



BEFORE THE COMMISSIONER APPOINTED

BY THE SOUTHLAND REGIONAL COUNCIL (ENVIRONMENT SOUTHLAND)

UNDER The Resource Management Act 1991

AND

IN THE MATTER OF A Resource Consent Application by Environment Southland's
Catchment Operations Division (APP-20211135)

And

IN THE MATTER OF Submission by Te Ao Marama Inc (on behalf of Awarua Rūnanga)

**STATEMENT OF EVIDENCE OF DEAN WHAANGA AND STEVIE-RAE BLAIR ON
BEHALF OF AWARUA RŪNANGA, 23 AUGUST 2024**

INTRODUCTION

1. This joint statement of evidence has been prepared by Dean Whaanga and Stevie Rae Blair. In the following paragraphs we give our pepeha and set out our respective qualifications and experience.

Ko Motu Pohue te Maunga
Ko Te Ara a Kewa te Moana
Ko Awarua te Whenua
Ko Takitimu te Waka
Ko Ngāi Tahu, Ngati Kahungunu nga Iwi
Ko Dean Whaanga ahau

2. My name is Dean Whaanga.
3. I am the Kaupapa Taiao Kaiwhakahaere at Te Ao Marama Incorporated (TAMI) where I have worked for over 15 years. TAMI represents Nga Rūnanga ki Murihiku for Resource Management and Iwi Environmental issues.
4. I have worked for Ngāi Tahu for over 30 years. This work includes time studying and teaching Māori culture and Te Reo Māori, as well as undertaking governance roles and providing technical support for Te Pae Koraka (the Ngāi Tahu Archives Advisory Committee). I am knowledgeable in Ngāi Tahu history, culture, and values, and how these relate to the environment. I have formal qualifications as a Telecommunication Technician and have worked in the Tertiary Education sector.

Ko Hananui tōku maunga
Ko Waikawa tōku awa
Ko Uruao, Ko Takitimu ōku waka
Ko Te Ākau Tai Toka tōku hau kainga
Ko Kāi Tahu, ko Kati Mamoe, ko Waitaha ōku Iwi
Ko Stevie-Rae Blair tōku ingoa

5. My name is Stevie-Rae Blair and I am a Kaitohutohu Kaupapa Taiao at Te Ao Marama Incorporated (TAMI). I have held this position since 2015.
6. I hold a Bachelor of Environmental Management from the Southern Institute of Technology. I have nine years' experience in resource management at TAMI processing

resource consents on behalf of mana whenua here in Murihiku and prior to that worked for Kitson Consulting Ltd working on research projects for whānau.

7. I grew up at Waikawa in Te Ākau Tai Toka (The Catlins) with whānau who have very strong links to the environment. My whānau have maintained ahi kā (continuous occupation of this area) since prior to the Treaty of Waitangi. I grew up beside and learning from my awa, estuary, ngahere and coast. I lived here permanently until I attended high school in Invercargill during the week and returned for weekends and holidays. I have maintained strong connections as an adult to my tūrangawaewae by visiting regularly and carrying out what I grew up doing, including teaching my daughter how to gather and look after our whenua, moana and awa.
8. Because of my whānau, growing up around marae and now working for Ngā Rūnanga ki Murihiku (papatipu rūnanga of Murihiku/Southland) I am aware of Ngāi Tahu history, culture, values and how these relate to the environment.
9. We have prepared this evidence on behalf Awarua Rūnanga.
10. We have been asked to give cultural evidence on the following matters:
 - a. The roles and responsibilities of Te Ao Marama Inc. and Ngā Rūnanga ki Murihiku.
 - b. A summary of our submission.
 - c. The significance of this takiwā (area) to Ngāi Tahu.
 - d. The Ngāi Tahu frameworks and values regarding this application.
 - e. The application regarding Iwi Policy including Ngāi Tahu Claims Settlement Act, 1998 and Te Tangi a Taurira, 2008.
 - f. Summary of position.
11. In preparing this evidence, I have read and had regard to the following:
 - a. The application by Environment Southland – APP-20211135
 - b. The reporting officer's s42A Report and Council Officers' expert assessments and analysis
 - c. The suite of evidence provided by the applicant.
 - d. The evidence of Margaret Ferguson on behalf of Awarua Rūnanga.
 - e. Te Tangi a Taurira –Ngāi Tahu ki Murihiku Natural Resource and Iwi Management Plan 2008

12. We have been involved with this resource consent application since we received this from the applicant's consultant in March 2021. We have attended various hui to discuss the project. We received the public notification from Environment Southland and subsequently submitted in opposition. We are familiar with the site, the application and how this relates to and effects Ngāi Tahu ki Murihiku frameworks and values. We are familiar with the wider area discussed in the application and the cultural values associated with this part of the Ngāi Tahu takiwā.
13. We have prepared this evidence on behalf of Awarua Rūnanga. We are presenting the cultural matters for our whānau and have worked closely with representatives on this application.

TE AO MARAMA AND NGĀI TAHU KI MURHIKU RŪNAKA ROLES AND RESPONSIBILITIES

14. Te Ao Marama Inc. (TAMI) is an environmental entity which represents Ngā Rūnanga ki Murihiku for resource management and environmental issues. TAMI is made up of the four Murihiku Rūnanga Papatipu – Awarua, Hokonui, Ōraka Aparima and Waihōpai.
15. The rohe that the application is within is in the takiwā of Awarua Rūnanga.
16. For resource management purposes in Murihiku, certain rūnanga take the lead for applications for specific areas. In the Titiroa Catchment, Awarua Rūnanga takes the lead.

