

SUMMARY OF EVIDENCE OF MICHAEL BATHGATE – COASTAL ENVIRONMENT

1. My evidence-in-chief recommends numerous amendments to the CE provisions, with overall Kāi Tahu concern around the approach to CE discussed in paras [16] to [19] of my evidence.¹ The Section 42A author, Andrew Maclennan, has reconsidered his position in relation to the submissions and evidence of Kāi Tahu and issued an amended version of CE provisions with his opening statement.
2. I retain my position in support of the recommended amendments set out in Appendix 1 to my evidence-in-chief, unless otherwise indicated in this statement, either by:
 - expressing support for the version set out in Appendix 1 to Mr Maclennan's opening statement, or
 - by an updated version of my recommended amendments provided as Attachment One to this summary.

Mauri and Hauora

3. Mauri is a critical element of the spiritual relationship of Kāi Tahu with te taiao (natural environment), with degradation of mauri deeply upsetting to mana whenua as well as impacting negatively on their kaitiaki responsibilities. The Kāi Tahu desire for mauri and hauora to be prioritised in coastal management arises from a whakapapa connection to Te Tai o Arai Te Uru which confers rakatirataka rights and kaitiakitaka obligations.²
4. I support the new CE-O1A set out in the Opening Statement (OS) version, which is the version sought by the Kāi Tahu submission. In relation to CE-O1, I consider my amended clauses 2 and 3 provide a more aspirational outcome, also being broader in scope in recognition that new CE-O1A provides an overarching objective for water quality. I support the OS version of CE-O1(6).
5. I generally support the OS version of CE-P2 (identification), but note that wāhi tūpuna have not been added to clause 3 despite being added to CE-M3(1A) and have recommended an amendment in Attachment One below.
6. I acknowledge the changes in the OS version of CE-P3 (water quality), but continue to promote the changes in my evidence for the reasons set out in paras [27] to [31].
7. I continue to promote changes to CE-P12 (reclamation) for the reasons set out in paras [32] to [35] of my evidence.

¹ References to SRMR12 and SRMR18 at paragraph [16] of my evidence should read SRMR-12 and SRMR-18.

² Paragraphs [20] and [36] of my evidence in chief.

Mana Moana

8. The cultural evidence of Brendan Flack provides a number of examples of coastal environmental projects in his takiwā, a reflection of both the obligation that holding mana confers in terms of kaitiakitaka, and the critical importance of mahika kai to Kāi Tahu.
9. I generally support the OS version of CE-O4, but consider there should be recognition of the fundamental connection between Kāi Tahu mana and customary fisheries and mahika kai. Tanya Stevens is proposing revised drafting to this effect.
10. I support the new CE-M1A method set out in the OS version.

Ki uta ki tai

11. The effects of a lack of integrated management on the coastal environment are clearly laid out in cultural evidence, along with the detrimental impact on the Kāi Tahu relationship to te taiao and mana whenua obligations as kaitiaki.
12. I generally support the new CE-P1A proposed by Mr MacLennan, but recommend a re-ordering of the wording in clause 1 (refer Attachment One). I also recommend adding a new clause 3 to CE-P1A as a response to the Kāi Tahu request for a new policy to manage physical modification to the land/freshwater/coastal interface. I consider that CE-P1A provides an appropriate location for the overarching policy intent in response to the Kāi Tahu submission, with further policy detail to be developed in subsidiary plans.
13. Kāi Tahu submissions sought a new policy to manage discharges and sediment in the coastal environment, in response to deep-seated concerns summarised in cultural evidence, in the RMIA-CE section of the proposed RPS and in iwi management plans. I continue to support the need for policy guidance in relation to these matters, for the reasons set out in paragraphs [47] to [50] of my evidence. I have not promoted any policy wording in my evidence but am willing to support the Otago Regional Council in the development of suitable drafting – noting that a starting point is provided by NZCPS policies 22 and 23 and CE-M3.

Māori land

14. The need for an enabling approach to Māori land under MW-P4 was discussed at the MW hearing. I note and support the version of MW-M5 set out in Sandra McIntyre's evidence. Further to this, I have suggested new clauses for policies CE-P4 to CE-P6 in Attachment One below, to provide for a Kāi Tahu-led approach to managing adverse effects on Māori land.³

³ Refer paragraphs [51] to [54] of my evidence in chief.

