

BEFORE THE HEARING PANEL

UNDER the Resource Management Act 1991
IN THE MATTER of the Proposed Otago Regional Policy Statement 2021

**REBUTTAL EVIDENCE OF SANDRA JEAN MCINTYRE
ON BEHALF OF KĀI TAHU KI OTAGO, NGĀI TAHU KI MURIHIKU AND TE
RŪNANGA O NGĀI TAHU**

14 December 2022

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INTRODUCTION

1. My name is Sandra Jean McIntyre. My qualifications and experience are set out in my evidence-in-chief for Kāi Tahu, dated 23 November 2022.
2. My rebuttal evidence addresses the planning evidence of other parties that relates to Kāi Tahu values and interests and matters raised in the Kāi Tahu submissions, as follows:
 - (a) **Matters affecting the use of Māori land:** evidence of Ainsley McLeod for Transpower (MW-P4, definition of “Māori land”, EIT-INF-P15); Paul Freeland for Dunedin City Council (MW-P4); Tim Ensor for Fulton Hogan (LF-LS provisions); Lynette Wharfe for Horticulture New Zealand (AIR and UFD provisions); Steve Tuck for Silver Fern Farms (AIR provisions);
 - (b) **Matters relating to freshwater management:** Dr Michael Freeman for OWRUG, Federated Farmers and Dairy NZ (LF-WAI provisions, LF-FW-O10 and LF-FW-P13); Claire Hunter for Oceana Gold (RMIA-WAI-I5 and LF-FW-P13);
 - (c) **Definition of “regionally significant infrastructure”:** Elizabeth Soal for Waitaki Irrigators; Keith Frenz for Dunedin City Council;
 - (d) **Provisions for renewable electricity generation:** Stephanie Styles for Manawa Energy; Claire Hunter for Contact Energy; Susan Ruston for Meridian Energy;
 - (e) **Revision of UFD chapter:** Emily McEwan for Dunedin City Council;
 - (f) **Reference to mauri in IM-P1:** Dr Michael Freeman for OWRUG, Federated Farmers and Dairy NZ; and
 - (g) **Reference to mana whenua values in AIR provisions:** Lynette Wharfe for Horticulture New Zealand.
3. For the avoidance of doubt, failure to refer to a particular paragraph within the statements of the above witnesses, or to the evidence of other witnesses, should not be taken as my acceptance of its contents. Instead, I have focussed on the evidence that is of the most importance and significance to the position of Kāi Tahu, as set out in its submissions and

evidence, where these raise matters additional to those addressed in my evidence-in-chief.

MATTERS AFFECTING THE USE OF MĀORI LAND

4. I have discussed the use of Māori land in my evidence-in-chief at paragraphs [23]-[36]. I have described the impact of planning constraints on the ability for mana whenua to use the land for the purposes for which it was intended. To provide for the relationship of mana whenua with ancestral land as required by section 6(e) of the Resource Management Act (**RMA**), I have supported the enabling approach in MW-P4 recommended in the Otago Regional Council (**ORC**) supplementary evidence and I have recommended amendments to provisions elsewhere in the Proposed Otago Regional Policy Statement (**PORPS**) to reflect this.
5. I consider that amendments to the PORPS recommended by some planning witnesses would impose unnecessary and inappropriate restrictions on the use of Māori land. My reasons for this view are discussed below.

Reverse sensitivity effects on the National Grid: Ainsley McLeod (Transpower)

6. Ms McLeod is concerned that the enabling approach recommended in MW-P4 would not be consistent with the requirements of the National Policy Statement for Electricity Transmission (**NPSET**) because it does not address reverse sensitivity effects on the National Grid. She says that the proposed definition of Māori land is too uncertain to be confident that it will not include land near the National Grid that could be used for sensitive activities¹ and that Policy MW-P4 goes beyond the requirements of section 6(e) of the RMA.² She recommends a change to Policy EIT-INF-P15 to require avoidance of activities that may have adverse effects, including reverse sensitivity effects, on nationally significant and regionally significant infrastructure, and specifically includes reference to use of Māori land in this context.³
7. My evidence-in-chief discusses the reasons I consider that an enabling approach to use of Māori land is consistent with section 6(e) and I will not repeat that discussion here.⁴

¹ Evidence of Ainsley McLeod for Transpower at [6.28]-[6.30]. Note that “sensitive activities” is defined in the PORPS as including schools, residential buildings and hospitals.