SUMMARY OF SUBMISSION

17. Awarua Rūnanga opposed the application because of:
 - a) The applicant has not provided for Ngāi Tahu values, rights, and interests.
 - b) The structures are detrimental to the mauri, the health and well-being of Titiroa Stream and its freshwater ecosystems.
 - c) The structures adversely impact threatened indigenous species and their habitats that are taonga.
 - d) The structures prohibit fish passage and have detrimental effects on inanga spawning.
 - e) The fish survey is inadequate and failed to consider all taonga species known to the area e.g., kanakana.
 - f) The application fails to provide reliable data to clarify the effectiveness of the structure, nor quantifies at what water levels land is affected and what land is affected by inundation.

- g) The application fails to consider climate change and the impacts of rising sea levels or increased flood flows on the area.
- h) The application fails to provide clarity on the mitigations proposed. Improving habitat does not improve migration for taonga species.
- i) The application is contrary to Te Tangi a Taurira, 2008, the Iwi Management Plan for the takiwā (see **Appendix C** for relevant kaupapa).
- j) The application is inconsistent with relevant planning documents.
- k) The activities are currently occurring unlawfully due to the expiry of previous consents held and that the applicant is unable to rely on Section 124 of the RMA.
- l) We consider that the applicant requires additional resource consent for the damming and diversion of water from the natural bed of Titiroa Stream into the diversion channel upstream of the coastal marine area boundary (see **Appendix D**). In accordance with Section 91(1) of the Resource Management Act (RMA) the processing of this application should not proceed to a hearing until application is lodged for damming and diversion in accordance with the requirements of the proposed regional plan. Consequently, the proposal requires assessment under the National Policy Statement for Freshwater Management 2020.

18. The submission sought that:

- a. The application is declined.
- b. All structures are removed to provide for fish passage and to restore ki uta ki tai, the natural flows of the wai.
- c. The surrounding land parcels owned by Environment Southland is retired and a management plan implemented to restore the land to wetlands which would provide better long-term flood management for the wider area.

RELATIONSHIP OF NGĀI TAHU TO THIS TAKIWĀ

19. The Titiroa Catchment is adjacent to the Matura Catchment, flowing to the same estuary is an important part of the Ngāi Tahu ki Murihiku landscape. Tribal history is embedded in the river, its tributaries and the lands that it flows through. This association is expressed through the metaphorical understanding of land and waters as our ancestors - our whakapapa which connects us to place.

20. Before European settlement, Ngāi Tahu moved around Te Waipounamu hunting and gathering the island's resources. Movements were according to the seasons following the

lifecycles of animals and plants, and the coastal areas of Murihiku was a fundamental element of these systematic seasonal food gathering patterns.

21. The Titiroa and the surrounding area were a source of mahinga kai which includes freshwater species (Kōkopu, waikōura, tuna, Paraki/Smelt, Inanga and kanakana), birds (ducks and bush birds), plant materials and rongoā (medicines). There are still some mahinga kai species that are gathered here today.
22. Ngāi Tahu used a comprehensive integrated network of ara tawhito (trails) which ensured the safest journey. They travelled great distances to trade here in the South. Ara Tawhito followed food and natural resources which were consumed by travelers on their journeys. This was critical to their survival. These trails and rivers were the arteries of economic and social relationships.
23. The Gorge Road Story (1970) has descriptions of settler exploration in the Lower Mataura Area that described some of the wildlife they encountered. They noted
“The ducks and other birds were a perfect sight one continual flights of splendid pigeons, parrots, parakeets streaming from one side of the river to the other. The ducks were in hundreds and very tame, except the grey duck which seemed very weary and shy, There were grey duck, blue duck, shovellers, paradise duck, mountain duck, teals of all descriptions, pintails, widgeon, shags and divers of all sorts.”
24. The location of past settlements central to Ngāi Tahu traditions and stories are still standing and the place names and whakapapa is entrenched in the landscape still exist.
25. The Opurakanini (original name for the Habukanini) and the Titiroa meet high in the catchment and traverse down the flat land adjacent to the Mataura River.
26. Toetoe is known as the harbor at the mouth of the Mataura River. This was an important place for ara tawhito to the Catlins, Bluff, inland to Tukurau and Waihōpai and across to Ruapuke. It also provided great resources.
27. As a result of this pattern of occupation, there are a number of urupā and wāhi tāpu located along the Mataura and Titiroa Rivers. There are many archaeological, wāhi tapu and Urupā within this area. Urupā are the resting places of Ngāi Tahu tupuna and, as such, are the focus for whānau traditions. These are places holding the memories, traditions, victories and defeats of Ngai Tahu tupuna, and are frequently protected by secret locations.

28. This rich spiritual and physical association of Ngāi Tahu whānui with the Maitai Catchment was recognised and acknowledged by the Crown in Schedule 42 of the Ngāi Tahu Claims Settlement Act 1998.

29. The mauri 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 Ngāi Tahu Whānui with the river.

NGĀI TAHU NATURAL RESOURCE MANAGEMENT FRAMEWORKS -KI UTA KI TAI

30. *“In terms of water quantity, Ngāi Tahu ki Murihiku consider that in most areas, drainage is more of an issue than abstractions. At one time, the Southland Plains were characterised by an abundance of repo (wetlands). Such areas were rich in biodiversity, and an important natural and cultural resource to Ngāi Tahu. The drainage of such areas has had an effect on the ability of the land to store and replenish water resources”*
31. Ki uta ki tai reflects the notion that all environmental elements are connected, from the mountains to the sea and must be managed as such.¹ Furthermore, it reflects that we belong to the environment and are only borrowing the resources from the generations that are yet to come. Ki Uta ki Tai is about standing on the land and knowing the effects, both positive and negative, in every direction.
32. The sources and knowing where they come from are extremely important because of the effect they have on downstream sites. It is important to keep in mind that ki uta ki tai works both ways, anything effecting the downstream environment also influences the upper catchment.
33. The proposed application fails to recognise ki uta ki tai as it proposes to artificially ensure that water does not reach places where it originally should. Water is being treated as a problem to be removed rather than our understanding that this land is designated flood land and therefore should be managed as such. It should not have been further intensified once the council bought this land. To us this activity has been created by standing on the land and focusing on improving economic outcomes. Some of the the land is unsuitable for farming, it is wet land that most likely was a part of the intensive wetland system that covered most of Murihiku.
34. An environmental management framework based on ki uta ki tai would be asking a more fundamental question about whether the land use in the catchment is sustainable and well-matched to the climate, soil types and water table in the first place.

