

Before the Hearings Panel

In the Matter of the Resource Management Act 1991

And

In the Matter of Proposed Plan Change 1 to the Hurunui and Waiau River Regional
Plan

And

In the Matter of submissions and further submissions by Te Rūnanga of Ngāi Tahu

Evidence of Lisa MacKenzie
for Te Rūnanga o Ngāi Tahu
Submitter ID 14
4 October 2019

INTRODUCTION

Qualifications and Experience

1. My full name is Lisa Joy MacKenzie.
2. I am employed by Te Rūnanga o Ngāi Tahu as a Senior Environmental Advisor, a position I have held since June 2017. I hold the qualifications of Bachelor of Science (Zoology) and Diploma in Science¹ (Ecology) from Massey University of Palmerston North.
3. I have over twelve years' experience in resource management. Before working at Te Rūnanga o Ngāi Tahu, I was employed by Environment Canterbury as a Senior Consent Planner. I also worked for Te Taumutu Rūnanga as a Natural Resources Programme Advisor.
4. I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and have complied with it in preparing this evidence. I confirm that the issues addressed in this evidence are within my area of expertise and I have not omitted material facts known to me that might alter or detract from my evidence.
5. I prepared the submission and further submissions on behalf of Te Rūnanga o Ngāi Tahu (**Te Rūnanga**) in consultation with Te Rūnanga o Kaikōura and Te Ngāi Tūāhuriri Rūnanga.
6. The key documents I have referred to in drafting this evidence are:
 - (a) Kaikōura Environmental Management Plan, Te Pōhā o Tohu Raumati 2007 (**Kaikōura IMP**);
 - (b) Mahaanui Iwi Management Plan 2013 (**Mahaanui IMP**)
 - (c) Te Runanga o Ngai Tahu Freshwater Policy (**Ngai Tahu Freshwater Policy**);
 - (d) Proposed Plan Change 1 to the Hurunui and Waiaru River Regional Plan (**PPC1**);
 - (e) The National Policy Statement: Freshwater Management (**NPSFM**);

¹ This is a postgraduate qualification.

- (f) Proposed Plan Change 1 to the Hurunui and Waiau River Regional Plan: Dryland Farming- Summary of evaluation under section 32 of the Resource Management Act;
- (g) Section 42A hearings report 'Officer Recommendations in Response to Submissions': Lisa Jenkins, Ned Norton, and Sam Leonard, (**Section 42A Report**).

STATUTORY AND PLANNING CONTEXT

- 7. The section 32 and 42A reports outlined the statutory context relevant to this Proposed Plan Change. Below I outline the components of the Resource Management Act 1991 (**RMA**) and the NPSFM that I consider are of particular relevance to the Te Rūnanga submission.

Resource Management Act 1991

- 8. In achieving the sustainable management purpose of the RMA, Section 6(e) requires that the relationship between tangata whenua and their ancestral lands, waters, wāhi tapu and other taonga is recognised and provided for. Section 7 requires that particular regard should be had to:
 - (a) Kaitiakitanga; and
 - (f) maintenance and enhancement of the quality of the environment; and
 - (g) any finite characteristics of natural and physical resources:

Section 8 requires that the principles of the Treaty of Waitangi are taken into account.

National Policy Statement: Freshwater Management 2017

- 9. The NPSFM sets out national direction on the management of freshwater quality and quantity. PPC1 must give effect to the NPSFM.
- 10. In my opinion, the following provisions in Part AA Te Mana o te Wai, Part A Water Quality, Part C Integrated Management and Part D Tāngata Whenua Roles and Interests are relevant for decision making relating to the submission and relief sought by Te Rūnanga:
 - Te Mana o te Wai Objective AA1 and Policy AA1;
 - Water Quality Objectives A1 and A2 and Policy A3 (b);
 - Integrated management Objective C1 and Policies C1 and C2; and
 - Tāngata whenua roles and interests Objective D1 and Policy D1.

11. The inclusion of Te Mana o te Wai in the NPSFM reflects the Treaty principles (Section 8 of the Act) and provides for the relationship of tangata whenua with freshwater (Section 6(e) of the Act). Te Mana o Te Wai is incorporated into the NPSFM through Section AA, where it provides a korowai (cloak) for the other objectives and policies that follow. It is further strengthened through the National Values and Uses for Fresh Water in Appendix 1.
12. In summary the direction of the NPSFM requires that to give effect to the NPSFM, PPC1 must achieve water quality outcomes that safeguard the life-supporting capacity of fresh water, that at least maintain the overall quality of fresh water, and that reflect Ngāi Tahu values and interests in water.

