

## Resource Management (Form, Fees and Procedure) Regulations – Schedules 2003

### SUBMISSION ON PLAN CHANGE 5 TO THE CANTERBURY LAND AND WATER PLAN

15 March 2016

To: Plan Change 5 to the LWRP  
Environment Canterbury  
PO Box 345  
Christchurch 8140  
Submission lodged by email – mailroom@ecan.govt.nz

**Name of person making submission:**

**Ngā rūnanga** - Te Rūnanga o Kaikōura, Te Ngāi Tūāhuriri Rūnanga, Te Hapū o Ngāti Wheke, Te Rūnanga o Koukourārata, Ōnuku Rūnanga, Wairewa Rūnanga, Te Taumutu Rūnanga, Te Rūnanga o Arowhenua, Te Rūnanga o Waihao and Te Rūnanga o Moeraki;

**Ngāi Tahu Farming Limited**; and

**Te Rūnanga o Ngāi Tahu (Te Rūnanga)**

Collectively referred to as Ngāi Tahu.

**These are submissions in support or opposition to: Plan Change 5 to the Canterbury Land and Water Regional Plan.**

### **1. Introduction and Background**

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- 1.1 Ngāi Tahu is Tangata Whenua of Canterbury Region. Ngāi Tahu means “people of Tahu”. Ngāi Tahu is the iwi comprised of Ngāi Tahu Whānui; that is the collective of the individuals who descend from the five primary hapū; Ngāti Kurī, Ngāti Irakehu, Kati Huirapa, Ngāi Tūāhuriri and Ngāi Te Ruahikihiki. The Ngāi Tahu takiwā extends over 80 per cent of Te Waipounamu. Te Waipounamu has been home to Ngāi Tahu for over 800 years.
- 1.2 Te Rūnanga o Ngāi Tahu (Te Rūnanga) is statutorily recognised as the representative tribal body of Ngāi Tahu whānui and was established as a body corporate on 24th April 1996 under section 6 of Te Rūnanga o Ngāi Tahu Act 1996 (the Act).

- 1.3 We note for the Canterbury Regional Council the following relevant provisions of the Act:

Section 3 of the Act States:

*“This Act binds the Crown and every person (including any body politic or corporate) whose rights are affected by any provisions of this Act.”*

Section 15(1) states:

*“Te Rūnanga o Ngāi Tahu shall be recognised for all purposes as the representative of Ngāi Tahu Whānui.”*

- 1.4 The Charter of Te Rūnanga o Ngāi Tahu established under the Act constitutes Te Rūnanga as the kaitiaki of the tribal interests.
- 1.5 Te Rūnanga respectfully requests that Canterbury Regional Council accord this response the status and weight due to the tribal collective, Ngāi Tahu whānui, currently comprising over 55,000 members, registered in accordance with section 8 of the Act.
- 1.6 Notwithstanding its statutory status as the representative voice of Ngāi Tahu whānui “for all purposes”, Te Rūnanga accepts and respects the right of individuals and Papatipu Rūnanga to make their own responses in relation to this matter.
- 1.7 It should be noted that in Section 15 (2) of the Act, the provision provides for; where any enactment requires consultation with any iwi or with any iwi authority, that consultation shall, with respect to matters affecting Ngāi Tahu Whānui, be held with Te Rūnanga o Ngāi Tahu. Section 15 (3) of the Act requires that in carrying out any consultation Te Rūnanga o Ngāi Tahu shall in turn consult with Papatipu Rūnanga. In practice, Te Rūnanga takes into account the views of Papatipu Rūnanga when determining its position. In the case of issues of local significance only, Te Rūnanga may defer a response completely to Papatipu Rūnanga.
- 1.8 Papatipu Rūnanga are defined in section 9 of the Act. This includes Te Rūnanga o Kaikōura, Te Ngāi Tūāhuriri Rūnanga, Te Hapū o Ngāti Wheke, Te Rūnanga o Koukourārata, Ōnuku Rūnanga, Wairewa Rūnanga, Te Taumutu Rūnanga, Te Rūnanga o Arowhenua, Te Rūnanga o Waihao and Te Rūnanga o Moeraki.

## **2. Manawhenua Statement**

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- 2.1 This is a submission from the representative bodies of the tangata whenua who hold manawhenua in their traditional takiwā of Canterbury Region, to which this proposed Plan Change relates: Te Rūnanga o Kaikōura, Te Ngāi Tūāhuriri Rūnanga, Te Hapū o Ngāti Wheke, Te Rūnanga o Koukourārata, Ōnuku Rūnanga, Wairewa Rūnanga, Te Taumutu Rūnanga, Te Rūnanga o Arowhenua, Te Rūnanga o Waihao and Te Rūnanga o Moeraki.
- 2.2 The submission is supported by Te Rūnanga o Ngāi Tahu.

### **3. Te Rūnanga and Papatipu Rūnanga Interests in Plan Change 5**

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3.1. Te Rūnanga notes the following particular interests in Plan Change 5:

#### ***Treaty Relationship***

- Te Rūnanga o Ngāi Tahu have an expectation that the Crown will honour Te Tiriti o Waitangi (the Treaty) and the principles upon which the Treaty is founded. Environment Canterbury, as the delegated representative of the Crown, is required to take into account the principles of the Treaty of Waitangi in exercising its functions.
- Te Rūnanga is reliant upon Council decision-makers understanding the Treaty context in which they operate and the need to uphold Crown responsibilities that have been delegated to them. The Productivity Commission summed up this extension of the Treaty relationship in its 2013 report Towards Better Local Regulation:

*"if the Crown chooses to delegate to local authorities responsibility for the control of natural resources, it must do so in terms which require local authorities to afford the same degree of protection as is required by the Treaty to be afforded by the Crown."* [p179]

- The Waitangi Tribunal Ngāi Tahu Report 1991 investigated the “nine tall trees” of Te Kerēme (Wai 27, the Ngāi Tahu claim), namely the eight regional purchases of Ngāi Tahu lands over two decades between 1844 and 1864, and Ngāi Tahu claims to mahinga kai resources (the “ninth tree”). This was the culmination of a claims process unfolded over 140 years. Section 4.7.11 of the 1991 Report records the following excerpt from the Court of Appeal ruling of Sir Robin Cooke:

*"the duty of the Crown is not merely passive but extends to active protection of Maori people in the use of their lands and waters to the fullest extent practicable."<sup>1</sup>*

#### ***Kaitiakitanga***

- In keeping with the kaitiaki responsibilities of Ngāi Tahu whānui, Te Rūnanga has an interest in ensuring sustainable management of natural resources, including protection of taonga species and mahinga kai for future generations
- Ngāi Tahu whānui are both users of natural resources, and stewards of those resources. At all times, Te Rūnanga is guided by the tribal whakataukī: “mō tātou, ā, mō kā uri ā muri ake nei” (*for us and our descendants after us*).