² Evidence of Ainsley McLeod for Transpower at [6.33].

³ Evidence of Ainsley McLeod for Transpower at [8.62].

⁴ Evidence of Sandra McIntyre for Kāi Tahu at [23]-[30].

8. In respect to Ms McLeod's concern about the impact on the National Grid, I have reviewed the location of land that I understand would currently fall within clauses 1 to 5 of the "Māori land" definition (supplementary evidence version) in relation to the location of the National Grid. All of this land is located in coastal Otago, with the exception of two blocks near Lakes Wanaka and Hāwea and a block near the foot of the Lammermoor Range northwest of Lake Mahinerangi. None of the land is in close proximity to the National Grid.
9. I acknowledge that there is some uncertainty associated with the other categories of land in the proposed definition, including the additional clause I have recommended to provide flexibility to purchase additional land to offset land either lost through alienation or unusable due to the effects of natural hazards. However, as indicated in the evidence of the cultural witnesses, aspirations to support whānau to live on Māori land are closely tied to the areas in and adjoining the coastal Native Reserve lands.⁵ As a result I disagree with Ms McLeod's comments in relation to MW-P4.
10. The amendment to Policy EIT-INF-P15 proposed by Ms McLeod is inclusive, but the only activity specifically referred to is the use of Māori land. I consider that singling out restrictions on the use of Māori land in this way is inconsistent with the obligation under section 8 of the RMA to take Treaty principles into account, including the principle of reciprocity which recognises the equal status of Treaty partners.
11. In addition, the proposed amendment to EIT-INF-P15 goes significantly beyond addressing the potential effect of reverse sensitivity on the National Grid, because:
 - (a) EIT-INF-P15 applies to all nationally significant and regionally significant infrastructure, not just the National Grid, and as such is not necessary to give effect to the NPSET; and
 - (b) the wording Ms McLeod proposes in clause 1 broadens the scope beyond reverse sensitivity effects to require avoidance of activities generally that may give rise to adverse effects on such infrastructure. It is not clear what types of effects are anticipated by this provision.⁶

⁵ Evidence for Kāi Tahu of Edward Ellison at [92-96], Justin Tipa at [26-30], Matapura Ellison at [34-41]

⁶ Note that in my evidence-in-chief, at [127], I have discussed my concerns about clause (3) of EIT-INF-P15. I continue to oppose that clause, which has been retained in Ms McLeod's recommended amendment but renumbered as clause (2).

12. I consider that this amendment is inappropriately onerous, too broad in scope, and is unnecessary to address Transpower's concern.

MW-P4: Paul Freeland (Dunedin City Council)

13. Mr Freeland requests amendment of MW-P4 to reinstate a reference to avoiding significant adverse effects on the health and safety of people and on matters of national importance, and avoiding, remedying or mitigating other adverse effects. In my evidence-in-chief, I have discussed the way in which such provisions inappropriately constrain the use of Māori land. The reason Mr Freeland gives for his recommendation is that their removal could suggest that no adverse effects are considered when Kāi Tahu are using or developing Native Reserves and Māori land.⁷ I do not agree with this reasoning. Method MW-M5, with the amendments I have recommended in my evidence-in-chief, specifically refers to management of adverse effects in a way that appropriately enables exercise of rakatirataka by mana whenua on their ancestral lands. As such, when read together and holistically, MW-M4 and MW-M5 provide the necessary direction to achieve appropriate management of adverse effects, consistent with the meaning of sustainable management under section 5 of the RMA.