Other matters

15. Access – I support the OS version of CE-O2, but still consider that CE-P8 needs broader consideration of circumstances where vehicle access should be controlled.⁴
16. Activities – I continue to support my evidence versions of CE-O5, CE-P9 and CE-P10, for the reasons set out in paras [60] to [68] of my evidence.
17. Biodiversity - I continue to support my evidence version of CE-P5⁵, noting that I am promoting an additional clause relating to Māori land.
18. Aquaculture – I continue to support my evidence version of CE-P11, for the reasons set out in paras [71] to [73] of my evidence. I oppose the OS version removal of clause 1B in relation to effects on cultural values based on the evidence of Mr Brass for the Director-General of Conservation. My reading of Mr Brass's evidence is that his intent was to expand the matters covered by clause 1A, as my evidence also proposes.⁶ Further to my evidence version, and to clarify that the matters included in CE-P11 are not an exhaustive list I consider the chapeau of CE-P11 could be amended by the addition of the words "...taking into account, in particular:".
19. Methods – Mr MacLennan refers at para [27] of his OS to changes made to methods in response to my evidence. I acknowledge those changes that have been made, but am still promoting all the changes to CE-M2, CE-M3 and CE-M4 set out in my evidence.⁷
20. Integration – I note that at para [42] of his OS, Mr MacLennan suggests deletion of the reference to the NFL chapter from CE-P1. I am uncertain as to whether natural features and landscapes in the coastal environment are to be entirely managed by the CE chapter, with integration matters in this regard raised by my evidence at paras [135] to [136]. Until these matters are responded to, which may be at the NFL hearing, I do not support this amendment.

⁴ Refer paragraphs [58] to [59] of my evidence in chief.

⁵ Refer paragraphs [69] to [70] of my evidence in chief.

⁶ Paragraphs [88]-[91] of Murray Brass evidence on behalf of Director-General of Conservation.

⁷ Refer paragraphs [74] to [85] of my evidence in chief.

Attachment One. Response to Section 42A Opening Statement Appendix 1

Michael Bathgate recommended changes to Opening Statement version provided in red below.

CE-P1A Integrated management/ki uta ki tai

Implement an integrated approach to managing Otago's coastal environment that:

- (1) recognises the interactions, ki uta ki tai, between the terrestrial environment, freshwater, ~~including the migration of fish species between fresh and coastal waters,~~ and the coastal marine area, ~~including the migration of fish species between fresh and coastal waters,~~
- (2) ~~provides for the natural functioning of coastal processes at the physical interface between land, freshwater, and the coastal marine area;~~
- (2) manages the effects of the use and development of land and freshwater to maintain or enhance the health and well-being of the coastal environment; and
- (4) takes into account the ongoing effects of climate change.

CE-P2 – Identification

Amend clause 3 as follows:

- (3) areas of *coastal water* where ~~mana takata~~ *whenua* have a particular interest, ~~including wāhi tūpuna, Mātaïtai and Taiapure,~~ and any aquaculture settlement areas gazetted under the Māori Commercial Aquaculture Settlement Act 2004, and

CE-P4 - Natural Character

Insert new clause 4 (and make consequential amendments to CE-M3 & CE-M4):

- (4) ~~recognising the rakatirataka of Kāi Tahu over native reserves and Māori land and enabling mana whenua to lead approaches on how adverse effects on natural character in these areas are managed;~~

CE-P5 - Coastal Indigenous Biodiversity

Insert new clause 3 (and make consequential amendments to CE-M3 & CE-M4):

- (3A) ~~recognising the rakatirataka of Kāi Tahu over native reserves and Māori land and enabling mana whenua to lead approaches on how adverse effects on indigenous biodiversity in these areas are managed;~~

CE-P6 – Natural features, and landscapes (including seascapes)

Insert new clause 3A (and make consequential amendments to CE-M3 & CE-M4):

- (3A) ~~recognising the rakatirataka of Kāi Tahu over native reserves and Māori land and enabling mana whenua to lead approaches on how adverse effects on natural features and landscapes (including seascapes) in these areas are managed;~~