SIGNIFICANCE OF THE HURUNUI, WAI AU UWHA AND JED CATCMENTS TO NGĀI TAHU

13. The Hurunui, Waiau Uwha and Jed Catchments are important to Ngāi Tahu for traditional and continuing associations with mahinga kai, transportation, nohoanga and to tūpuna.
14. As described in the Canterbury Regional Policy Statement, *“Ngāi Tahu do not see their existence as separate from Te Ao Tūroa (the natural world), but as an integral part of it. Through whakapapa (genealogy), all people and life forms descend from a common source. Whakapapa binds Ngāi Tahu to the mountains, forests and waters and the life supported by them, and this is reflected in traditional attitudes towards the natural world and resource management”².*
15. For the area from Tūtae Putaputa (Conway) to the Hurunui River the Kaikōura IMP states:

“The coastal area in the Okarahia ki te Hurunui region is, as with other coastal areas of the takiwā, of particular significance to Ngāti Kuri.”³

“Three major river catchments are included in the Okarahia ki te Hurunui region: the Tūtae Putaputa (Conway), Waiau and Hurunui. These rivers flow from mountain to sea, and are connected to numerous tributaries, wetlands and waipuna, as well as the groundwater that nourishes the catchment from below. The Tūtae Putaputa, Waiau and Hurunui are part of Ngāti Kuri and Ngāi Tahu cultural identity. While the last 165 years

² Canterbury Regional Policy Statement Chapter 2 section 2.2 (E Plan)

³ Kaikōura Environmental Management Plan, Te Pōhā o Tohu Raumati 2007 Page 136, Section 3.5 Okarahia ki te Hurunui.

have resulted in significant changes to these rivers, their importance has not diminished⁴.”

“Connected to the Waiau River through Caroline Stream, Mata Kopae⁵ is a culturally significant repo raupō site for Te Rūnanga o Kaikōura, with strong mahinga kai associations. A place rich in tuna (eel), other native fish, and waterfowl, the lagoon was historically valued by Ngāi Tahu for breeding stock⁶.”

16. In relation to the Hurunui River the Mahaanui IMP states:

“The relationship of Ngāi Tahu with the Hurunui River catchment is centuries old and of outstanding significance to the iwi. The river possesses a range of characteristics that are considered to be outstanding for spiritual, cultural and environmental reasons, including natural character, ara tawhito, mahinga kai and wāhi tapu. These values are a fundamental aspect of the relationship of Ngāi Tahu to the Hurunui River, and their protection is the focus of the issues and policy in this section⁷”.

17. Statutory Acknowledgements, an instrument included in the Ngāi Tahu Claims Settlement Act 1998 (the **NTCSA**), are areas that are acknowledged by the Crown as being of particular significance to Ngāi Tahu and that recognise the mana of tangata whenua in relation to specific areas. I consider the Hurunui River, Hoka Kura (Lake Sumner) and Te Tai o Marokura (Kaikōura Coastal Marine Area) Statutory Acknowledgement Areas are relevant to PPC1 (refer to **Appendix One** for description of Ngāi Tahu associations with each area). Te Tai o Marokura Statutory Acknowledgment Area extends from near Kaiapoi to the northern boundary of the Ngāi Tahu takiwā. The headwaters of Hurunui River, including Hoka Kura, flows through conservation estate and high country stations, before flowing through the plains and rolling hills of the lower catchment to Te Tai o Marokura. PPC1 has the potential to have direct, downstream and cumulative effects on these areas.
18. The importance of these catchments for mahinga kai has also been recognised within the NTCSA through the establishment of a number of nohoanga sites within the area covered by PPC1. (Refer to **Appendix One**).

⁴ Kaikōura Environmental Management Plan, Te Pōhā o Tohu Raumati 2007 page 149 Wai Māori – Freshwater Resources.

⁵ Mata Kopae (St Anne's Lagoon).

⁶ Kaikōura Environmental Management Plan, Te Pōhā o Tohu Raumati 2007 page 179 Section 3.5.16 Repo raupō.

⁷ Mahaanui Iwi Management Plan 2013, page 179 section 6.1 Hurunui.

19. Sections 3.5.13, 3.5.14, 3.5.16 and 3.5.17 of the Kaikōura IMP, and section 6.1 of the Mahaanui IMP have a number of policies and narratives regarding the importance of and the outcomes sought by manawhenua for the Hurunui, Waiau Uwha and Jed catchments.
20. The overarching themes are the interconnectedness between land and water, the importance of mahinga kai and water quality and the Ngāi Tahu associations with these catchments. Any degradation of water quality will impact on the relationship of Ngāi Tahu whānui has with the land and water within these catchments.