Amendments to other provisions that could constrain use of Māori land

14. A number of amendments in other chapters of the PORPS are proposed by various parties to avoid reverse sensitivity effects on rural activities or to prioritise primary production, as follows:
- (a) AIR – new policy: Lynette Wharfe (Horticulture New Zealand)⁸ and Steve Tuck (Silver Fern Farms)⁹ request a new policy requiring the avoidance of new sensitive activities / non-rural activities locating near existing permitted or consented air discharges;
 - (b) LF-LS – new policy: Tim Ensor (Fulton Hogan)¹⁰ recommends a new policy prioritising primary production ahead of urban uses on rural land;

⁷ Evidence of Paul Freeland for Dunedin City Council at [10]

⁸ Evidence of Lynette Wharfe for Horticulture New Zealand at [59-70]

⁹ Evidence of Steve Tuck for Silver Fern Farms at [6.9-6.12]

¹⁰ Evidence of Tim Ensor for Fulton Hogan at [19]

- (c) UFD provisions: Lynette Wharfe (Horticulture New Zealand)¹¹ seeks an additional clause in UFD-O3 and UFD-P1 requiring avoidance of urban rezoning of highly productive land “to the extent possible”, and including a reference in UFD-O4 to reverse sensitivity.
15. As discussed in my evidence-in-chief, one of the factors contributing to constraints on the use of Māori land has been the past failure of planning documents to recognise residential settlement as part of the intended purpose of the Native Reserve lands.¹² Because most of these areas have retained rural zoning, their use for residential and residential-related activity would be constrained by the amendments proposed by these witnesses. For the reasons discussed in my evidence-in-chief (including the inconsistency of the proposed amendments with section 6(e) of the RMA), I do not consider the use of Māori land should be constrained in this way.
16. In respect to the new policy in the AIR chapter proposed (in slightly differing forms) by Ms Wharfe and Mr Tuck, I note also that “existing permitted or consented air discharges” could include a wide range of discharges, including many common activities with only minor effects. For example, the operative Otago Regional Plan: Air permits discharges from domestic heating appliances with emissions below stated thresholds,¹³ and discharges from cookers,¹⁴ hangi and campfires.¹⁵ The effect of the policy would be to restrict “sensitive” or “non-rural” activities from establishing near to any such discharges, which I consider is impractical, unjustified and unnecessarily onerous. I consider this would not be the most efficient and effective means of achieving the sustainable management purpose of the RMA in relation to those issues.

MATTERS RELATING TO FRESHWATER MANAGEMENT

LF-WAI provisions: Dr Michael Freeman for OWRUG, Federated Farmers and Dairy NZ; Paul Freeland for Dunedin City Council

17. In my evidence-in-chief I have discussed the higher order direction regarding Te Mana o te Wai, including requirements for an approach that recognises the interconnectedness across the environment and the role of mana whenua in freshwater management

¹¹ Evidence of Lynette Wharfe for Horticulture New Zealand at [350-361, 367-369, 378-386]

¹² Evidence of Sandra McIntyre for Kāi Tahu at [26-30]

¹³ Regional Plan: Air, Rules 16.3.1.2, 16.3.1.3

¹⁴ Regional Plan: Air, Rule 16.3.1.4

¹⁵ Regional Plan: Air, Rule 16.3.2.5

processes.¹⁶ I have also described the process for development of the LF-WAI provisions in the PORPS.¹⁷ In my opinion, the LF-WAI policies provide clear and appropriate direction as to the way in which the higher order requirements are to be interpreted in Otago. Dr Freeman and Mr Freeland request amendments to the provisions that I consider would make that direction less clear and would add inappropriate qualifiers that are not consistent with the National Policy Statement for Freshwater Management 2020 (**NPSFM**). I discuss these below.

18. LF-WAI-P2 Mana whakahaere: Mana whakahaere is the first of the six Te Mana o te Wai principles set out in the NPSFM. It recognises the power, authority, and obligations of mana whenua in respect to decision-making relating to freshwater. Because it relates to the rakatirataka of mana whenua, and to their relationship with freshwater, I consider that the way in which this principle is given effect to in any region must necessarily be informed by the perspective of mana whenua in that region.
19. In my evidence-in-chief I have referred to the characteristics of the relationship of Kāi Tahu with te taiao (including wai māori) that are described in the cultural evidence, and I have discussed the way in which I consider this relationship needs to be reflected in resource management processes and decision-making.¹⁸ I have discussed this with specific reference to LF-WAI-P2 at [99] and [100] of my evidence-in-chief.
20. Dr Freeman proposes deletion of the references to giving practical effect to rakatirataka and to active involvement of mana whenua, and also seeks to narrow the scope of LF-WAI-P2(1) to decision-making processes only. His concern is that the direction could result in Kāi Tahu being identified as a potentially adversely affected party for all resource consents that relate to water.
21. I consider that Dr Freeman's concern is unfounded. The determination of affected party status in any consent application will be based on a range of considerations, including the notification tests under the RMA, which do not refer to the objectives and policies of an RPS, but rather the effects of the activity under consideration, viewed in light of the planning framework in the relevant regional plan or district plan. LF-WAI-P2 has a significantly broader focus and reflects mana whenua aspirations for involvement across all aspects of resource management, including (particularly) plan development and monitoring processes. I consider that Dr Freeman's proposed amendments would be