NGĀI TAHU VALUES

¹ Cain, A & Whaanga D, 2017.

RANGATIRATANGA

35. Rangatiratanga is described in Te Tangi a Tauria, 2008 as ‘the exercise of tribal authority, chieftainship and the powers and qualities of chiefly leadership’.
36. It is the right to make decisions for your own people concerning the resources within your takiwā and determining what, from a cultural perspective, represents satisfactory aquatic conditions and appropriate use.²
37. To exercise rangatiranaga, one must act as a leader, sustainably managing resources for the people and maintaining the mauri of the land to ensure a balance of productivity and a thriving ecology.

KAITIAKITANGA

38. Te Tangi a Tauria, 2008 describes kaitiakitanga as ‘the exercise of guardianship/stewardship by the tangata whenua of an area and resources in accordance with tikanga Māori.³ To be able to exercise kaitiakitanga we work actively to ensure that spiritual, cultural and mahinga kai values of the takiwā are upheld and sustained, not for us but for future generations.
39. As kaitiaki, we are bound to ensure the wairua and mauri of the land and water in Murihiku is maintained and improved where needed. Degradation of waterways and land negatively impacts on the mana of oneself and their hapū and iwi, as well as collective cultural identity.⁴
40. As the mauri and wairua of the waterbodies has declined, there is now a disjunct between state, use, association and value. Therefore, the intangible values of freshwater have an increased importance as drivers for kaitiaki to maintain or restore the state of waterbodies.⁵

MAURI

41. Papatūānuku (Mother Earth) supports all life, waterways represent the blood vessels that supply nourishment to her, through her, to all living things. Mauri is the essential life-force, the power and distinctiveness which enables each thing to exist itself. Everything in the

² Cain, 2017.

³ Te Tangi a Tauria, 2008. Pg. 48.

⁴ Cain, 2017

⁵ Cain, 2017

natural world – people, fish, birds, forests, rivers, water, land, and even created things such as a house or wharenuī – have their own mauri. In essence mauri is a force or power which is used to express the relative health and vitality of any place or being.⁶

42. Mauri has both tangible and intangible qualities that can be used to reflect the health of a waterbody. Promoting the mauri of a river will sustain healthy ecosystems, support a range of cultural uses (including mahinga kai), and reinforce the cultural identity of the people.⁷
43. The intangible elements associated with the mauri of a waterbody include emotional and spiritual connections and it demands holistic thinking. The elements of tangible qualities can include physical ecosystem health. These include aesthetic qualities, e.g., natural character, indigenous flora and fauna; life supporting capacity and ecosystem robustness; the continuity of flow of water (of high quality) from the mountain source of a river to the sea; fitness for cultural usage; and productive capacity.⁸
44. Each waterbody has its own mauri, guarded by separate spiritual guardians, its own mana and its own set of associated values and uses. Our tupuna used seepages, springs, wetlands, land and rivers for certain purposes but they contained their own set of values and uses.
45. In relation to the application, the mauri of the land and water is being negatively affected because of the diversion and flow changes. There has been extensive effort by altering the hydrological system to ensure this land is productive. This being infrastructure to drain the land, a diversion and cut off of the headwater, as well as tidal gates shows that there has been considerable change to this catchment. The water is unable to run freely, the rivers are the veins of Papatūānuku changing this negatively effects mauri. When whānau visited the site at the tidal gates some comments were:
 - a. this area was abundant native biodiversity, kākā, whio, pūtangitangi and kereru were abundant
 - b. there were and maybe still are freshwater mussels, kanakana and the area was part of the large wetland and adjoining forested area all the way from Oteramika
 - c. now we are gutted to see effects on both the land and water, a few years ago we saw whole areas of a Pukio/Purei being sprayed and removed from the land

⁶ Te Marino Lenihan, 2013

⁷ Tipa and Tierney 2003; Tipa 2010

⁸ Kitson, 2014.

downstream of the bridge. Some of these plants could have been hundreds of years old. Now that land is farmland.

- d. Mahika kai was a massive element for mana whenua in this area, it was their “pātaka kai”
- e. Don’t see kākā flying over from this area when on Ruapuke anymore
- f. We need to ensure that our land and water are connected, and improvements made. Just looking at these tide gates and the diversion makes me sad that our species are unable to move freely through here.

46. It is imperative to understand and measure the intangible and tangible values of mauri together, as one is not more important than the other. Everything must be looked at holistically, because one without the other does not link together the aspects of what we understand mauri to be.

47. It is important for mana whenua while practicing kaitiakitanga that the mauri of the river and our water bodies are maintained for us and our future generations.

48. The mauri of the water cannot be provided for or improved if we are continuing practices which are negatively affecting ki uta ki tai by not allowing water to flow where it naturally would flow. We do not consider this provides for both the water’s tangible and intangible elements or the ability for the water to do what it needs to do.

