

**BEFORE INDEPENDENT COMMISSIONERS**

Under the Resource Management Act 1991

In the matter of Variation 1 to the Proposed Canterbury Land and Water  
Regional Plan

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**FURTHER SUBMISSIONS FOR TE RŪNANGA O NGĀI TAHU AND  
TE TAUMUTU RUNUNGA SOCIETY INCORPORATED**

**Dated 24 October 2014**

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## MAY IT PLEASE THE COMMISSIONERS

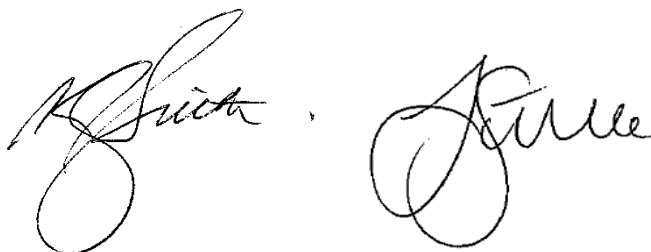
1. At the conclusion of the case for Ngāi Tahu leave was reserved to address three matters raised by Commissioners where further deliberation was required. These submissions provide those further comments that were requested.
2. The first issue was about footnote 19 and the reference to *Bleakley v Environmental Risk Management Authority* [2001] 3 NZLR 213 (HC). The footnote is to the correct *Bleakley* decision, but it might have been more helpful had the submission in paragraph 6.11 clearly delineated between the cases referred to at footnotes 18 and 19. The principal footnote is footnote 18: *NZ Rail Limited v Marlborough District Council* [1994] NZRMA 70 (HC) per Greig J, where his Honour determined that all s6 factors are subordinate to, and must serve the purpose of, promoting sustainable management. The *Bleakley* decision is relevant because it is a discussion of the phrase "*recognise and provide for*" and is relevant to those words as they appear in s6.
3. The second matter was about cross boundary issues and, in particular, whether the relief referred to in paragraph 10.1(a) of the submissions was within the scope of Variation 1. In section 2 of the Ngāi Tahu submission (at paragraph 4) a point is made that the Variation does not address any cross boundary issues which may impact upon the plan being able to achieve its vision. The further comment is made, in the second sentence of that paragraph, that this deficiency was due to the boundary of the zone stopping at the foothills.

Two comments are made. First, a submission seeking to alter the boundary lines of the Selwyn-Waihora zone is not on the Variation; the subject matter of the Variation does not call into question the drawing of those boundary lines. In any event, we are now advised by Ngāi Tahu's planning advisers that the planning maps do, in fact, extend further than the submission point asserts. As a result, Ngāi Tahu is not in a position to continue to advance an argument that the zone boundary excludes the surrounding hill and high country. The influence of upstream land uses and activities on Selwyn-Waihora remains a live issue.

4. The third point was about the last sentence in paragraph 11.11 of the opening submissions. On reflection, the statement made in the last sentence

of that paragraph is too broad. The first point which should be made is to acknowledge that the purpose of the RMA is encapsulated in the principle in s5, sustainable management. However, not every rule in a regional plan needs to reflect an effects-based rationale: see *Contact Energy Limited v Waikato Regional Council* [2007] 14 ELRNZ 128 (HC) at paragraphs [68]-[73].

However, the point made in paragraph 11.11 is the absence of justification for the Variation dealing differently with community sewerage systems and industrial trade processes as compared to farming.

Two handwritten signatures in black ink. The first signature on the left is 'Kerry Smith' and the second signature on the right is 'Jenna Silcock'. They are written in a cursive, flowing style.

**Kerry Smith / Jenna Silcock**  
Counsel for Te Rūnanga o Ngāi Tahu

24 October 2014