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<sup>1</sup> *New Zealand Māori Council v Attorney-General* [1987] 1 NZLR 641

### ***Whanaungatanga***

- Te Rūnanga has a responsibility to promote the wellbeing of Ngāi Tahu whānui and ensure that the management of Ngāi Tahu assets and the wider management of natural resources supports the development of iwi members.
- 3.2 Te Rūnanga has a specific interest in this plan change by virtue of the Ngāi Tahu Claims Settlement Act 1998 (the NTCSA). The Act provides for Ngāi Tahu and the Crown to enter an age of co-operation. An excerpt of the Act is attached as Appendix One, as a guide to the basis of the post-Settlement relationship, which underpins this response.
- 3.3 The Crown apology to Ngāi Tahu is a recognition of the Treaty principles of partnership, active participation in decision-making, active protection and rangatiratanga.
- 3.4 With regards to the Ngāi Tahu takiwā, Section 5 of the Te Rūnanga o Ngāi Tahu Act 1996 statutorily defines the Ngāi Tahu takiwā as those areas “south of the northern most boundaries described in the decision of the Māori Appellate Court ...” which in effect is south of Te Parinui o Whiti on the East Coast and Kahurangi Point on the West Coast of the South Island.
- 3.5 Section 2 of the Ngāi Tahu Claims Settlement Act 1998 statutorily defines the Ngāi Tahu claim area as being:  
*the area shown on allocation plan NT 504 (SO 19900), being—*
- a) *the takiwā of Ngāi Tahu Whānui; and*
  - b) *the coastal marine area adjacent to the coastal boundary of the takiwā of Ngāi Tahu Whānui; and*
  - c) *the New Zealand fisheries waters within the coastal marine area and exclusive economic zone adjacent to the seaward boundary of that coastal marine area;— and, for the purposes of this definition, the northern sea boundaries of the coastal marine area have been determined using the equidistance principle, and the northern sea boundaries of the exclusive economic zone have been determined using the perpendicular to the meridian principle from the seaward boundary of the coastal marine area (with provision to exclude part of the New Zealand fisheries waters around the Chatham Islands).*

[Refer map attached as Appendix Two]

- 3.6 The Canterbury Region is within the Ngāi Tahu takiwā.

## **4. Ngāi Tahu Farming Limited**

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- 4.1 Ngāi Tahu Farming Limited (NTFL) is a wholly owned subsidiary of Ngāi Tahu Holdings Corporation which in turn hold and manages the commercial investments for the benefit of Ngāi Tahu Whānui.

## **5. Submission – General**

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### **Our submission is:**

- 5.1 We support Plan Change 5 except where we ask for specific amendments or additions in Appendix 3.

### **Our reasons are:**

- 5.2 The amendments and additions we seek to this plan are to better incorporate the broader interests and aspirations of Ngāi Tahu in managing the impacts of farming activities across the region and addressing rights and interests in the Waitaki catchment. We consider these changes are necessary to:

- give effect to the purpose of the Resource Management Act 1991;
- give effect to the National Policy Statement for Freshwater 2014;
- give effect to the Canterbury Regional Policy Statement 2013;
- take into account the relevant iwi management plans; and
- have particular regard to the recommendations arising from a Zone Implementation Programme.

- 5.3 These reasons apply to every decision requested in this submission, along with any additional specific reasons listed under each submission point.

### **Decisions sought:**

- 5.4 The specific decisions sought are listed in appendix 3. Text to be deleted is either described narratively or shown as ~~strikethrough~~ (except where whole sections are to be replaced). Replacement text is either described narratively or shown as underlined.

- 5.5 We also seek any consequential amendments necessary to give effect to the decisions sought.

- 5.6 **The reasons for our support or opposition are also set out in Appendix 3.**

**We DO wish to be heard in support of our submission.**

**Signature of person authorised to sign on behalf of persons making submission**

A handwritten signature in blue ink, appearing to read "Kara Edwards".

**Kara Edwards  
General Manager | Te Ao Tūroa  
Te Rūnanga o Ngāi Tahu**

**Date: 15 March 2016**

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## **APPENDIX ONE: TEXT OF CROWN APOLOGY**

The following is text of the Crown apology contained in the Ngāi Tahu Claims Settlement Act 1998.

### ***Part One – Apology by the Crown to Ngāi Tahu***

#### ***Section 6 Text in English***

The text of the apology in English is as follows:

- 1 The Crown recognises the protracted labours of the Ngāi Tahu ancestors in pursuit of their claims for redress and compensation against the Crown for nearly 150 years, as alluded to in the Ngāi Tahu proverb ‘He mahi kai takata, he mahi kai hoaka’ ('It is work that consumes people, as greenstone consumes sandstone'). The Ngāi Tahu understanding of the Crown's responsibilities conveyed to Queen Victoria by Matihā Tirimorehu in a petition in 1857, guided the Ngāi Tahu ancestors. Tirimorehu wrote:

