a practical level.”²⁵⁵
257. Ngāi Tahu ki Murihiku seeks the following amendments:
- “Te Tiriti o Waitangi creates a special relationship between takata whenua and the Crown, which the Crown expresses to an extent in the provisions of the RMA 1991 and national instruments created in accordance with the Act, including requirements of local authorities. Providing for cultural well-being is a feature of the sustainable management purpose of the Act. Section 8 of the RMA 1991 Act requires [...], and enables Treaty principles to be taken into account applied in an appropriate way.
- [...]
- Implementation of the provisions in this chapter will occur primarily, but not exclusively, through regional and district plan provisions. ~~However, Local authorities may also adopt additional a range of methods, utilising statutory mechanisms and non – regulatory methods,~~ to implement the policies and support achievement of the objective.”²⁵⁶
- 4.18.3. Analysis
258. The additions suggested by Federated Farmers and Ngāi Tahu ki Murihiku help to more clearly articulate the principal reasons and connect the reasons to the provisions above.
259. I recommend accepting Federated Farmers submission and accepting Ngāi Tahu ki Murihiku’s submission in part. The latter submission is not expressed clearly at points; I recommend adjustments below. I note that, in accordance with the Abbreviations section, the abbreviation used for the Resource Management Act 1991 in the pORPS is “RMA” rather than “RMA 1991”, adjustments have been made accordingly.
260. I recommend rejecting OWRUG’s submission. In my view, the recommended changes focus overly much on local authorities’ role in explaining and being responsible for the principles of Te Tiriti o Waitangi. The pORPS conveys the implementation and application of the principles through its architecture and content; this much is made clear in the notified text. However, understanding and applying the principles is relevant across a far broader scope of activities and should be seen as a broader social responsibility.

4.18.4. Recommendation

261. I recommend amending MW-PR1 as follows:

²⁵⁵ 00235.018 OWRUG

²⁵⁶ 00223.037 Ngāi Tahu ki Murihiku

MW-PR1 – Principal reasons

Te Tiriti o Waitangi creates a special relationship between *takata whenua* and the Crown, which the Crown expresses in part through the provisions of the RMA and national instruments created in accordance with the RMA. This, in turn, creates responsibilities for local authorities. Providing for cultural well-being is a feature of the sustainable management purpose of the RMA.²⁵⁷ Section 8 of the RMA ~~1991~~²⁵⁸ requires *local authorities* to take the principles of Te Tiriti o Waitangi into account. These principles include *kāwanataka*, *rakaitirataka*, partnership, participatory decision making and active protection of Kāi Tahu resources. Section 7(a) of the RMA ~~1991~~²⁵⁹ requires decision makers to have particular regard to *kaitiakitaka*. Effective *kaitiakitaka* is dependent upon the extent to which Kāi Tahu can exercise *rakaitirataka*, which requires the authority and ability to make decisions relating to management of resources.

Local authorities need to incorporate Treaty principles into their decision making and ensure they are properly applied, to account for the *effects* of resource management decisions on Kāi Tahu values, including those described in iwi resource management plans. Deliberate measures need to be taken to ensure the principles are ~~well~~ clearly articulated and readily²⁶⁰ understood. The principles are broadly expressed, so a measure of flexibility is needed in applying them.

The provisions in this chapter assist in implementing sections 6(e), 7(a) and 8 of the RMA ~~1991~~²⁶¹ by requiring a partnership approach which involves Kāi Tahu and considers *mana whenua* rights, interests and values in decision making processes, and enables Treaty principles to be ~~taken into account~~ applied²⁶² in an appropriate way.

Implementation of the provisions in this chapter will occur primarily, but not exclusively,²⁶³ through *regional plans*²⁶⁴ and *district plan* provisions. ~~However, local authorities may also adopt additional a range of methods, utilising statutory mechanisms and~~²⁶⁵ non-regulatory methods to implement the policies and support achievement of the objective.

4.19. MW-AER1

4.19.1. Introduction

262. As notified, MW-AER1 reads:

MW-AER1

Resource management processes and decisions reflect the principles of Te Tiriti o Waitangi.

²⁵⁷ 00223.037 Ngāi Tahu ki Murihiku

²⁵⁸ Clause 16(2), Schedule 1, RMA

²⁵⁹ Clause 16(2), Schedule 1, RMA

²⁶⁰ 00239.017 Federated Farmers

²⁶¹ Clause 16(2), Schedule 1, RMA

²⁶² 00223.037 Ngāi Tahu ki Murihiku

²⁶³ 00223.037 Ngāi Tahu ki Murihiku

²⁶⁴ Clause 16(2), Schedule 1, RMA

²⁶⁵ 00223.037 Ngāi Tahu ki Murihiku

4.19.2. Submissions

263. Federated Farmers requests a complete revision of the AER:

~~“Resource management processes and decisions reflect the principles of Te Tiriti o Waitangi.~~

In relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi)”²⁶⁶

264. OWRUG also seeks to incorporate the text “take into account” rather than “reflect”²⁶⁷

265. Kāi Tahu ki Otago requests an addition as follows:

“Resource management processes and decisions reflect the principles and articles of Te Tiriti o Waitangi.”²⁶⁸

4.19.3. Analysis

266. ORC’s duty via the RMA and Local Government Act 2002 is to the principles. In my opinion it is the principles which provide a clear drive for action and implementation in resource management. I am not convinced recourse to the articles would clarify or improve matters in this regard. I have made this argument elsewhere in this chapter and have not recommended including reference to the articles as a result. I do not consider this inclusion is correct and recommend rejecting this submission.

267. The essential component of the Federated Farmers request appears to be the incorporation of “take into account”, as OWRUG’s submission also requests.

268. This AER links directly to MW-O1, which requires giving effect to the principles of Te Tiriti o Waitangi in resource management decisions and processes. Changing the AER to “take into account” would, I consider, be inconsistent with earlier wording. I consider “reflects” is able to convey the environmental result of giving effect to the principles of Te Tiriti o Waitangi. Accordingly, I recommend rejecting OWRUGs submission.

269. I recommend rejecting Federated Farmers submission. The redrafted AER does not make sense as written and, in my view, is expressed as a policy. I do not understand from the submission what the environmental result should be.

4.19.4. Recommendation

270. I recommend retaining MW-AER1 as notified.

²⁶⁶ 00239.018 Federated Farmers

²⁶⁷ 00235.019 OWRUG

²⁶⁸ 00226.056 Kāi Tahu ki Otago

4.20. MW-AER2

4.20.1. Introduction

271. As notified, MW-AER2 reads:

MW-AER2

Strong relationships between Kāi Tahu and *local authorities* facilitate the exercise of rakatirataka and *kaitiakitaka* by *mana whenua* in relation to their taoka tuku iho.

4.20.2. Submissions

272. Jim Hopkins requests that the AER clarify:

- the meaning of rakatirataka and kaitiakataka, particularly in relation to the extent of decision-making authority with regard to taoka tuku iho (beyond land and resources listed in the RPS, or more widely)
- the role of councils, and how conflicting interests or concerns can be addressed.²⁶⁹

4.20.3. Analysis

273. This content does not belong in an AER, and concerns with the meaning of these terms are reflected in the analysis of submissions on definitions above. I recommend the submission be declined.

4.20.4. Recommendation

274. I recommend retaining MW-AER2 as notified.

²⁶⁹ 00420.010 Hopkins, Jim

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