49. It is important to note that activities may be assessed as being minor or less than minor from a Western scientific perspective, but this does not include all the elements used when assessing from a Ngāi Tahu cultural perspective. For Awarua and ngā rūnanga, an important Kaupapa for land use in Southland, which has been well-documented in Te Tangi a Tauira (2008, pg. 117) is “matching land use with land capability”. This means taking a precautionary approach to land use, to ensure that what we do on land is consistent with what the lands can withstand, and not what we would like it to withstand through utilising external inputs.

MAHINGA KAI

50. Mahinga kai is explained in Te Tangi a Tauira (2008) as being:

places, ways of doings things, and resources that sustain the people. It includes the work that is done (and the fuel/energy that is used) in the gathering of all-natural

*resources (plants, animals, water, sea life, pounamu) to sustain well-being. This includes the ability to clothe, feed and provide shelter.*⁹

51. Mahinga kai is central to the Ngāi Tahu way of life and cultural wellbeing. It represents the ninth component of the 'Nine Tall Trees' that comprised Te Kerēme - the Ngāi Tahu Claim against the Crown; an intrinsic part of the tribe's identity, or the "DNA of Ngāi Tahu".¹⁰
52. Mahinga kai is central to our relationships with places, waterways, species, and resources, and to the cultural, spiritual, social and economic well-being of Ngāi Tahu. It is a vehicle for the intergenerational transfer of Mātauranga (knowledge).¹¹
53. The loss of mahinga kai within the Titiroa River catchment is attributed to habitat degradation, resource depletion, legislative barriers that impede access, changes in land tenure that affect ability to access resources, the introduction of predators and the possible over harvest of recreational and commercial fisheries.
54. The applicant has undertaken two fish surveys since the consent expired in 2020. Both of these surveys identified that there are similar species of fish both up and downstream of the diversion and tide gates but the abundance of species are what we consider to be significantly different.
55. It is known that native fish are generally not strong swimmers, we have concerns around the velocity within the channel and the ability for our fish to navigate this. Tuna because of their size are considered to be the stronger but the numbers between upstream and downstream are still significantly different.
56. Kanakana are a taonga species and a significant species for Ngāi Tahu. While there has been no western scientific recording of kanakana in the catchment, there is evidence through anecdotal evidence by Ngāi Tahu kaumātua and whānau who have gathered kanakana in the Titiroa in their lifetime. Kanakana are regarded as a living fossil and date back to 300 million years ago and are classified as Threatened – Nationally Vulnerable on the Department of Conservations Threat classification List and therefore it is imperative they are able to reach critical breeding habitats.

⁹ Te Tangi a Tauria, 2008.

¹⁰ Te Karaka. July 2015. http://ngaitahu.iwi.nz/our_stories/the-ninth-tree/

¹¹ Kitson, J. 2017.

57. Kanakana require specific monitoring techniques to be found and fyke nets and gee minnow traps are not considered to be effective. Adult kanakana migrate from around June to October in some awa in the takiwā, therefore the timing of the fish surveys (Summer) and the lack of presence would not indicate there is none present or that there has been sufficient for monitoring of them.

58. Ms Drummond is correct in her evidence that kanakana are triggered by increasing instream discharge however this is not always the case. In Waikawa they have big runs which are generally caused by a variety of indicators in the taiao however many times some will run on a normal evening with no increased flow in the river. Therefore, it is these that we have been attempting to target. Kanakana use their sucker like mouth to climb through any barriers, however climbing can be hindered by squared corners because they are unable to quickly reattach to a flat surface when burst swimming. They also use the tide to move up the river and would meet multiple barriers.

WĀHI TAPU, WĀHI INGOA AND WĀHI TAONGA

59. These values are linked to our past and they literally mean sacred places, names, and sacred resources. Our stories tell of what used to be here, our names replicate what the area was used for, what was plentiful or who was here, and it all binds together to form a cultural lens on the landscape, a picture of resources and use.

60. The sites in question have value to us and are treasured because they all link in to ki uta ki tai and as noted earlier in my evidence we have direct evidence of occupation and use in the Titiroa River including its headwaters.

INTERCONNECTEDNESS

61. There are many other values, these are extremely important in maintaining the health and wellbeing of Iwi and the natural environment including the Titiroa River. The health and wellbeing of Iwi is dependent on the four cornerstones of Māori wellbeing including wairua (spiritual), hinengaro (mind), tinana (body) and whānau (family). It is important to note the value of whānaungatanga (relationships) and manaakitanga (hospitality) and the need to engage and use the land and water to support their health and wellbeing.

TE MANA O TE WAI CONCEPT

62. Te Rūnanga o Ngāi Tahu has been working with the Crown on our behalf over many years to see implementation of the duties to Māori in the Resource Management Act 1991

strengthened and freshwater management improved, including through the introduction of Te Mana o te Wai as a foundation for managing waterbodies and connected lands. Te Mana o te Wai accords with mātauranga and tikanga in our iwi management plans, putting the needs of the waterbody first, protecting and restoring the mauri of waterbodies.¹² It is water centric, Te Mana o Te Wai isn't a Māori value, the process is about water first and foremost.

63. Ngāi Tahu consider all water as taonga.¹³ The physical value of good water and land to Ngāi Tahu can be seen within the patterns of settlement and occupation.¹⁴ Water is fundamental to the health and wellbeing of who we are as Māori. When Ngāi Tahu asks ko wai koe or who are you – the literal translation of the word is 'of which water are you?' Water has both a spiritual and a utilitarian value to Ngāi Tahu whānui. It was used for drinking, food gathering, bathing, a travel route, recreation, sacred rituals, and burials. The health, wellbeing and mauri of the water is directly linked to the health and wellbeing of the people.

