

SUMMARY OF EVIDENCE OF SANDRA MCINTYRE – LAND AND FRESHWATER

1. My evidence on the Land and Freshwater chapter is set out at [90] to [114] of my evidence-in-chief. In my rebuttal evidence, I also respond to evidence of other parties on the LF-WAI provisions¹ and on reference to the natural behaviours of water bodies in LF-FW-O10 and LF-FW-P13.²

LF-WAI provisions

2. Te Mana o te Wai is the fundamental concept of the NPSFM. Key aspects of Te Mana o te Wai are that it:
 - requires that the health and wellbeing of water bodies is the first consideration in all decision-making affecting freshwater;
 - requires a holistic, integrated approach that recognises interconnectedness; and
 - recognises the relationship of mana whenua with freshwater and their particular role in freshwater management processes.³
3. The LF-WAI provisions interpret Te Mana o te Wai for Otago. The content of LF-WAI-O1 and LF-WAI-E1 was developed with mana whenua, and the direction in the LF-WAI policies reflects the relationship of Kāi Tahu with freshwater expressed in LF-WAI-O1.⁴ Amendments sought to these provisions by Kāi Tahu are intended to strengthen and clarify their approach, rather than to shift its direction.
4. Ms Boyd has now accepted the amendments recommended in my evidence, except for amendments in LF-WAI-E1 relating to explanations of te reo terms and to reference in the last sentence to “limits”:
 - In respect to the use of “limits”, I hold to the view that reference to “environmental limits” would be clearer in this instance;⁵
 - In respect to explanations of te reo terms, I refer the Panel to my evidence at [37] to [40]. I consider it is problematic to reduce cultural concepts such as kawa, tikaka and mauri to definitions of one or two words. These terms are explained in a more rounded fashion in the MW chapter. While atua and tūpuna are not similarly explained, I am not convinced a definition is necessary in the context in which they are used - which is part of an explanation of the relationship of Kāi

¹ See rebuttal of Dr Michael Freeman (OWRUG, Federated Farmers and Dairy NZ) and Paul Freeland (Dunedin City Council) at [17] to [26] of my rebuttal evidence

² See rebuttal of Dr Michael Freeman (OWRUG, Federated Farmers and Dairy NZ) and Claire Hunter (Oceana Gold) at [27] to [28] of my rebuttal evidence

³ Evidence-in-chief at [96]

⁴ Evidence-in-chief at [97]

⁵ Evidence-in-chief at [109(b)]

Tahu to water. The remaining term which is defined in brackets is wai – I consider this kupu is widely understood, and I note that it is used elsewhere in the PORPS without explanation.

5. I note in passing that the Appendix to Ms Boyd’s statement provided in the hearing last week does not show an amendment to LF-WAI-P3(6), referring to the effects of climate change on the natural functioning of water bodies, that was sought by Kāi Tahu ki Otago and which she accepted in her third supplementary evidence statement.⁶ This is not referred to in her statement so may be an oversight. Kāi Tahu continues to seek this amendment.
6. In my rebuttal evidence, at [17] to [26], I oppose amendments sought by Dr Freeman and Mr Freeland to the LF-WAI provisions. I consider these amendments would not give effect to Te Mana o te Wai and the NPSFM:
 - Dr Freeman’s changes to LF-WAI-P2 would not appropriately recognise the role of mana whenua in freshwater management processes that is provided for in the NPSFM;⁷
 - Deletion of LF-WAI-P3 (as sought by Dr Freeman) would reduce the clarity of direction about the integrated approach required to give effect to Te Mana o te Wai, and the amendment sought by Mr Freeland would be inconsistent with the requirement to give first priority to the health and wellbeing of water bodies;⁸
 - The policy Dr Freeman seeks in place of LF-WAI-P4 would inappropriately prioritise the social, economic and cultural well-being and constrain the section 32 assessment process in development of a Land and Water Regional Plan.⁹

LF-FW provisions

7. Most of the amendments sought by Kāi Tahu in the “non-FPI” parts of the LF-FW section have been accepted by Ms Boyd.¹⁰ There are only two remaining matters I wish to comment on.

Provision in LF-FW-P13 for the natural behaviour of water bodies

8. In my rebuttal evidence, I oppose recommendations by Dr Freeman and Claire Hunter that would amend or delete LF-FW-P13(4) to remove the focus on providing for the

⁶ Submission point 00226.161, accepted in the supplementary evidence, as shown in the 24 February version of PORPS amendments.