¹⁶ Evidence of Sandra McIntyre for Kāi Tahu at [96]

¹⁷ Evidence of Sandra McIntyre for Kāi Tahu at [97]

¹⁸ Evidence of Sandra McIntyre for Kāi Tahu at [15]-[20]

inconsistent with the NPSFM direction requiring active involvement of mana whenua involvement in freshwater management, including (but not limited to) decision-making processes, and the amendments he proposes therefore do not give effect to the NPSFM as required.¹⁹

22. LF-WAI-P3 Integrated management / ki uta ki tai: I do not support Dr Freeman’s request to delete LF-WAI-P3. In my evidence-in-chief I have discussed the importance of integrated management in the Kāi Tahu approach to management of te taiao.²⁰ The NPSFM recognises that integrated management is a requirement of Te Mana o te Wai,²¹ and this is also reflected in LF-WAI-O1. As discussed at [101] in my evidence-in-chief, I support the direction in LF-WAI-P3 as to what is required for an integrated approach that recognises the interconnectedness across te taiao. In my experience, this is a matter that is underemphasised in current regional plans. For example, deficiencies in the Otago regional planning framework in respect to integrated management of land use, water quality and water quantity were canvassed in the hearing of Plan Change 7 to the Regional Plan: Water and are highlighted in the decision of the Environment Court on that Plan Change.²²
23. Paul Freeland recommends an amendment to LF-WAI-P3 to acknowledge “regionally significant infrastructure associated with housing that may not be able to maintain the health and well-being of fresh water and coastal water”. Mr Freeland does not explain what infrastructure this refers to. I consider that the proposed amendment is unclear and is inconsistent with the requirement of the NPSFM to give first priority to the health and wellbeing of water bodies and freshwater ecosystems. I note the concerns referred to in the cultural evidence of Brendan Flack and Edward Ellison on the impacts of stormwater and wastewater infrastructure on the mahika kai resources and ecosystems in coastal waters,²³ and I consider that the proposed amendment is also likely to be inconsistent with the New Zealand Coastal Policy Statement 2010 (**NZCPS**) requirements relating to effects on habitats of indigenous species, to the extent the proposed amendment relates to coastal water.²⁴ In my opinion, the proposed amendment does not give effect to either the NPSFM, or (in relation to coastal water) the NZCPS.

¹⁹ NPSFM 3.4(1)

²⁰ Evidence of Sandra McIntyre for Kāi Tahu at [42]

²¹ NPSFM 3.5

²² Plan Change 7 Interim Decision, 2021 NZEnvC 164, referred to in various places, including at [73], [234] and [317]

²³ Evidence of Brendan Flack for Kāi Tahu at [34]-[36]; Evidence of Edward Ellison for Kāi Tahu at [54]-[55]

²⁴ NZCPS Policy 11(b)

24. LF-WAI-P4 Giving effect to Te Mana o te Wai: I do not support the request of Dr Freeman to delete LF-WAI-P4 and replace it with a policy to facilitate transition to a Te Mana o te Wai approach in order to minimise the impact of the transition on the social, economic and cultural well-being of people and communities.
25. In the process of developing the PORPS, I was involved in discussions with ORC staff about the importance of ensuring that the LF-WAI provisions are clearly seen to be overarching requirements for all freshwater management, consistent with NPSFM Policy 1. The structure of the LF chapter was developed with this in mind, and the intent of LF-WAI-P4 is to emphasise that the LF-WAI objective and policies are overarching. Because Te Mana o te Wai requires a significantly different approach than the approach that has previously been taken to freshwater management in Otago, I consider that it is appropriate and necessary to emphasise that it must be considered in all decision-making for freshwater management.
26. Although I support the need for a proactive approach to support people to make the changes that will be necessary to give effect to Te Mana o te Wai, I consider that this is a matter that would be more appropriately considered in relation to the development of the Land and Water Regional Plan (**LWRP**). I consider that the alternative policy proposed by Dr Freeman is inconsistent with the NPSFM, which does not require that impacts of change on social, economic and cultural well-being are “minimised”. The assessment of the benefits and costs of proposed policy approaches must be undertaken as part of the LWRP development process in accordance with section 32 of the RMA, together with an assessment of the efficiency and effectiveness of the provisions in achieving the objectives of the LWRP. In my opinion, it would be inappropriate to constrain such an evaluation by a requirement to minimise all impacts on social, economic and cultural well-being during any transition.