64. The characteristics of the water body (smell, shape, fish passage, bed, flow, etc.) have a direct impact on its health and surrounding lands, what is harvested from it and when. Preferential sites for mahinga kai tend to be rivers, hāpua (estuaries, lagoons), repo (wetlands) and the riparian zones of rivers, streams, and lakes.¹⁵

65. Putting the health of the waterbody first is a new concept to some but for Ngāi Tahu this has always been the priority for managing freshwater. We believe that if the water is healthy and the mauri is intact then this benefits everyone.

66. I consider that the activity does not put the health of the waterbody first. This activity is taking place within the context of manipulating water for the benefit and use of land users, to correct an issue that humans have created which in our understanding is not what the principals of Te Mana o Te Wai are. We are not starting from the point of asking what a healthy state for each water body is in its own right and what can that water body give to us without compromising its health and its mauri. Having to manipulate water to sustain land uses means we are not managing the awa in a healthy resilient state, and in turn we are compromising its mauri and that of the Titiroa River and the surrounding land. From

¹² Whaanga, D, 2021

¹³ McGregor, 2014.

¹⁴ Te Marino Lenihan, 2013

¹⁵ Cain, A & Whaanga D, 2017.

my perspective, putting the health of the water body first would be to allow each water body to 'do what it needs to do' and manage land use activities around that.

IWI POLICY

NGĀI TAHU CLAIMS SETTLEMENT ACT, 1998

67. The Ngāi Tahu Claims Settlement Act 1998 gives effect to the provisions of the Deed of Settlement, entered between Ngāi Tahu and the Crown in 1997. The Cultural Redress elements of the Crown's Settlement Offer were aimed at restoring the ability of Ngāi Tahu to give practical effect to its kaitiaki responsibilities.

68. Statutory acknowledgement is an acknowledgement by the Crown of the special relationship of Ngāi Tahu with identifiable areas. Namely the cultural, spiritual, historical and traditional association of Ngāi Tahu with those areas (known as statutory areas).¹⁶

69. The Mātaura and Te Ara a Kiwa (Attachment 2) Statutory Acknowledgements gives effect to our relationship with the Crown and supports our tupuna in recognising the importance of this awa (river).

70. Taonga species were part of the cultural redress for mahinga kai, to give practical effect for Ngāi Tahu to undertake kaitiaki obligations. Through the settlement, the Crown acknowledged the relationship Ngāi Tahu has with these species. Not all species that are considered taonga were listed because of various reasons. All indigenous species are taonga to Ngāi Tahu because of their contribution to ecosystem health. For example, kanakana are not listed as taonga species but are a significant species to gather when they are migrating.

TE TANGI A TAUIRA, 2008

71. Te Tangi a Tauira (Te Tangi) is a culturally based natural resource framework developed by and for Ngāi Tahu whānui and assists Ngāi Tahu ki Murihiku to achieve rangatiratanga and kaitiakitanga in natural resource management. The main kaupapa of the plan is *ki uta ki tai* (described above). Various plans and policies within this framework have been integrated by local mana whenua (people of the land) to document the issues within our takiwā (area).

¹⁶ Te Tangi a Tauira Pg 47

72. The original application failed to recognise all relevant policies to the application. We have provided this in our submission and we agree with the s42a report on the list of policies that are deemed relevant to this application. Mr McSoriley is right in that activities that impede fish passage are contrary to policy in Te Tangi a Taurira and as shown through our evidence have adverse effects on Ngāi Tahu values.
73. We disagree with Mr McSoriley that the activity is not compromising freshwater fishery values in the stream, residual adverse effects on fish passage that are more than minor are compromising taonga species. Te Tangi uses the strongest wording possible 'avoid' in the policy around freshwater fishery values. This shows the importance of this is to Ngāi Tahu.
74. Te Tangi seeks to protect and enhance the mauri of freshwater resources, ensure that all native species have uninhibited passage from the river to the sea at all times and promotes managing freshwater according to ki uta ki tai.
75. Te Tangi a Taurira includes the Ngāi Tahu indicators of health, which are indicators used when assessing waterways. While there has been no formal assessment, these are important to note when looking at how our values are impacted on the ground and what some of the indicators are, acknowledging that this is not an exhaustive list.

SUMMARY OF POSITION

76. Ngāi Tahu consider all water as wāhi taonga.¹⁷ The river, catchment and the land surrounding are important for Ngāi Tahu ki Murihiku. This is documented through oral histories, wāhi ingoa, wāhi tapū and legislation including the Statutory Acknowledgements for the Mataura River and Te Ara a Kiwa.
77. We appreciate the engagement that the applicant has undertaken throughout the process and as recently been in touch to discuss what mitigations would be appropriate. We provide further comment on this below.
78. We are still concerned about how the structure is being quantified. The evidence provided by Mr Gardner has been helpful, but we note the model limitations and we are still unsure of what area the tide gates are protecting. There are different amounts of land included in both the s42a report and the evidence provided by Mr Gardner. We would like this clarified.

¹⁷ McGregor, 2014.