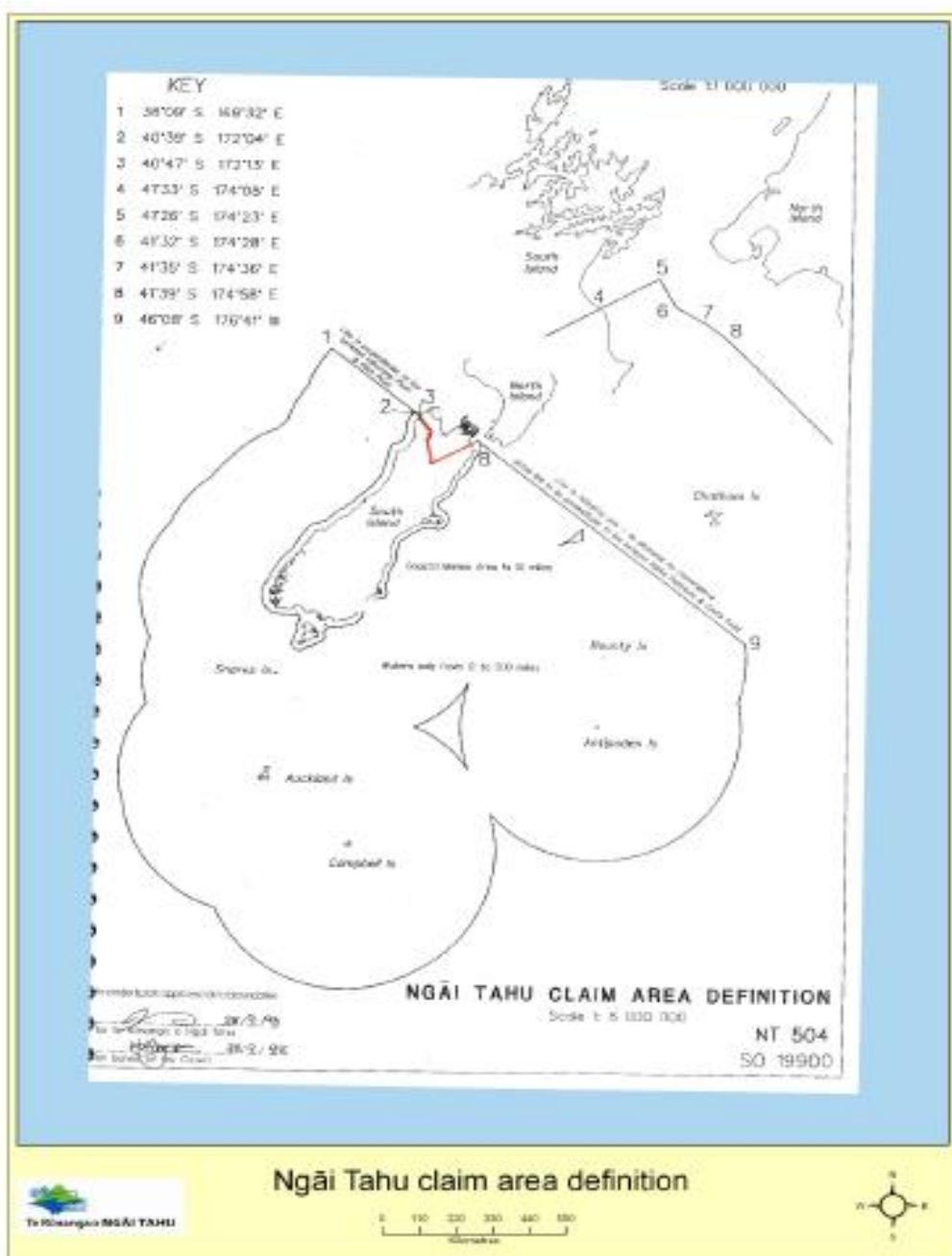
*This was the command thy love laid upon these Governors ... that the law be made one, that the commandments be made one, that the nation be made one, that the white skin be made just equal with the dark skin, and to lay down the love of thy graciousness to the Māori that they dwell happily ... and remember the power of thy name.*

- 2 The Crown hereby acknowledges the work of the Ngāi Tahu ancestors and makes this apology to them and to their descendants.
- 3 The Crown acknowledges that it acted unconscionably and in repeated breach of the principles of the Treaty of Waitangi in its dealings with Ngāi Tahu in the purchases of Ngāi Tahu land. The Crown further acknowledges that in relation to the deeds of purchase it has failed in most material respects to honour its obligations to Ngāi Tahu as its Treaty partner, while it also failed to set aside adequate lands for Ngāi Tahu's use, and to provide adequate economic and social resources for Ngāi Tahu.
- 4 The Crown acknowledges that, in breach of Article Two of the Treaty, it failed to preserve and protect Ngāi Tahu's use and ownership of such of their land and valued possessions as they wished to retain.
- 5 The Crown recognises that it has failed to act towards Ngāi Tahu reasonably and with the utmost good faith in a manner consistent with the honour of the Crown. That failure is referred to in the Ngāi Tahu saying ‘Te Hapa o Niu Tirenī!’ ('The unfulfilled promise of New Zealand'). The Crown further recognises that its failure always to act in good faith deprived Ngāi Tahu of the opportunity to develop and kept the tribe for several generations in a state of poverty, a state referred to in the proverb ‘Te mate o te iwi’ ('The malaise of the tribe').
- 6 The Crown recognises that Ngāi Tahu has been consistently loyal to the Crown, and that the tribe has honoured its obligations and responsibilities under the Treaty of Waitangi and duties as citizens of the nation, especially, but not exclusively, in their active service in all of the major conflicts up to the present time to which New Zealand has sent troops. The

Crown pays tribute to Ngāi Tahu's loyalty and to the contribution made by the tribe to the nation.

- 7. The Crown expresses its profound regret and apologises unreservedly to all members of Ngāi Tahu Whānui for the suffering and hardship caused to Ngāi Tahu, and for the harmful effects which resulted to the welfare, economy and development of Ngāi Tahu as a tribe. The Crown acknowledges that such suffering, hardship and harmful effects resulted from its failures to honour its obligations to Ngāi Tahu under the deeds of purchase whereby it acquired Ngāi Tahu lands, to set aside adequate lands for the tribe's use, to allow reasonable access to traditional sources of food, to protect Ngāi Tahu's rights to pounamu and such other valued possessions as the tribe wished to retain, or to remedy effectually Ngāi Tahu's grievances.
- 8. The Crown apologises to Ngāi Tahu for its past failures to acknowledge Ngāi Tahu rangatiratanga and mana over the South Island lands within its boundaries, and, in fulfilment of its Treaty obligations, the Crown recognises Ngāi Tahu as the tangata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui.
- 9. Accordingly, the Crown seeks on behalf of all New Zealanders to atone for these acknowledged injustices, so far as that is now possible, and, with the historical grievances finally settled as to matters set out in the Deed of Settlement signed on 21 November 1997, to begin the process of healing and to enter a new age of co-operation with Ngāi Tahu."