⁷ Rebuttal evidence at [18] to [21]

⁸ Rebuttal evidence at [22] to [23]

⁹ Rebuttal evidence at [24] to [26]

¹⁰ However I note that the amendment to LF-FW-P13(7), regarding reductions in braided character of a river, that Ms Boyd accepted in her statement of last Tuesday does not appear to be correctly shown in the Appendix to that statement.

natural behaviour of water bodies. At [28] in that evidence I describe the importance to Kāi Tahu of allowing a water body to exhibit its natural behaviour and my concern that this component is often under-recognised when the natural character of rivers and lakes is being considered.

9. In my evidence-in-chief, I recommend an amendment to LF-FW-P13(9) to refer to maintaining or enhancing the values of riparian margins to support natural flow behaviour. Ms Boyd has asked for clarification of this point. The point is intended to provide for consideration of the way in which the management of riparian margins can affect the ability for natural flow behaviour at times of high flow. For example, erection of solid structures or planting of invasive vegetation in the riparian margin can constrict flow, while de-vegetation may also change the natural flow paths.

Approach to outstanding water bodies

10. At [103] of my evidence-in-chief I explain the difficulty that Kāi Tahu have with the concept of singling out only specific water bodies for protection as outstanding water bodies on the basis of their “cultural and spiritual” values. This is not to say that the mana whenua values of outstanding water bodies should not be recognised – these values should be recognised and protected for all water bodies. The s. 42A report recommendation to change the criteria for identification of outstanding water bodies resolved this problem by adopting a set of criteria that does not include cultural and spiritual values. However Ms Boyd suggested in her statement of last week that she is reconsidering this recommendation. If the recommendation is reversed, then the Kāi Tahu submissions on this matter will also need to be considered.¹¹

LF-LS provisions

11. In the MW and UFD hearings I have discussed the need to provide for use of Native reserves and Māori land, including in areas subject to the NPSHPL. At [34] to [36] of my evidence-in-chief I set out why I consider this can be provided for in the framework of the NPSHPL. I note that Mr Anderson for ORC has agreed that the NPSHPL allows for exceptions for purposes associated with RMA section 6 matters, including s. 6(e). In Appendix 1 to my evidence-in-chief I propose an amendment to LF-LS-P19 to address this. However this amendment requires a small adjustment to fit the wording of LF-LS-P19 now recommended in the 24 February PORPS version, as follows:

¹¹ The relevant submission points are Ngāi Tahu ki Murihiku 00223.089, 0223.133; Kāi Tahu ki Otago 00226.190, 00226.192, 00226.30; Te Rūnanga o Ngāi Tahu 00234.182

... (2) *prioritising the use of highly productive land for land-based primary production, except in respect to uses of Native Reserves and Māori land provided for in MW-P4, in accordance with the National Policy Statement for Highly Productive Land 2022 ...*

General matters that relate to FPI provisions

12. As has been apparent in this hearing, the way in which the LF chapter has been split creates difficulties in dealing with some submissions. In my evidence-in-chief I comment briefly on some general submission points opposed by Kāi Tahu that have not been clearly assigned to the appropriate hearing process, or which may span both.¹² I wish to comment on two of these matters that have been discussed in the current hearing.

Submissions referring to balancing the needs of the environment and communities

13. I comment in my evidence that I agree with Ms Boyd's analysis and rejection of these requests. Ms Boyd considers that these submissions misinterpret the reference in NPSFM 1.3(1) to "restoring and preserving the balance between the water, the wider environment, and the community".¹³ Mr Cameron has also addressed this in his legal submissions. I concur with both of them that the reference to balance in this context relates to acting in a way that maintains te taiao in balance, rather than setting the natural environment and economic/ social wellbeing in scales and weighing them against each other.

Submissions seeking inclusion of details on how freshwater visions are to be achieved

14. I also agree with Ms Boyd that details on how the freshwater visions are to be achieved, including timeframes for transition, are more appropriately considered in the development of the Regional Land and Water Plan than in the PORPS. I understand the frustration that Mr Page and his clients have expressed about the uncertainty of not being able to see the whole picture in one place. However the NOF process in the NPSFM requires the regional plan to include environmental outcomes to fulfil the visions. Because these must be developed as part of the regional plan process, the following steps of the NOF process, including the setting of targets and pathways towards achievement of the outcomes (and therefore the visions) must also be properly part of the regional plan process.

Sandra McIntyre

¹² Evidence-in-chief at [110]

¹³ LF Section 42a report at [312]