79. This activity has permitted development of a flood plain on land that is clearly unsuitable for agriculture.
80. The application does not provide for Ngāi Tahu values, rights and interests.
81. The structures are detrimental to the mauri, the health and wellbeing of the Titiroa Stream, it's freshwater ecosystems and the surrounding flood plain.
82. We maintain a view that this application does not put the needs of the waterbody first or the surrounding flood plain.
83. The application fails to consider climate change and the impacts of rising sea level, increased flood flows on the area and a need to repurpose land.
84. We agree with Ms Drummond that while there can be mitigation and remediation in the catchment that these do not address restricted fish passage in the Titiroa or the need to repurpose land.
85. We agree with Ms Drummond that from an ecological perspective, the best outcome is to remove the gates to provide unobstructed passage. From a cultural perspective this is also the best outcome this will go some way in remedying the loss of mauri both on the whenua and land, and fish passage will be improved for our taonga species.
86. The application is inconsistent with policies in Te Tangi a Taurira, the Iwi planning document for this takiwā due to effects on mauri, not prioritising the needs of the waterbody first, fish passage, failing to manage land uses and is contrary to ki uta ki tai and managing the water appropriately.
87. We consider that the effects on frameworks and cultural values are significant, particularly ki uta ki tai, rangatiratanga and mauri.
88. We believe we should be implementing a more natural use of the flood plain including restoring wetlands, bush and waterways by repurposing some of the land owned by Environment Southland that provides long-term environmental outcomes for our hāpori and wider community.
89. We still submit that the application should be declined.

D Whaanga

SRL

Dean Whaanga and Stevie-Rae Blair
23 August 2024

APPENDIX 1: NGĀI TAHU INDICATORS OF HEALTH (SECTION 3.5 PAGE 150):

Indicators used by tangata whenua to assess stream health:

- Shape of the river
- Sediment in the water
- Water quality in the catchment
- Flow characteristics
- Flow variations
- Flood flows
- Sound of flow
- Movement of water
- Fish are safe to eat
- Uses of the river
- Safe to gather plants
- Indigenous vs. exotic species
- Natural river mouth environment
- Water quality
- Abundance and diversity of species
- Natural and extent of riparian vegetation
- Use of river margin
- Temperature
- Catchment land use
- Riverbank condition
- Water is safe to drink
- Clarity of the water

Is the name of the river an indicator?

APPENDIX 2: STATUTORY ACKNOWLEDGEMENTS FOR TE ARA A KIWA AND MATAURA



Schedule 104

Statutory acknowledgement for Rakiura/Te Ara a Kiwa (Rakiura/Foveaux Strait Coastal Marine Area)



Statutory area

The statutory area to which this statutory acknowledgement applies is Rakiura/Te Ara a Kiwa (Rakiura/Foveaux Strait Coastal Marine Area), the Coastal Marine Area of the Hokonui and Awarua constituencies of the Southland region, as shown on SO 11505 and 11508, Southland Land District, as shown on Allocation Plan NT 505 (SO 19901).

Preamble

Under section 313, the Crown acknowledges Te Rūnanga o Ngāi Tahu's statement of Ngāi Tahu's cultural, spiritual, historic, and traditional association to Rakiura/Te Ara a Kiwa as set out below.

Ngāi Tahu association with Rakiura/Te Ara a Kiwa

Generally the formation of the coastline of Te Wai Pounamu relates to the tradition of Te Waka o Aoraki, which foundered on a submerged reef, leaving its occupants, Aoraki and his brothers to turn to stone. They are manifested now in the highest peaks of the Kā Tītiri o Te Moana (the Southern Alps). The bays, inlets, estuaries and fiords which stud the coast are all the creations of Tū Te Rakiwhānoa, who took on the job of making the island suitable for human habitation.

The naming of various features along the coastline reflects the succession of explorers and iwi (tribes) who travelled around the coastline at various times. The first of these was Māui, who fished up the North Island, and is said to have circumnavigated Te Wai Pounamu. In some accounts the island is called Te Waka o Māui in recognition of his discovery of the new lands. A number of coastal place names are attributed to Māui, particularly on the southern coast. Māui is said to have sojourned at Ōmaui (at the mouth of the New River Estuary) for a year, during which time he claimed the South Island for himself. It is said that in order to keep his waka from drifting away he reached into the sea and pulled up a stone to be used as an anchor, which he named Te Puka o Te Waka o Māui (Rakiura or Stewart Island).

The great explorer Rakaihautu travelled overland along the coast, identifying the key places and resources. He also left many place names on prominent coastal features. When Rakaihautu's southward exploration of the island reached Te Ara a Kiwa, he followed the coastline eastwards before heading for the east coast of Otago.

Particular stretches of the coastline also have their own traditions. Foveaux Strait is known as Te Ara a Kiwa (the pathway of Kiwa), the name relating to the time when Kiwa became tired of having to cross the land isthmus which then joined Murihiku (Southland) with Rakiura (Stewart Island). Kiwa requested the obedient Kewa (whale) to chew through the isthmus and create a waterway so Kiwa could cross to and fro by waka. This Kewa did, and the crumbs that fell from his mouth are the islands in Foveaux Strait, Solander Island being Te Niho a Kewa, a loose tooth that fell from the mouth of Kewa.

The waka Takitimu, captained by the northern rangatira (chief) Tamatea, travelled around much of Te Wai Pounamu coast, eventually breaking its back at the mouth of the Waiau River in Murihiku. Many

place names on the coast can be traced back to this voyage, including Monkey Island near Ōrepuki which is known as Te-Punga (or Puka)-a-Takitimu. While sailing past the cliffs at Ōmaui it is said that Tamatea felt a desire to go ashore and inspect the inland, and so he turned to the helmsman and gave the order “Tārere ki whenua uta” (“swing towards the mainland”), but before they got to the shore he countermanded the order and sailed on. Subsequently the whole area from Ōmaui to Bluff was given the name of Te Takiwā o Tārere ki Whenua Uta. In olden days when people from the Bluff went visiting they were customarily welcomed on to the hosts’ marae with the call, “haere mai koutou te iwi tārere ki whenua uta”. One of the whare at Te Rau Aroha marae in Bluff is also named “Tārere ki Whenua uta” in memory of this event.