## APPENDIX TWO: NGĀI TAHU TAKIWĀ



**APPENDIX 3: SUBMISSION**

## Part A - Region wide amendments

<b>Plan Provision</b>	<b>Reason for submission</b>	<b>Relief sought</b>
Whole of Plan Change 5 Part A	Support Plan Change 5 where the amendments enable Good Management Practice (GMP) to provide for improvement in water quality and Farm Environment Plans and Management Plan are fully implemented with records demonstrating how these have been implemented.	Retain Plan Change 5 Part A in so far as the amendments enable Good Management Practice to provide for improvement in water quality and that Farm Environment Plans and Management Plans are required to be prepared, implemented and audited.
Whole of Plan Change 5 Part A	Support Plan Change 5 in so far as it moves farming activities an towards an overall cumulative reduction in nutrient loss, particularly within over-allocated catchments.	Retain the use of a Good Management Practice Loss Rate as a tool to manage on-farm nutrient losses, as a tool and to achieve an overall cumulative reduction in nutrient loss, particularly within over-allocated catchments.
Whole of Plan Change 5 Part A	Ngāi Tahu expects continuous improvement in Good Management Practice. Good Management Practice should be reviewed every five years to reflect new approaches, innovations and knowledge.	Seek that the approach to Good Management Practice is reviewed on a every five years to reflect new approaches, innovations and knowledge and any necessary plan changes made.
Whole of Plan Change 5 Part A	<p>Oppose the provisions in so far as they grand-parent nitrogen allocations. Grand-parenting nitrogen allocations is not an efficient or effective tool to improve water quality and rewards high polluting activities. Ngāi Tahu is concerned the provisions could preclude the ability for the Council to have particular regard to the recommendations arising from a Zone Implementation Programme that recommends changes to land use practices within a Zone.</p> <p>Nitrogen loss should be based on what is an acceptable rate of nitrogen loss given the state of the receiving environment not what people are doing now.</p>	Retain the provisions as proposed, provided they do not limit the ability for existing plan changes and any future plan changes within Zones to introduce nutrient caps or permitted activity baselines for nutrient loss and measures that facilitate staged reduction in nutrient losses.
Whole of Plan Change 5 Part A	Ngāi Tahu seeks assurance that the interaction between Plan Change 5 and Plan Changes 1 – 3 is clear. This is to ensure there is no risk of undermining the approaches developed in Plan Changes 1 – 3 or a person being required to apply for a resource consent under both sets of rules.	Ensure that the Region wide provisions reflect the intent of the sub-regional Plan Changes 1 – 3, and retain measures that provide for staged reduction in nutrient loss on farm to assist with overall cumulative reduction in nutrient loss within over-allocated catchments, and maximum nutrient loss rates (nutrient caps).

Whole of Plan Change 5 Part A	<p>Ngāi Tahu supports the use of riparian margins to reduce nutrient losses to water and this needs to be encouraged. Indigenous vegetation and riparian areas have an important role in maintaining ecosystem health, as among other attributes, enhancing water quality through natural pollution abatement functions. Ngāi Tahu is however concerned, that as drafted, the Plan directs towards the use of grass filter strips, rather than considering the benefits of using other forms of vegetation, particularly indigenous vegetation, for riparian planting. Query both the Portal and Overseer in providing for vegetative strips other than grass.</p> <p>The longer term benefits of the use of the planting of vegetation other than grass as a natural pollution abatement function must be encouraged for the longer term benefits such as mahinga kai, reduction in bank erosion, reduction in soil and sediment loss and the provision of habitat.</p>	<p>Include provisions, including within Schedules 7 and 28 to specifically provide for and encourage the use of vegetation, other than grass filter strips to reduce nutrient loss.</p>
Definition Accredited Farm Consultant	<p>There is no certainty that those preparing or auditing Farm Environment Plans understand Ngāi Tahu values. Good Management Practice should include provision for kaitiakitanga, mahinga kai and other sites of importance to Ngāi Tahu. It is important therefore that those undertaking the preparation and auditing of Farm Environment Plans having an understanding of these practices and values.</p>	<p>Add an additional requirement to the definition as follows:</p> <p><u>Has completed a course approved by Te Rūnanga o Ngāi Tahu and supplied to Environment Canterbury that addresses cultural competencies.</u></p>
Definition Certified Farm Environment Plan Auditor	<p><i>Reason the same as for definition of Accredited Farm Consultant.</i></p>	<p>Add an additional requirement is added to the definition as follows:</p> <p><u>Has completed a course approved by Te Rūnanga o Ngāi Tahu and supplied to Environment Canterbury that addresses cultural competencies.</u></p>
Definition Good Management Practices	<p>The document <i>Industry-agreed Good Management Practices relating to water quality</i> does not recognise or provide for mahinga kai, wāhi tapu or wāhi taonga and the exercise of kaitiakitanga on properties or within farming enterprises.</p> <p>While Ngāi Tahu acknowledges that amendment of the document <i>Industry agreed Good Management Practices relating to water quality</i> cannot be made through this plan change Ngāi Tahu seek amendments to relevant policies and to Schedule 7 to specifically provide for this component of Good Management Practice.</p>	<p>Address, as a specific aspect of Good Management Practice, the effects of farming activities on mahinga kai, wāhi tapu, wāhi taonga and the exercise of kaitiakitanga.</p> <p>Recommendations for providing relief for this submission are provided for in specific provisions.</p>

Definition Nitrogen Baseline	<p>The definition of the nitrogen baseline does not recognise that for other farming activities may hold a resource consent obtained between 01 January 2009 and 31 December 2013 and should be assessed on the basis that their farming activity is operational.</p> <p>Ngāi Tahu queries the period for calculation of the Nitrogen Baseline when the Good Management Practice under schedule 7 requirements are from 1 July - 30 June the following year. This seems inconsistent in the Plan and with most farming practices which occur within a period commencing in July to June the next year.</p> <p>Ngāi Tahu is aware that under the Hurunui Waiau River Regional Plan existing land use is assessed 30 December, thereby creating an issue for farmers that are in the middle of their farming season, and arguably the assessed nitrogen losses should only include what they have planned for the remainder of their season. This may also result in an increased nitrogen loss from the current baseline.</p>	<p>Amend Definition to read:</p> <p>Nitrogen Baseline means:</p> <ul style="list-style-type: none"> <li>a. [condition unchanged]</li> <li>b. In the case of where <del>a building consent and an effluent discharge consent and all other relevant building, and land use consents have been granted for a farming activity a new or upgraded dairy milking—shed</del> in the period 01 January 2009 – 31 December 2013, the calculation under (a) will be on the basis that the <del>dairy</del> farming activity is operational; and</li> <li>c. [condition unchanged]</li> </ul>
Policies general	<p>Ngāi Tahu seek certainty that the provisions do not limit or preclude the ability for the Council to have particular regard to the recommendations arising from a Zone Implementation Programme. This could remove the ability for Papatipu Rūnanga, Zone Committees and communities within catchments to develop approaches relevant to freshwater management within their catchment. For example, as proposed the rules mean that a cap or permitted activity baseline for nitrogen cannot be applied to plan changes for specific Zones in the future.</p> <p>If the provisions remove the ability to recommend a cap or permitted activity baseline Ngāi Tahu consider this approach would not give effect to the purpose of the Resource Management Act 1991 (RMA), or give effect to the National Policy Statement for Freshwater Management 2014, or the Canterbury Regional Policy Statement or take into account the relevant iwi management plans.</p>	<p>Ensure that the provisions in Part A do not limit the ability for any future plan change for Zones to introduce caps or permitted activity baselines.</p> <p>Include a new policy under Nutrient Management that reads:</p> <p><u>Freshwater quality is maintained or improved within catchment management zones by enabling the ability to establish provisions for Good Management Practice Loss Rates that in turn enable the management of freshwater to meet a specific water quality limit or limits. Measures may include staged reduction of nutrient losses, maximum nutrient loss rates and permitted levels of nutrient loss.</u></p>
Policy 4.11	<p>Support granting of resource consents under the region-wide rules in the Plan for a period not exceeding five years past the expected notification date of any plan change that introduces water quality or water quality provisions.</p> <p>This approach enables Council to have particular regard to the visions and principles of the zone committees.</p>	<p>Retain Policy 4.11.</p>

