

9 July 2020

Consents Manager
Otago Regional Council
Private bag 1954
Dunedin, 9054
publicenquiries@orc.govt.nz

Tēnā Koe,

RE: Submission on Resource consent application – RM20.007, RM20.007.01 and RM20.007.02

Please find attached a submission lodged, on behalf of Ngāi Tahu ki Murihiku for Resource Consent applications to take and divert water from Park Burn catchments, retake and use surface water from Five Mile Creek and a tributary of the Parkburn for the purpose of irrigation and stockwater.

We trust the information contained within the submission is sufficient; however, should you wish to discuss any aspect further, please do not hesitate to contact me.

Nāhaku noa nā,



Stevie-Rae Blair
Te Ao Marama Inc.
Iwi Environmental Advisor

To: Otago Regional Council
Private bag 1954
Dunedin, 9054

This is a submission on the application (Resource Consent Applications RM20.007, RM20.007.01 and RM20.007.02) to take and use surface water from the Park Burn catchments, to retake and use surface water from Five Mile Creek and a tributary of the Park Burn for the purpose of irrigation and stockwater by Smallburn Limited.

1. Ngāi Tahu submission relates to the applications in their entirety (Appendix A). Ngāi Tahu is **opposed** to the granting of the applications.
2. Ngāi Tahu wishes to be heard in support of its submission.
3. If others are making a similar submission, Ngāi Tahu will consider presenting a joint case with them at a hearing.
4. Ngāi Tahu is not a trade competitor for the purposes of section 308B of the Resource Management Act 1991.
5. A copy of this submission has been sent to the applicant.

Signed for and on behalf of Ngāi tahu ki Murihiku.



Stevie-Rae Blair
PO Box 7078
South Invercargill,
9844

9 July 2020

Introduction

1. This submission is made on behalf of Ngāi tahu ki Murihiku that consists of Te Rūnanga o Awarua, Te Rūnanga o Oraka Aparima and Waihōpai Rūnaka (referred to as Ngāi Tahu ki Murihiku).

Papatipu Rūnaka

2. The Te Rūnanga o Ngāi Tahu Act 1996 (the TRoNT Act) and the Ngāi Tahu Claims Settlement Act 1998 (the Settlement Act) give recognition to the status of Papatipu Rūnanga as kaitiaki and manawhenua of the natural resources within their takiwā boundaries.
3. The consent application proposals relate to the taking of surface water within the takiwā of Ngāi Tahu ki Murihiku.

General Position and Reasons for the Submission

4. Te Tangi a Taurira, 2008 states:

“the river takes its name from a Ngāi Tahu whakapapa that traces the genealogy of water. On that basis, Mata-au is seen as a descendent of the creation traditions.”

5. Ngāi Tahu is supportive of development within its takiwā, provided activities are undertaken in a way that respects the environment where the activity is to be undertaken and do not adversely affect Ngāi Tahu cultural values, customs and their traditional relationship with land and water.
6. The Mata-au Awa is a significant cultural landscape to Ngāi Tahu because of historical (as indicated above) and contemporary associations. These associations include the formation of landscape, wāhi ingoa (place names), mahinga kai, wāhi tapū and archaeological sites.



7. The Mata-au formed part of an important network of ara tawhito (trails), that links the coast to the inland. This was an important route that supported numerous parties through the availability of mahinga kai throughout the catchment. The ara tawhito was also important for pounamu trade route.
8. This cultural, spiritual, historic, and traditional association is recognised by the crown and is a Statutory Acknowledgement (See attachment 1) under the Ngāi Tahu Claims Settlement Act, 1997.
9. Ngāi tahu ki Murihiku, as kaitiaki, is responsible for protecting the mana and mauri of the Mata-au River Catchment.
10. Ngāi Tahu **opposes** the application for the following reasons:
 - a. Rūnanga is opposed to this application because of the risks to the environment and Ngāi Tahu frameworks and values that it poses.
 - b. The Otago region does not have a fit for purpose planning framework in place to adequately manage applications for new water permits.
 - c. The consent term applied for is inconsistent with Te Tangi a Tauira, 2008.
 - d. The application fails to recognise Te Mana o te Wai as per the National Policy Statement for Freshwater.

Decision Sought

11. We are opposed to the application in its current form and seek that the application be declined.
12. If the decision makers are of a mind to grant the application, we request that the application is subject to conditions that adequately mitigate the effects of the works on the Ngāi Tahu values associated with the Mata-au, this could include the following:
 - a. That the consent term is a maximum of 6 years.
 - b. That fish screens are consistent with NIWA Fish Screening Guidelines.



- c. Flows left in the waterway should be consistent with national direction.
- d. That the water take is metered in accordance with national direction.



Attachment 1: Mata-au Statutory Acknowledgement

SCHEDULE 40

Sections 205 and 206

STATUTORY ACKNOWLEDGEMENT FOR MATA-AU (CLUTHA RIVER)

Statutory area

The statutory area to which this statutory acknowledgement applies is the River known as Mata-au (Clutha River), the location of which is shown on Allocation Plan MD 122 (SO 24727). Preamble Under section 206, the Crown acknowledges Te Runanga o Ngai Tahu's statement of Ngai Tahu's cultural, spiritual, historic, and traditional association to the Mata-au, as set out below.