The Takitimu’s voyage through the Strait came to an end and when the waka was overcome by three huge waves, named Ō-te-wao, Ō-roko and Ō-kaka, finally coming to rest on a reef near the mouth of the Waiau (Waimeha). According to this tradition, the three waves continued on across the low lying lands of Murihiku, ending up as permanent features of the landscape.

For Ngāi Tahu, traditions such as these 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 Ngāi Tahu as an iwi.

Because of its attractiveness as a place to establish permanent settlements, including pā (fortified settlements), the coastal area was visited and occupied by Waitaha, Ngāti Mamoe and Ngāi Tahu in succession, who through conflict and alliance, have merged in the whakapapa (genealogy) of Ngāi Tahu Whānui. Battle sites, urupā and landscape features bearing the names of tūpuna (ancestors) record this history. Prominent headlands, in particular, were favoured for their defensive qualities and became the headquarters for a succession of rangatira and their followers.

The results of the struggles, alliances and marriages arising out of these migrations were the eventual emergence of a stable, organised and united series of hapū located at permanent or semi-permanent settlements along the coast, with an intricate network of mahinga kai (food gathering) rights and networks that relied to a large extent on coastal resources.

Mokamoka (Mokomoko or Mokemoke) was one such settlement, in a shallow inlet off the Invercargill estuary. It was here that Waitai was killed, the first Ngāi Tahu to venture this far south, well out of the range of his own people, then resident at Taumutu. This settlement was sustained by mahinga kai taken from the estuary and adjoining coastline, including shellfish and pātiki (flounder).

Ōue, at the mouth of the Ōreti River (New River Estuary), opposite Ōmaui, was one of the principal settlements in Murihiku. Honekai who was a principal chief of Murihiku in his time was resident at this settlement in the early 1820s, at the time of the sealers. In 1850 there were said to still be 40 people living at the kaik at Ōmaui under the chief Mauhe. Honekai’s brother, Pukarehu, was a man who led a very quiet life, and so was little known. He is remembered, however, in the small knob in the hills above Ōmaui which bears his name. When he passed away he was interred in the sandhills at the south end of the Ōreti Beach opposite Ōmaui. Ōue is said to have got its name from a man Māui left to look after his interests there until his return. It was also here that the coastal track to Riverton began. From Ōue to the beach the track was called Te Ara Pakipaki, then, when it reached the beach, it was called Mā Te Aweawe, finally, at the Riverton end, it was known as Mate a Waewae.

After the death of Honekai, and as a consequence of inter-hapū and inter-tribal hostilities in the Canterbury region, many inhabitants of Ōue and other coastal villages on Foveaux Strait relocated to Ruapuke Island, which became the Ngāi Tahu stronghold in the south. The rangatira Pahi and Tupai were among the first to settle on the island. Pahi had previously had one of the larger and oldest pā in

Murihiku at Pahi (Pahia), where 40 to 50 whare (houses) were reported in 1828. The Treaty of Waitangi was signed at Ruapuke Island by Tuhawaiki and others. No battles however occurred here, the pā Pā-raki-ao was never fully completed, due to the realisation that Te Rauparaha could not reach this far south.

Other important villages along the coast included: Te Wae Wae (Waiau), Taunoa (Ōrepuki), Kawakaputaputa (Wakaputa), Ōraka (Colac Bay), Aparima (Riverton—named Aparima after the daughter of the noted southern rangatira Hekeia, to whom he bequeathed all of the land which his eye could see as he stood on a spot at Ōtaitai, just north of Riverton), Turangiteuaru, Awarua (Bluff), Te Whera, Toe Toe (mouth of the Maitai River) and Waikawa.

Rarotoka (Centre Island) was a safe haven at times of strife for the villages on the mainland opposite (Pahi, Ōraka and Aparima). Numerous artefacts and historical accounts attest to Rarotoka as having a significant place in the Ngāi Tahu history associated with Murihiku.

Rakiura also plays a prominent part in southern history, the “Neck” being a particularly favoured spot. Names associated with the area include: Kōrako-wahine (on the western side of the peninsula), Whare-tātara (a rock), Hupokeka (Bullers Point) and Pukuheke (the point on which the lighthouse stands). Te Wera had two pā built in the area called Kaiarohaki, the one on the mainland was called Tounoa, and across the tidal strip was Kā-Turi-o-Whako.

A permanent settlement was located at Port Pegasus, at the south-eastern end of Rakiura, where numerous middens and cave dwellings remain. Permanent settlement also occurred on the eastern side of Rakiura, from the Kaik near the Neck, south to Tikotaitahi (or Tikotatahi) Bay. A pā was also established at Port Adventure.

Mahinga kai was available through access from the coastal settlements to Te Whaka-a-te-Wera (Paterson Inlet), Lords River and, particularly for waterfowl, to Toi Toi wetland. In addition, the tītī islands off the northeastern coast of the island, and at the mouth of Kōpeka River and the sea fishery ensured a sound base for permanent and semi-permanent settlement, from which nohoanga operated.

Te Ara a Kiwa, the estuaries, beaches and reefs off the mainland and islands all offered a bounty of mahinga kai, with Rakiura and the tītī islands being renowned for their rich resources of bird life, shellfish and wet fish. The area offered a wide range of kaimoana (sea food), including tuaki (cockles), paua, mussels, toheroa, tio (oysters), pūpū (mudsnails), cod, groper, barracuda, octopus, pātiki (flounders), seaweed, kina, kōura (crayfish) and conger eel. Estuarine areas provided freshwater fisheries, including tuna (eels), inaka (whitebait), waikōura (freshwater crayfish), kōkopu and kanakana (lamprey). Marine mammals were harvested for whale meat and seal pups. Many reefs along the coast are known by name and are customary fishing grounds, many sand banks, channels, currents and depths are also known for their kaimoana.