Policy 4.36	Clarify intention of policy.	<p>Amend Policy to read:</p> <p>Water quality outcomes are met by:</p> <p>(a) All farming activities minimising nutrient losses through the implementation of <del>good practice</del> <u>Good Management Practice</u>; [remaining text unchanged]</p>
Policy 4.37	<p>As proposed Ngāi Tahu is concerned the provisions lock a farming activities nitrogen loss based on their current land use. Ngāi Tahu does not believe this achieves the purpose of the National Policy Statement for Freshwater Management 2014. The approach rewards high polluters and may lock in a sense of 'entitlement' to their nitrogen losses. It further maintains the status quo and appears to do little within those catchments where nitrogen limits are already too high. Ngāi Tahu is further concerned that by protecting existing activities with high nitrogen loss numbers will have implications for plan changes to within specific zones.</p>	<p>Amend Policy to read:</p> <p>Freshwater quality is improved within the Lake Zone and Red Nutrient Allocation Zone by:</p> <p>(a) [condition unchanged]</p> <p>(b) <u>Where, as at 13 February 2016, a properties nitrogen loss is greater than 15kgs per hectare per annum in the Red Nutrient Allocation Zone and 10kgs per hectare per annum in the Lake Zone there are further reductions in nitrogen loss over time (relative to the properties Baseline GMP Loss Rate or the Good Management Practice Loss Rate whichever is lesser) of not less than:</u></p> <p class="list-item-l1">(i) <u>15% by 1 January 2025</u></p> <p class="list-item-l1">(ii) <u>25% by 1 January 2030</u></p> <p class="list-item-l1">(iii) <u>35% by 1 January 2035</u></p> <p><u>provided that these nitrogen loss reductions do not require the property's nitrogen loss calculation to reduce below the permitted nitrogen baseline in the Red Nutrient Allocation Zone and the Lake Zone.</u></p> <p>[consequential renumbering, remaining conditions unchanged]</p>

Policy 4.38	Reason the same as for Rule 4.37A	<p>Amend Policy to read:</p> <p>Freshwater quality is improved within the Orange Nutrient Allocation Zone by:</p> <ul style="list-style-type: none"> <li>(a) [condition unchanged]</li> <li>(b) <u>Where, as at 13 February 2016, a properties nitrogen loss is greater than 15kgs per hectare per annum there are further reductions in nitrogen loss over time (relative to the properties Baseline GMP Loss Rate or the Good Management Practice Loss Rate whichever is lesser) of not less than:</u> <ul style="list-style-type: none"> <li>(i) <u>15% by 1 January 2025</u></li> <li>(ii) <u>25% by 1 January 2030</u></li> <li>(iii) <u>35% by 1 January 2035</u></li> </ul> <p><u>provided that these nitrogen loss reductions do not require the property's nitrogen loss calculation to reduce below the permitted nitrogen baseline.</u></p> <p>[consequential renumbering, remaining conditions unchanged]</p> </li> </ul>
Policy 4.41B	<p>Good Management Practice should include provision for mahinga kai and sites of importance to Ngāi Tahu.</p> <p>The proposed provisions do not adequately recognise Ngāi Tahu values. In particular, the cultural significance of the water bodies, restoration of the mauri and enhancement of mahinga kai. These outcomes are necessary to enable Ngāi Tahu to exercise its customary duty of kaitiakitanga.</p> <p>The relief sought would also recognise and provide for those areas of Statutory Acknowledgement (under the Ngāi Tahu Claims Settlement Act 1998) that may be adversely affected by some land use practices.</p>	<p>Include new condition (g) as follows:</p> <p><u>Management Plans and Farm Environment Plans address the effects of farming activity on mahinga kai, and include known sites or areas of wāhi tapu and wāhi taonga</u></p>
Rules General	<p>Ngāi Tahu is concerned the permitted baseline for the Red Nutrient Allocation Zone, Orange Nutrient Allocation Zone and the Blue Green Nutrient Allocation Zone that permits the area of the property used for winter grazing within the period of 1 May to 1 September not exceeding a total of 20 hectares will not manage the effects on the receiving environment.</p>	<p>Seek a revision of the 20ha permitted baseline for winter grazing to manage the effects on the receiving environment.</p>
Rule 5.41A	<p>Support farming activities, being managed under a resource consent held by an irrigation scheme or principle water supplier being a permitted activity subject to conditions recognising nutrient loss.</p>	<p>Retain Rule 5.41A as proposed.</p>

Rule 5.43A	<p>Ngāi Tahu understands that it is increasingly common for lifestyle blocks to put in kale, maize or other fodder crops for dairy support. Intensive winter grazing on properties less than 10 hectares is an issue of concern in areas where lifestyle blocks are widespread. The cumulative effects of nitrogen loss from lifestyle blocks may be similar to areas with larger farms.</p> <p>Intensive Winter Grazing is included in Table s28 Good Management Practices and Modeling Rules applied by the Farm Portal, but is not otherwise defined. Consider adding explanation and/or definition for 'Intensive Winter Grazing'.</p>	<p>Amend Rule to read:</p> <p>Within the Red Nutrient Allocation Zone, the use of land for a farming activity on a property 10 hectares or less is a permitted activity provided that the property is not used for intensive winter grazing.</p> <p>Insert explanation and/or definition of 'Intensive Winter Grazing'.</p>
Rule 5.44A	<p>Ngāi Tahu considers that retaining flexibility caps below which nitrogen losses are permitted, as currently provided for in the Plan, is an appropriate and sound approach.</p> <p>Ngāi Tahu seek an approach that ensures high nutrient losses are not captured as permitted activities. Ngāi Tahu is concerned the proposed approach 'grand-parents' existing high leaching land uses, and does not encourage the development of lower-leaching land uses.</p> <p>The region wide provisions may be superseded by catchment specific provisions in sub-regional plans in due course, but many of these plans are several years away. Ngāi Tahu is concerned that the Region-wide provisions may preclude or limit the ability for the Council to have particular regard to the recommendations arising from a Zone Implementation Programme.</p>	<p>Amend Rule to read:</p> <p>Within the Red Nutrient Allocation Zone, the use of land for a farming activity on a property greater than 10 hectares in area is a permitted activity provided the following conditions are met:</p> <ol style="list-style-type: none"> <li>1. <u>The nitrogen loss calculation for the property does not exceed 10kgs per hectare annum; and</u></li> </ol> <p>[consequential renumbering – remaining conditions unchanged]</p>
Rule 5.44A	<p>Ngāi Tahu considers that no increase in irrigation is acceptable in the Red Nutrient Allocation Zone after 13 February 2016 (for properties with irrigation over an area less than 50ha).</p>	<p>Remove 5.44A(3):</p> <p><del>For any property where, as at 13 February 2016, the area of land authorised to be irrigated with water is less than 50 hectares, any increase in the area of irrigated land is limited to 10 hectares above that which was irrigated at 13 February 2016; and</del></p>
Rule 5.44B	<p><i>Reason the same as for Rule 4.37A.</i></p>	<p>Amend Rule to read:</p> <p>The CRC reserves control over the following matters:</p> <ol style="list-style-type: none"> <li>1. <u>The nitrogen loss rate reductions applicable to the property to fulfil Policy 4.37(b);</u></li> </ol> <p>[consequential renumbering, remaining conditions unchanged]</p>