Ngai Tahu association with the Mata-au

The Mata-au river takes its name from a Ngai Tahu whakapapa that traces the genealogy of water. On that basis, the Mata-au is seen as a descendant of the creation traditions. For Ngai Tahu, traditions such as this represent the links between the cosmological world of the gods and present generations, these histories reinforce tribal identity and solidarity, and continuity between generations, and document the events which shaped the environment of Te Wai Pounamu and Ngai Tahu as an iwi.

On another level, the Mata-au was part of a mahinga kai trail that led inland and was used by Otakou hapu including Ngati Kuri, Ngati Ruahikihiki, Ngati Huirapa and Ngai Tuahuriri. The tupuna had considerable knowledge of whakapapa, traditional trails and tauranga waka, places for gathering kai and other taonga, ways in which to use the resources of the river, the relationship of people with the river and their dependence on it, and tikanga for the proper and sustainable utilisation of resources. All of these values remain important to Ngai Tahu today.

The river was also very important in the transportation of pounamu from inland areas down to settlements on the coast, from where it was traded north and south. Thus there were numerous tauranga waka (landing places) along it. The tupuna had an intimate knowledge of navigation, river routes, safe harbours and landing places, and the locations of food and other resources on the river. The river was an integral part of a network of trails which were used in order to ensure the safest journey and incorporated locations along the way that were identified for activities including camping overnight and gathering kai. Knowledge of these trails continue to be held by whanau and hapu and is regarded as a taonga. The traditional mobile lifestyle of the people led to their dependence on the resources of the river.

The Mata-au is where Ngai Tahu's leader, Te Hautapunui o Tu, established the boundary line between Ngai Tahu and Ngati Mamoe. Ngati Mamoe were to hold mana (authority) over the lands south of the river and Ngai Tahu were to hold mana northwards. Eventually, the unions between the families of Te Hautapunui o Tu and Ngati Mamoe were to overcome these boundaries. For Ngai Tahu, histories such as this represent the links and continuity between past and present generations, reinforce tribal identity, and document the events which shaped Ngai Tahu as an iwi.



Strategic marriages between hapu further strengthened the kupenga (net) of whakapapa, and thus rights to travel on and use the resources of the river. It is because of these patterns of activity that the river continues to be important to runanga located in Otago and beyond. These runanga carry the responsibilities of kaitiaki in relation to the area, and are represented by the tribal structure, Te Runanga o Ngai Tahu.

Urupa and battlegrounds are located all along this river. One battleground, known as Te Kauae Whakatoro (downstream of Tuapeka), recalls a confrontation between Ngai Tahu and Ngati Mamoe that led to the armistice established by Te Hautapunui o Tu. Urupa are the resting places of Ngai Tahu tupuna and, as such, are the focus for whanau traditions. These are places holding the memories, traditions, victories and defeats of Ngai Tahu tupuna, and are frequently protected by secret locations.

The mauri of Mata-au represents the essence that binds the physical and spiritual elements of all things together, generating and upholding all life. All elements of the natural environment possess a life force, and all forms of life are related. Mauri is a critical element of the spiritual relationship of Ngai Tahu Whanui with the river.

Purposes of Statutory Acknowledgement

Pursuant to section 215, and without limiting the rest of this schedule, the only purposes of this statutory acknowledgement are—

(a) To require that consent authorities forward summaries of resource consent applications to Te Runanga o Ngai Tahu as required by regulations made pursuant to section 207 (clause 12.2.3 of the deed of settlement); and

(b) To require that consent authorities, the Historic Places Trust, or the Environment Court, as the case may be, have regard to this statutory acknowledgement in relation to the Mata-au, as provided in sections 208 to 210 (clause 12.2.4 of the deed of settlement); and

(c) To empower the Minister responsible for management of the Mata-au or the Commissioner of Crown Lands, as the case may be, to enter into a Deed of Recognition as provided in section 212 (clause 12.2.6 of the deed of settlement); and (d) To enable Te Runanga o Ngai Tahu and any member of Ngai Tahu Whanui to cite this statutory acknowledgement as evidence of the association of Ngai Tahu to the Mata-au as provided in section 211 (clause 12.2.5 of the deed of settlement).

Limitations on effect of Statutory Acknowledgement

Except as expressly provided in sections 208 to 211, 213, and 215,—

(a) This statutory acknowledgement does not affect, and is not to be taken into account in, the exercise of any power, duty, or function by any person or entity under any statute, regulation, or bylaw; and

(b) Without limiting paragraph (a), no person or entity, in considering any matter or making any decision or recommendation under statute, regulation, or bylaw, may give any greater or lesser weight to Ngai Tahu's association to the Mata-au (as described in this statutory acknowledgement) than that person or



entity would give under the relevant statute, regulation, or bylaw, if this statutory acknowledgement did not exist in respect of the Mata-au.

Except as expressly provided in this Act, this statutory acknowledgement does not affect the lawful rights or interests of any person who is not a party to the deed of settlement. Except as expressly provided in this Act, this statutory acknowledgement does not, of itself, have the effect of granting, creating, or providing evidence of any estate or interest in, or any rights of any kind whatsoever relating to, the Mata-au.