LF-FW-O10 and LF-FW-P13: Dr Michael Freeman for OWRUG, Federated Farmers and Dairy NZ; Claire Hunter for Oceana Gold

27. Dr Freeman requests amendment of LF-FW-O10 and LF-FW-P13 to replace reference to the natural behaviours of water bodies with more general reference to natural character, while Ms Hunter requests that LF-FW-P13(4) relating to this matter is deleted entirely. I do not support these requests.
28. The ability for natural processes to continue to function and for water bodies to exhibit their natural behaviour is an important component of the natural character of water bodies

and is seen by Kāi Tahu as forming part of the mauri of a water body. For example, mauri and natural character can be diminished by activities such as the straightening of sinuous rivers, constraining a braided river to a single channel and limitations on natural flow patterns that impact on the ability of a river to remain open to the sea. The NZCPS recognises natural processes and the natural movement of water as components of natural character in respect to the coastal environment. However, in my experience, these components are often under-emphasised when considering the natural character of rivers and lakes, with the emphasis instead being on the visual appearance of the water bodies and the degree of surrounding development. I consider that it is appropriate and helpful to include direction on the importance of sustaining the ability for water bodies to behave naturally in the PORPS provisions relating to the natural character of water bodies.

DEFINITION OF “REGIONALLY SIGNIFICANT INFRASTRUCTURE”

29. In my evidence-in-chief I have discussed the PORPS approach to managing infrastructure, the importance of the distinction made between nationally significant / regionally significant infrastructure and other infrastructure in weighing the needs of infrastructure against the values that may be affected, and my opinion that the definition of “regionally significant infrastructure” should not be broadened to encompass infrastructure that does not serve a lifeline utility function.²⁵

Community-scale irrigation and stock water infrastructure: Elizabeth Soal for Waitaki Irrigators

30. Ms Soal considers that community-scale irrigation infrastructure should be included in the definition of regionally significant infrastructure.²⁶ I agree with Ms Soal that some community scale irrigation infrastructure can serve a combined irrigation/community water supply purpose. However, I consider an amendment is unnecessary to cover this, as the community water supply component would already be encompassed within the existing definition as community drinking water extraction.
31. In my opinion, broadening the definition of “regionally significant infrastructure” to include all “community-scale irrigation and stockwater infrastructure” as regionally significant would not be consistent with the hierarchy of priorities in the NPSFM, as it would inappropriately increase the weighting of the needs of this infrastructure in relation to the effects on the health and well-being of water bodies. Given the age and need for

²⁵ Evidence of Sandra McIntyre for Kāi Tahu at [120]-[121]

²⁶ Evidence of Elizabeth Soal for Waitaki Irrigators Collective at [28-51]

replacement of significant parts of this infrastructure in Otago,²⁷ I consider that this increased weighting could lead to significant loss of values and extent of water bodies and wetlands when existing irrigation infrastructure is being replaced or upgraded.

Municipal landfills: Keith Frentz for Dunedin City Council

32. The evidence of Mr Frentz considers it incongruous that landfills are not defined as regionally significant infrastructure when community drinking water, wastewater and stormwater infrastructure are included.²⁸ However, landfills are not defined as infrastructure under the RMA. As landfills do not qualify as infrastructure, I do not consider they should be included in the definition of regionally significant infrastructure.

PROVISION FOR RENEWABLE ELECTRICITY GENERATION

33. I have discussed the approach to management of infrastructure, and the relevant higher order direction about this, in my evidence-in-chief.²⁹ This discussion is relevant to the requests of Manawa Energy, Contact Energy and Meridian Energy (the **Electricity Generators**) in respect to provision for renewable electricity generation.