Rule 5.45A	<i>Reason the same as for Rule 4.37A.</i>	<p>Amend Rule to read:</p> <p>The exercise of discretion is restricted to the following matters:</p> <ol style="list-style-type: none"> <li>1. <u>The nitrogen loss rate reductions applicable to the property to fulfil Policy 4.37(b);</u></li> </ol> <p>[consequential renumbering, remaining conditions unchanged]</p>
Rule 5.49A	<i>Reason the same as for Rule 5.43A.</i>	<p>Amend Rule to read:</p> <p>Within the Lake Zone, the use of land for a farming activity on a property 10 hectares or less in area is a permitted activity <u>provided that the property is not used for intensive winter grazing.</u></p>
Rule 5.50A	<i>Reason the same as for Rule 4.37A.</i>	<p>Amend Rule to read:</p> <p>The exercise of discretion is restricted to the following matters:</p> <ol style="list-style-type: none"> <li>1. <u>The nitrogen loss rate reductions applicable to the property to fulfil Policy 4.37(b);</u></li> </ol> <p>[consequential renumbering, remaining conditions unchanged]</p>
Rule 5.53A	<i>Reason the same as for Rule 5.43A.</i>	<p>Amend Rule to read:</p> <p>Within the Orange Nutrient Allocation Zone, the use of land for a farming activity on a property 10 hectares or less in area is a permitted activity <u>provided that the property is not used for intensive winter grazing.</u></p>
Rule 5.54A	<i>Reason the same as for Rule 5.44A.</i>	<p>Amend Rule to read:</p> <p>Within the Orange Nutrient Allocation Zone, the use of land for a farming activity on a property greater than 10 hectares in area is a permitted activity provided the following conditions are met:</p> <ol style="list-style-type: none"> <li>1. <u>The nitrogen loss calculation for the property does not exceed 15kgs per hectare annum; and</u></li> </ol> <p>[consequential renumbering – remaining conditions unchanged]</p>
Rule 5.55A	<i>Reason the same as for Rule 4.37A.</i>	<p>Amend Rule to read:</p> <p>The exercise of discretion is restricted to the following matters:</p> <ol style="list-style-type: none"> <li>1. <u>The nitrogen loss rate reductions applicable to the property to fulfil Policy 4.37(b);</u></li> </ol> <p>[consequential renumbering, remaining conditions unchanged]</p>

Rule 5.57A	<i>Reason the same as for Rule 5.43A.</i>	Amend Rule to read:  Within the Green or Light Blue Nutrient Allocation Zone, the use of land for a farming activity on a property 10 hectares or less in area is a permitted activity <u>provided that the property is not used for intensive winter grazing.</u>
Rule 5.57B	<i>Reason the same as for Rule 5.44A.</i>	Amend Rule to read:  Within the Green or Light Blue Nutrient Allocation Zone, the use of land for a farming activity on a property greater than 10 hectares in area is a permitted activity provided the following conditions are met:  1. <u>The nitrogen loss calculation for the property does not exceed 15kgs per hectare annum; and</u>  [consequential renumbering – remaining conditions unchanged]
Schedule 7 – Part B(5)	Good Management Practice should include provision for Mahinga Kai and other sites of importance to Ngāi Tahu.  The proposed provision does not adequately recognise Ngāi Tahu values. In particular, the cultural significance of the water bodies, restoration of the mauri and enhancement of mahinga kai. These outcomes are necessary to enable Ngāi Tahu to exercise its customary duty of kaitiakitanga.  The relief sought would also recognise and provide for those areas of Statutory Acknowledgement (under the Ngāi Tahu Claims Settlement Act 1998).	Include new Management Area as follows:  <u>Management Area – Mahinga kai values and other sites of importance to Ngāi Tahu</u>  <u>Objective – to recognise and provide for mahinga kai values in any lakes, rivers, wetlands and springs within a property or farming enterprise and for any known wāhi tapu and wāhi taonga within any property or farming enterprise.</u>  <u>Targets –</u> <ul style="list-style-type: none"><li>• <u>Include a map(s) or aerial photographs at a scale that clearly shows the location of any known mahinga kai areas, wāhi tapu or wāhi taonga within any property or farming enterprise.</u></li><li>• <u>Managing the effects of farming activities to avoid adverse effects to mahinga kai, wāhi tapu or wāhi taonga.</u></li></ul>
Schedule 7A(3)	<i>Reason the same as for Schedule 7 – Part b(5).</i>	Include in the table an additional on-farm action as follows:  <u>To recognise and provide for mahinga kai values in any lakes, rivers, wetlands and springs within a property or farming enterprise and for any known wāhi tapu and wāhi taonga within any property or farming enterprise</u>
Consequential amendments		Any consequential amendments to give effect to the relief sought.