NGĀI TAHU SUBMISSION

21. In its submission Te Rūnanga supported PPC1 and its intent in as far as it goes in maintaining current water quality, with some amendments. The amendments sought were either due to concerns regarding effects on cultural values, effects on water quality or where further clarification would aid with interpretation of the provision. The section 42A report recommendations accept some of the submission points and reject others.
22. I support the section 42A report recommendations to include the Jed River Catchment into Policy 5.3C and to retain the identification of and protection of mahinga kai in Schedule 6, as these recommendations recognise the significance of the area for manawhenua, particularly its mahinga kai associations.
23. In terms of rule 10.2, while I understand the intent of the alternative pathway for Low Intensity Dryland Farming Activities, that have operated under proposed rule 10.1A, given the location of the “and”s and the “or” within the rule it is not clear from the section 42A report how the intent will work in practice. However, this matter is not central to the concerns of Te Rūnanga and I agree with the intent of the proposed changes. Farming at good management practices and accurate reporting of nutrient loss is important, in as far as it goes, in starting to reduce the impact of land use activities on the environment. Given this I am willing to accept the recommendation of the council as outlined in the section 42A report.
24. Rule 11.1 relates to land use activities that are not considered permitted activities under other rules. The submission by Te Rūnanga requested that consideration of the effects on Ngāi Tahu values is included as a matter of discretion for Rule 11.1. Given the reasoning in the officers’ report, I am willing to accept that such a change is outside the scope of the plan change.
25. In conclusion, having reviewed the section 42A report, while the officer’s recommendations are not necessarily the specific amendments sought by Te Rūnanga,

I am willing to accept the recommendations of the section 42A report. I do not consider that any further amendments to PPC1 beyond those recommended by the council are required to achieve the intent of the submission.

A handwritten signature in black ink, appearing to read "MacKenzie".

Lisa Joy MacKenzie

4 October 2019.

Appendix One: Statutory acknowledgements and Nohoanga Entitlements within the Ngāi Tahu Settlement Claims Act 1998.

Schedule 21 Statutory acknowledgement for Hurunui River

Ngāi Tahu association with the Hurunui River

The Hurunui River once provided an important mahinga kai resource for Ngāi Tahu, although those resources are now in a modified and depleted condition. Traditionally, the river was particularly known for its tuna (eel) and inaka (whitebait).

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 the Hurunui, 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.

Nohoanga (settlements) were located at points along the length of this river, with some wāhi tapu located near the mouth. Wāhi tapu are places holding the memories, traditions, victories and defeats of Ngāi Tahu tūpuna, and are frequently protected by secret locations.

The mauri of the Hurunui 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.

Schedule 20 Statutory acknowledgement for Hoka Kura (Lake Sumner)

Ngāi Tahu association with Hoka Kura

Hoka Kura is one of the lakes referred to in the tradition of “Ngā Puna Wai Karikari o Rakaihautu” which tells how the principal lakes of Te Wai Pounamu were dug by the rangatira (chief) Rakaihautu. Rakaihautu was the captain of the canoe, Uruao, which brought the tribe, Waitaha, to New Zealand. Rakaihautu beached his canoe at Whakatū (Nelson). From Whakatū, Rakaihautu divided the new arrivals in two, with his son taking one party to explore the coastline southwards and Rakaihautu taking another southwards by an inland route. On his inland journey southward, Rakaihautu used his famous kō (a tool similar to a spade) to dig the principal lakes of Te Wai Pounamu, including Hoka Kura. The origins of the name “Hoka Kura” have now been lost, although it is likely that it refers to one of the descendants of Rakaihautu.

For Ngāi Tahu, traditions such as this represent the links between the cosmological world of the gods and present generations, these histories reinforce tribal identity and solidarity, and continuity between generations, and document the events which shaped the environment of Te Wai Pounamu and Ngāi Tahu as an iwi.

Hoka Kura was used as a mahinga kai by North Canterbury Ngāi Tahu. The tūpuna had considerable knowledge of whakapapa, traditional trails, places for gathering kai and other taonga, ways in which to use the resources of the lake, the relationship of people with the lake 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 mahinga kai values of the lake were particularly important to Ngāi Tahu parties travelling to Te Tai Poutini (the West Coast). The lake was an integral part of a network of trails which were used in order to ensure the safest journey and incorporated locations along the way that were identified for activities including camping overnight and gathering kai. Knowledge of these trails 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 lake.

There are a number of urupā and wāhi tapu in this region. Urupā are the resting places of Ngāi Tahu tūpuna and, as such, are the focus for whānau traditions. Urupā and wāhi tapu are places holding the memories, traditions, victories and defeats of Ngāi Tahu tūpuna, and are frequently protected by secret locations.