EIT-EN provisions: Stephanie Styles for Manawa Energy; Claire Hunter for Contact Energy; Susan Ruston for Meridian Energy

34. The Electricity Generators propose a new set of stand-alone provisions for renewable electricity generation activities to replace the existing EIT-EN section of the PORPS and to take the place of provisions in the EIT-INF section that would otherwise apply to these activities. The intent of this is to reflect the requirements in the National Policy Statement for Renewable Electricity Generation 2011 (**NPSREG**). I have two key concerns with this approach.
35. Whereas the management approach set out in the EIT-INF section of the PORPS distinguishes between nationally significant / regionally significant infrastructure and other infrastructure, the provisions proposed by the Electricity Generators treat all renewable electricity generation activities as having the same weighting in respect to adverse effects, regardless of scale or significance. I do not consider this to be appropriate.

²⁷ See evidence of Brendan Sheehan for OWRUG, Federated Farmers and Dairy NZ

²⁸ Evidence of Keith Frentz for Dunedin City Council at [7.9-7.12]

²⁹ Evidence of Sandra McIntyre for Kāi Tahu, at [118]-[121]

36. In Otago, renewable electricity generation - by means of hydro-electric, solar or wind systems - occurs at many scales, from the single household or farm level to the scale of the Clutha hydro-electric scheme. Although the NPSREG identifies provision for renewable electricity generation activities as a matter of national significance, I do not consider this is the same as saying all renewable electricity generation is nationally significant. While I accept that the definition of renewable electricity generation activities includes small and community scale renewable electricity generation activities, I note that the NPSREG distinguishes between those activities and more significant renewable electricity generation activities, by providing for them separately under Policy F.
37. In my opinion the proper approach to the management of adverse effects arising from renewable generation activities needs to recognise the different levels of significance between proposals and should not automatically apply the same weighting to all renewable electricity generation equally. I note that the NPSFM specifically makes such a distinction, in that it provides for relaxation of some requirements for named schemes, including the Clutha and Waitaki schemes, but not for all schemes either regionally or nationally.³⁰ Differentiation between regionally or nationally significant renewable generation activities, and small and community scale activities, would better give effect to both the NPSREG and NPSFM.
38. It is unclear how the proposed EIT-EN-P1, which specifically refers to allocation and use of freshwater, relates to the provisions in the LF chapter. In the absence of a clear relationship to those provisions, I consider the proposed policy could be interpreted as according a priority to renewable electricity generation that is in conflict with the hierarchy of priorities in the NPSFM. As such, I disagree with its inclusion as currently drafted.

Amendment of IM-P12 Contravening environmental limits for climate change mitigation: Susan Ruston for Meridian Energy

39. IM-P12 provides flexibility for decisions to be made that would allow activities that will provide nationally significant or regionally significant climate change mitigation to contravene environmental limits. This provision has some similarities to the provision for specified large hydro-electric generation schemes in the NPSFM that I have referred to above. Ms Ruston seeks amendment of IM-P12 to remove any discretion on the part of decision-makers, by replacing the words “may, at their discretion” with the directive verb

³⁰ NPSFM 3.31

“shall”. This would have the effect that the decision-maker would have no power to enforce any environmental limits set in, or resulting from, the PORPS on such proposals. I consider that removal of this discretion would be inappropriate, as it would not recognise any distinction between types of limits, the significance of the issues the limits are intended to address, or the degree of non-compliance.

REVISION OF UFD CHAPTER

40. In my evidence-in-chief, I discuss the Kāi Tahu submissions on treatment of the following matters in the UFD chapter:
- (a) Provision for use and development of Native Reserves and Māori land;³¹
 - (b) The importance of ensuring that planning for urban development takes into account the pressures on freshwater quantity and on the quality of both fresh water and coastal waters;³² and
 - (c) Integration of climate change considerations.³³