## Part B - Waitaki amendments

Plan Provision	Reason for submission	Relief sought
Whole of Plan Change 5 Part B	Ngāi Tahu is supportive of the Plan Change 5 Part B where it identifies and gives effect to the outcomes of the Zone Implementation Programme addendum for Upper Waitaki and the purpose of the Resource Management Act 1991; gives effect to the National Policy Statement for Freshwater Management 2014 and the Canterbury Regional Policy Statement 2013.	Retain the provisions of Variation 2 subject to the amendments requested below.
Policy 15B.4.1	Clarification of wording.	Amend Policy to read:  <del>Land use practices are managed so that freshwater quality in the Waitaki Sub-region is managed to supports the exercise of kaitiakitanga customary uses and to achieve the tangata whenua freshwater outcomes described in Tables 15B(a) and 15B(b)</del>
Policy 15B.4.2	Support policy that protects wāhi tapu and wāhi taonga.	Retain Policy 15B.4.2.
Policy 15B.4.3	Plan Change 5 should provide for not just "have regard to" mahinga kai, including within Statutory Acknowledgement Areas,. This would recognise the importance of mahinga kai within the Waitaki Sub-region as provided for in Te Rūnanga o Ngāi Tahu Freshwater Policy Statement; Te Whakatau Kaupapa – Resource Management Strategy for Canterbury; Iwi Management Plan for Kati Huirapa for the area of Rakaia to Waitaki; and the Upper and Lower Waitaki Zone Implementation Programmes.  Mahinga kai is immensely important to Ngāi Tahu, and recognising and providing for mahinga kai is viewed as essential in order to achieve the purpose of the RMA, including its related Part 2 principles.	Amend Policy to read:  <del>Have regard to Provide for</del> mahinga kai values for all lakes, river, wetlands and springs in the Waitaki Sub-region when considering applications for resource consent to use land for all farming activity including the actions and timeframes described in the Farm Environment Plan.
New Policy 15.4.3A	Proposed Plan Change 3 to the Waitaki Catchment Water Allocation Regional Plan reserves water for the purposes of mahinga kai enhancement. The intention is that the allocation be used for projects that enhance the mahinga kai values held by the three kaitiaki: Te Rūnanga o Arowhenua, Te Rūnanga o Waihao and Te Rūnanga o Moeraki.  In order to undertake mahinga kai enhancement the ability manage nutrients onto or into land where it may enter water or into water will be necessary. The proposed provisions do not provide this ability.	Include a new policy that reads:  <u>Mahinga kai enhancement is achieved in the Waitaki Sub-region by:</u>  (a) <u>Permitting nutrient losses where they are associated with the take of water for mahinga kai enhancement; and</u>  (b) <u>Where aquaculture is undertaken for mahinga kai enhancement an Aquaculture Environment Plan sets out the actions that will be implemented to minimise nutrient loss.</u>

New Policy 15B.4.xx Nutrient Management	<p>As proposed Ngāi Tahu is concerned the provisions for the Waitaki Sub-region lock-in a farming activity's nitrogen loss based on their current land use. Ngāi Tahu does not believe this achieves the purpose of the National Policy Statement for Freshwater Management. The approach rewards high polluters and may also lock-in a sense of 'entitlement' to these nitrogen losses. It further maintains the status quo and appears to do little within those catchments where nitrogen limits are already too high. Ngāi Tahu is further concerned that protecting existing activities with high nitrogen loss numbers will have implications for subsequent plan changes within specific zones.</p>	<p>Include a new policy that reads:</p> <p><u>Where, as at 13 February 2016, a properties nitrogen loss is greater than 15 kgs per hectare per year there are further reductions in nitrogen loss over time (relative to the properties Baseline GMP Loss Rate or the Good Management Practice Loss Rate whichever is lesser) of not less than:</u></p> <ul style="list-style-type: none"> <li>(i) <u>15% by 1 January 2025</u></li> <li>(ii) <u>25% by 1 January 2030</u></li> <li>(iii) <u>35% by 1 January 2035</u></li> </ul> <p><u>provided that these nitrogen loss reductions do not require the property's nitrogen loss calculation to reduce below the permitted nitrogen baseline.</u></p>
New Rule 15B.5.3	<p><i>Reason the same as for New Policy 15.4.3A.</i></p>	<p>Include a new rule that reads:</p> <p><u>The discharge of contaminants from aquaculture into surface water or from mahinga kai enhancement onto or into land in circumstances where contaminants may enter water, is a permitted activity, provided that the following conditions are met:</u></p> <ol style="list-style-type: none"> <li>1. <u>The nitrogen loss calculation for the property does not exceed 15kgs per year; and</u></li> <li>2. <u>An Aquaculture Environment Plan is prepared in accordance with Schedule 26 and provided to Canterbury Regional Council on request.</u></li> </ol>
Rule 15B.5.7	<p><i>Reason the same as for new policy 15B.4.xx Nutrient Management.</i></p>	<p>Amend Rule to read:</p> <p>CRC reserves control over the following matters:</p> <ol style="list-style-type: none"> <li>1. <u>The nitrogen loss rate reductions applicable to the property to fulfil Policy 15B.4.xx;</u></li> </ol> <p>[consequential renumbering, remaining conditions unchanged]</p>
Rule 15B.5.14	<p>Ngāi Tahu seeks an approach that allows flexibility below permitted levels of nitrogen loss. This approach is considered more effects based and a fairer way to manage the discharge of contaminants.</p>	<p>Amend Rule to read:</p> <p>Within the Ahuriri Zone or Upper Waitaki Hill Zone, the use of land for a farming activity on a property greater than 10 hectares is a permitted activity provided that:</p> <ol style="list-style-type: none"> <li>1. <u>The nitrogen loss calculation for the property does not exceed 15kgs per year; and</u></li> </ol> <p>[consequential renumbering – remainder conditions unchanged]</p>

Rule 15B.5.15	<i>Reason the same as for new policy 15B.4.xx Nutrient Management.</i>	Amend Rule to read:  CRC reserves control over the following matters: 1. <u>The nitrogen loss rate reductions applicable to the property to fulfil Policy 15B.4.xx;</u> [consequential renumbering, remaining conditions unchanged]
Rule 15B.5.16	<i>Reason the same as for new policy 15B.4.xx Nutrient Management.</i>	Amend Rule to read:  The exercise of discretion is restricted to the following matters: 1. <u>The nitrogen loss rate reductions applicable to the property to fulfil Policy 15B.4.xx;</u> [consequential renumbering, remaining conditions unchanged]
Rule 15B.5.19	<i>Reason the same as for new policy 15B.4.xx Nutrient Management.</i>	Amend Rule to read:  CRC reserves control over the following matters: 1. <u>The nitrogen loss rate reductions applicable to the property to fulfil Policy 15B.4.xx;</u> [consequential renumbering, remaining conditions unchanged]
Rule 15B.5.20	<i>Reason the same as for new policy 15B.4.xx Nutrient Management.</i>	Amend Rule to read:  The exercise of discretion is restricted to the following matters: 1. <u>The nitrogen loss rate reductions applicable to the property to fulfil Policy 15B.4.xx;</u> [consequential renumbering, remaining conditions unchanged]
Rule 15B.5.20	Discretion should also be restricted to the ability to exercise kaitiakitanga.	Amend the exercise of discretion matter 3 to read:  The potential adverse effects of the activity on mahinga kai <u>and the ability to exercise kaitiakitanga;</u> and
Rule 15B.5.20	Wāhi tapu and wāhi taonga can be identified through means other than an Iwi Management Plan.	Amend the exercise of discretion matter 4 to read:  The potential adverse effects of the activity on wāhi tapu or wāhi taonga <u>identified in an iwi management plan;</u> and