The mauri of Hoka Kura 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 lake.

Schedule 100 Statutory acknowledgement for Te Tai o Marokura (Kaikōura Coastal Marine Area)

Ngāi Tahu association with Te Tai o Marokura

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 in the Kā Tiritiri 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.

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.

The Kaikōura Coastline took its name from Tama Ki Te Rangi, an early explorer in the time of Tamatea Pōkaiwhenua, who decided to explore the South Island. On his way from the North Island, Tama ki Te Rangi stopped in the area now known as Kaikōura and ate some of the crayfish that populate the area over an open fire. From Tama Ki Te Rangi's feast on crayfish, the area was named, Te Ahi Kaikōura a Tama ki Te Rangi—the fires where Tama Ki Te Rangi ate crayfish.

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 the 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.

One of the leading sites in Kaikōura in pre-contact times was Takahaka marae, which is still occupied by Ngāi Tahu. From the time the Ngāi Tahu leader Maru Kaitātea took Takahaka Pā for Ngāi Tahu occupation, the site acted as a staging site for Ngāi Tahu migrations further south. Other pā in the area included Pariwhakatau, Mikonui, Ōaro and Kahutara. Place names along the coast, such as the gardens of Tamanuhiri and the Waikōau River, record Ngāi Tahu history and point to the landscape features which were significant to people for a range of reasons.

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.

As well as the crayfish for which the area is famous, the whole of the Kaikōura area offered a bounty of mahinga kai including a range of kaimoana (sea food); sea fishing; eeling and harvesting of other freshwater fish in lagoons and rivers; marine mammals (providing whale meat

and seal pups); waterfowl, sea bird egg gathering and forest birds; and a variety of plant resources including harakeke (flax), fern and tī root.

A particular feature of the Ngāi Tahu relationship with the Kaikōura coastal area is the special connection with the whales which frequent the area. This relationship has its basis in tradition. The well-known rangatira (chief) and brave warrior of the Kāti Kurī hapū of Ngāi Tahu, Te Rakaitauneke, was said to have a kaitiaki whale, named Mata mata, who dwelt in the sea opposite Te Rakaitauneke's home in Tāhuna Tōrea (Goose Bay). Mata mata's sole duty and purpose in life was to do Te Rakaitauneke's bidding, to serve all his needs and to guard him against harm. Everywhere Te Rakaitauneke went, Mata mata went too. When Te Rakaitauneke went to Takahanga, Mata mata could be seen blowing outside the garden of memories, as close to shore as he could possibly get. Te Rakaitauneke's love for Mata mata was as great as the whale's love for him.

After Te Rakaitauneke's death, Mata mata was not seen along the Kaikōura coast for some time, and it was rumoured that he had gone away and died of sorrow at the loss of his master. There were those, however, who remembered Te Rakaitauneke's prediction that after his death Mata mata would only return when one of his descendants was facing imminent danger or death. There are many stories since that time of a Mata mata appearing to foretell the death of one of Te Rakaitauneke's descendants. It is also said that many of the descendants of Te Rakaitauneke, when faced with peril on the high seas, have been saved by the timely intervention of a whale.

The Kaikōura coast was also a major highway and trade route, particularly in areas where travel by land was difficult. 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 (landing places) occur up and down the coast in their hundreds and wherever a tauranga waka is located there is also likely to be a nohoanga (settlement), fishing ground, kaimoana resource and rimurapa (bull kelp), with the sea trail linked to a land trail or mahinga kai resource. The tūpuna had a huge knowledge of the coastal environment and weather patterns, passed from generation to generation. This knowledge 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.

Numerous urupā are being exposed or eroded at various times along much of the coast. Water burial sites on the coast, known as waiwhakaheketūpāpaku, are also spiritually important and linked with important sites on the land. Places where kaitāngata (the eating of those defeated in

battle) occurred are also wāhi tapu. 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 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 coastal area.

Nohoanga Entitlements under the Ngāi Tahu Settlement Act:

Waterway	Site	Legal Description/Allocation Plan
Hurunui River	Hurunui River	1 hectare, approximately, being Part Rural Section 40222. Part <i>Gazette</i> 1972, page 2346. Subject to survey, as shown on Allocation Plan MN 142 (SO 19859)
Lake Sumner	Lake Sumner	1 hectare, approximately, being an area of Crown Land. Subject to survey, as shown on Allocation Plan MN 435 (SO 19877)
Waiau Ua	Waiau River	1 hectare, approximately, being Parts Reserve 3215 (SO 1407). Part <i>Gazette</i> 1898, page 1720. Subject to survey, as shown on Allocation Plan MN 79 (SO 19845).