Emily McEwan for Dunedin City Council

41. Ms McEwan³⁴ recommends extensive changes to the UFD provisions for reasons including integration across the PORPS, duplication or overlap of the provisions of the National Policy Statement on Urban Development 2020 (NPS-UD) and matters which Ms McEwan considers should not be covered by the UFD provisions. The proposed amendments:
- (a) limit provision for use of Native Reserves and Māori land to UFD-P9, and replace reference to “facilitation” of development on this land with the less enabling “provide for”;
 - (b) Delete references to the need to integrate land use planning with infrastructure and to considering the impacts of water supply, wastewater disposal and stormwater management;³⁵ and

³¹ Evidence of Sandra McIntyre for Kāi Tahu, at [23]-[36] and [157]

³² Evidence of Sandra McIntyre for Kāi Tahu, at [158]-[159]

³³ Evidence of Sandra McIntyre for Kāi Tahu, at [49]-[51] and [160]-[161]

³⁴ Evidence of Emily McEwan for Dunedin City Council

³⁵ See deletion of UFD-O2(8) and (9), UFD-P1(1), UFD-P8(5(b))

(c) Delete UFD-O5 regarding the impacts of climate change.

42. I do not support these proposed amendments. I consider that, by deleting most references to the matters raised in the Kāi Tahu submissions, they significantly reduce the clarity of direction in respect to these matters.

43. I also consider that Ms McEwan's proposed changes significantly diminish the recognition of the role of mana whenua in planning for urban development, by removing all references to this role.³⁶ In my opinion, this would not give effect to the NPS-UD requirements to take into account Treaty of Waitangi principles, including the principle of partnership which is central to the Treaty relationship, and the need to involve hapū and iwi in urban development planning.³⁷

REFERENCE TO MAURI IN IM-P1

Dr Michael Freeman for OWRUG, Federated Farmers and Dairy NZ

44. Dr Freeman seeks to remove 'mauri' from IM-P1, stating there is no planning justification to include it at the same level as life-supporting capacity and lack of clarity around how it would be given effect to.³⁸

45. The cultural evidence for Kāi Tahu sets out the centrality of mauri in the relationship of Kāi Tahu to the natural environment.³⁹ Edward Ellison describes mauri as the life-affirming quality in all things, a measure of environmental health and well-being.⁴⁰ The cultural evidence of David Higgins⁴¹ and Brendan Flack include examples of where adverse environmental practices have led to degradation of mauri. In my opinion, the cultural evidence demonstrates the clear alignment between mauri and life-supporting capacity. I consider that inclusion of mauri in this context would be consistent with sections 6(e), s7(a) and s8, and also with the NPSFM, which clearly refers to mauri in conjunction with the health and wellbeing of water bodies.⁴²

³⁶ See deletion of UFD-O2(11), UFD-O3(3), UFD-P1(6), UFD-P3(5), UFD-P4(4), UFD-P7(5A)

³⁷ National Policy Statement for Urban Development 2020, Objective 5 and Policy 9

³⁸ Evidence of Dr Michael Freeman for OWRUG, Federated Farmers and Dairy NZ at page 17

³⁹ Evidence for Kāi Tahu of Edward Ellison at [19-20] and David Higgins at [12-16]

⁴⁰ Evidence of Edward Ellison for Kāi Tahu at [19-20]

⁴¹ Evidence for Kāi Tahu of David Higgins at [14-16] and Brendan Flack at [26]

⁴² NPSFM 1.3(1)

REFERENCE TO MANA WHENUA VALUES IN AIR PROVISIONS

46. My evidence-in-chief discusses the need to recognise and consider the effects of air discharges on mana whenua values, along with the issues of significance relating to air quality as set out in RMIA-AA-I1.⁴³

Lynette Wharfe for Horticulture New Zealand

47. Ms Wharfe seeks deletion of AIR-P6 as there is already reference to mana whenua values in AIR-O1, AIR-O2 and AIR-P3.⁴⁴ I do not agree with this reasoning. Inclusion of reference to these values at the objective level provides the direction for the policies that follow. I consider there is also a clear distinction between the references in AIR -P3 and AIR-P6. While AIR-P3 is an enabling policy for discharges, AIR-P6 is more precautionary in approach and, in my opinion, responds more effectively to the issues of concern set out in RMIA-AA-I1.



Sandra McIntyre

⁴³ Evidence of Sandra McIntyre for Kāi Tahu at [86-88]

⁴⁴ Evidence of Lynette Wharfe for Horticulture New Zealand at [55-58]