A range of bird life in the coastal area also contributed to the diversity of mahinga kai resources available, including tītī, seabirds such as shags and gulls, sea bird eggs, waterfowl, and forest birds such as kiwi, kākā, kākāpō, weka, kukupa and tieke. A variety of plant resources were also taken in the coastal area, including raupō, fern root, tī kōūka (cabbage tree), tutu juice and kōrari juice. Harakeke (flax) was an important resource, required for the everyday tasks of carrying and cooking kai. Black mud (paru) was gathered at Ocean Beach for use as dye. Tōtara bark was important for wrapping pōhā in, to allow safe transport of the tītī harvest. Pōhā were made from bull kelp gathered around the rocky coast.

The numerous tītī islands are an important part of the Ngāi Tahu southern economy, with Taukihepa (Te Kanawera) being the largest. Tītī were and are traded as far north as the North Island. The “Hakuai” is a bird with a fearsome reputation associated with the islands. No one has ever seen this

bird, which appears at night, but it once regularly signalled the end to a birding season by its appearance at night. Known for its distinctive spine-chilling call, the hakuai was a kaitiaki that could not be ignored. At the far western edge of Foveaux Strait is Solander Island (Hau-tere), an impressive rock pinnacle rising hundreds of feet out of the sea, on which fishing and tītī gathering occurred.

The coast was also a major highway and trade route, particularly in areas where travel by land was difficult. Foveaux Strait was a principal thoroughfare, with travel to and from Rakiura a regular activity. There was also regular travel between the islands Ruapuke, Rarotoka and other points. The tītī season still involves a large movement across the Strait to the islands, in addition large flotillas of Ngāi Tahu once came south from as far afield as Kaikōura to exercise their mutton-birding rights. Whenua Hou (Codfish Island) and the Ruggedy Islands were important staging posts for the movement of birders to the tītī islands off the south-west coast of Rakiura. Whenua Hou had everything that the birders required: shelter, proximity to the tītī islands, kai moana, manu (birds) and ngahere (bush). From Whenua Hou, the birders would camp at Miniti (Ernest Island), at the end of Mason Bay, where the waka-hunua (double-hulled canoes, or canoes with outriggers) were able to moor safely, ready for the final movement to the various tītī islands. Waka-hunua were an important means of transport on the dangerous and treacherous waters of Foveaux Strait and the Rakiura coast. After dropping birders and stores on the tītī islands the waka hunua generally returned immediately to Aparima and other tauranga waka along the mainland of Foveaux Strait, due to the paucity of safe anchorages among the tītī islands.

Travel by sea between settlements and hapū was common, with a variety of different forms of waka, including the southern waka hunua (double-hulled canoe) and, post-contact, whale boats plying the waters continuously. Hence tauranga waka occur up and down the coast, including spots at Pahi, Ōraka and Aparima, and wherever a tauranga waka is located there is also likely to be a nohoanga (settlement), fishing ground, kaimoana resource, rimurapa (bull kelp - used to make the pōhā, in which tītī were and still are preserved) and the sea trail linked to a land trail or mahinga kai resource. Knowledge of these areas continues to be held by whānau and hapū and is regarded as a taonga. The traditional mobile lifestyle of the people led to their dependence on the resources of the coast. The New River Estuary contains wāhi tapu, as do many of the coastal dunes and estuarine complexes for the length of the Foveaux Strait. Many urupā are located on islands and prominent headlands overlooking the Strait and the surrounding lands and mountains. The rangatira Te Wera, of Huriawa fame, is buried at Taramea (Howells Point), near Riverton. There are two particularly important urupā in Colac Bay, as well as an old quarry site (Tihaka). From Colac Bay to Wakapatu, the coastal sandhills are full of middens and ovens, considered to be linked to the significant mahinga kai gathering undertaken in Lake George (Uruwera). Urupā are the resting places of Ngāi Tahu tūpuna and, as such, are the focus for whānau traditions. These are places holding the memories, traditions, victories and defeats of Ngāi Tahu tūpuna, and are frequently protected in secret locations.

The mauri of the coastal area represent 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 Ngāi Tahu Whānui with the coastal area.

Schedule 42 Statutory acknowledgement for Mataura River

Statutory area

The statutory area to which this statutory acknowledgement applies is the river known as Mataura, the location of which is shown on Allocation Plan MD 125 (SO 12264).

Preamble

Under section 206, the Crown acknowledges Te Rūnanga o Ngāi Tahu's statement of Ngāi Tahu's cultural, spiritual, historic, and traditional association to the Mataura River, as set out below.

Ngāi Tahu association with the Mataura River

The area of the Mataura River above the Mataura Falls was traditionally used by the descendants of the Ngāti Mamoe chief, Parapara Te Whenua. The descendants of Parapara Te Whenua incorporate the lines of Ngāti Kurī from which the Mamaru family of Moeraki descend. Another famous tupuna associated with the river was Kiritekateka, the daughter of Parapara Te Whenua. Kiritekateka was captured by Ngāi Tahu at Te Anau and her descendants make up the lines of many of the Ngāi Tahu families at Ōtākou.

For Ngāi Tahu, histories such as these reinforce tribal identity and solidarity, and continuity between generations, and document the events which shaped the environment of Te Wai Pounamu and Ngāi Tahu as an iwi.

The Mataura was an important mahinga kai, noted for its indigenous fishery. The Mataura Falls were particularly associated with the taking of kanakana (lamprey). The tūpuna 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 Mataura, 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 Ngāi Tahu today.

The mauri of the Mataura 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 Ngāi Tahu Whānui with the river.