Rule 15B.5.24	<i>Reason the same as for Rule 15B.5.14.</i>	<p>Amend Rule to read:</p> <p>Within the Hakataraamea River Zone or Hakataraamea Hill Zone, the use of land for a farming activity on a property greater than 10 hectares is a permitted activity provided that:</p> <ol style="list-style-type: none"> <li>1. <u>The nitrogen loss calculation for the property does not exceed 15kgs per year; and</u></li> </ol> <p>[consequential renumbering – remaining conditions unchanged]</p>
Rule 15B.5.25	<i>Reason the same as for new policy 15B.4.xx Nutrient Management.</i>	<p>Amend Rule to read:</p> <p>CRC reserves control over the following matters:</p> <ol style="list-style-type: none"> <li>1. <u>The nitrogen loss rate reductions applicable to the property to fulfil Policy 15B.4.xx;</u></li> </ol> <p>[consequential renumbering, remaining conditions unchanged]</p>
Rule 15B.5.26	<i>Reason the same as for new policy 15B.4.xx Nutrient Management.</i>	<p>Amend Rule to read:</p> <p>The exercise of discretion is restricted to the following matters:</p> <ol style="list-style-type: none"> <li>1. <u>The nitrogen loss rate reductions applicable to the property to fulfil Policy 15B.4.xx;</u></li> </ol> <p>[consequential renumbering, remaining conditions unchanged]</p>
Rule 15B.5.26	<i>Same reason as for Rule 15B.5.25.</i>	<p>Amend the exercise of discretion matter 4 to read:</p> <p>The potential adverse effects of the activity on wāhi tapu or wāhi taonga identified in an iwi management plan; and</p>
Rule 15B.5.30	<i>Reason the same as for new policy 15B.4.xx Nutrient Management.</i>	<p>Amend Rule to read:</p> <p>CRC reserves control over the following matters:</p> <ol style="list-style-type: none"> <li>1. <u>The nitrogen loss rate reductions applicable to the property to fulfil Policy 15B.4.xx;</u></li> </ol> <p>[consequential renumbering, remaining conditions unchanged]</p>
Rule 15B.5.31	<i>Reason the same as for new policy 15B.4.xx Nutrient Management.</i>	<p>Amend Rule to read:</p> <p>The exercise of discretion is restricted to the following matters:</p> <ol style="list-style-type: none"> <li>1. <u>The nitrogen loss rate reductions applicable to the property to fulfil Policy 15B.4.xx;</u></li> </ol> <p>[consequential renumbering, remaining conditions unchanged]</p>

Rule 15B.5.31	<i>Same reason as for Rule 15B.5.20.</i>	Amend the exercise of discretion matter 3 to read:  The potential adverse effects of the activity on mahinga kai <u>and the ability to exercise kaitiakitanga</u> ; and
Rule 15B.5.31	<i>Same reason as for Rule 15B.5.25.</i>	Amend the exercise of discretion matter 4 to read:  The potential adverse effects of the activity on wāhi tapu or wāhi taonga <u>identified in an iwi management plan</u> ; and
Rule 15B.5.34	<i>Reason the same as for new policy 15B.4.xx Nutrient Management.</i>	Amend Rule to read:  CRC reserves control over the following matters:  1. <u>The nitrogen loss rate reductions applicable to the property to fulfil Policy 15B.4.xx;</u>  [consequential renumbering, remaining conditions unchanged]
Rule 15B.5.35	<i>Reason the same as for new policy 15B.4.xx Nutrient Management.</i>	Amend Rule to read:  The exercise of discretion is restricted to the following matters:  1. <u>The nitrogen loss rate reductions applicable to the property to fulfil Policy 15B.4.xx;</u>  [consequential renumbering, remaining conditions unchanged]
Rule 15B.5.39	<i>Reason the same as for new policy 15B.4.xx Nutrient Management.</i>	Amend Rule to read:  CRC reserves control over the following matters:  1. <u>The nitrogen loss rate reductions applicable to the property to fulfil Policy 15B.4.xx;</u>  [consequential renumbering, remaining conditions unchanged]
Rule 15B.5.40	<i>Reason the same as for new policy 15B.4.xx Nutrient Management.</i>	Amend Rule to read:  The exercise of discretion is restricted to the following matters:  1. <u>The nitrogen loss rate reductions applicable to the property to fulfil Policy 15B.4.xx;</u>  [consequential renumbering, remaining conditions unchanged]
Rule 15B.5.44	<i>Reason the same as for new policy 15B.4.xx Nutrient Management.</i>	Amend Rule to read:  CRC reserves control over the following matters:  1. <u>The nitrogen loss rate reductions applicable to the property to fulfil Policy 15B.4.xx;</u>  [consequential renumbering, remaining conditions unchanged]

Rule 15B.5.45	<i>Reason the same as for new policy 15B.4.xx Nutrient Management.</i>	<p>Amend Rule to read:</p> <p>The exercise of discretion is restricted to the following matters:</p> <ol style="list-style-type: none"> <li>1. <u>The nitrogen loss rate reductions applicable to the property to fulfil Policy 15B.4.xx;</u></li> </ol> <p>[consequential renumbering, remaining conditions unchanged]</p>
Rule 15B.5.45	<i>Same reason as for Rule 15B.5.25.</i>	<p>Amend the exercise of discretion matter 3 to read:</p> <p>The potential adverse effects of the activity on mahinga kai <u>and the ability to exercise kaitiakitanga</u>; and</p>
Rule 15B.5.45	<i>Same reason as for Rule 15B.5.25.</i>	<p>Amend the exercise of discretion matter 4 to read:</p> <p>The potential adverse effects of the activity on wāhi tapu or wāhi taonga <u>identified in an iwi management plan</u>; and</p>
Schedule 7 Farm Environment Plan Amendments	Support the inclusion of <i>Management Area – Mahinga Kai</i> .	Retain <i>Management Area Mahinga Kai</i> in Schedule 7.
Consequential amendments		Any consequential amendments to give effect to the relief sought.