

BEFORE THE CANTERBURY REGIONAL COUNCIL

IN THE MATTER of a proposed Plan
Change under Schedule
1 to the Resource
Management Act 1991

AND

IN THE MATTER of a submissions by **TE
RŪNANGA O
AROWHENUA**
on **PROPOSED PLAN
CHANGE 7 ON THE
CANTERBURY LAND
AND WATER
REGIONAL PLAN**

**SUMMARY OF EVIDENCE OF KYLIE SUSAN HALL ON BEHALF OF TE RŪNANGA
O AROWHENUA**

25 NOVEMBER 2020

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INTRODUCTION

1. I am a Principal Planner employed by Aoraki Environmental Consultancy Limited (**AEC**), the legal entity mandated to represent Te Runanga o Arowhenua (**Arowhenua**) to make decisions on environmental matters, including resource consents, private and Council Plan Changes, District Plan reviews, Environment Court cases and the prepare of Cultural Impact Assessment (**CIA**) reports.
2. I have provided evidence on behalf of Arowhenua on Plan Change 7 (**PC7**) to the Canterbury Land and Water Regional Plan (**CLWRP**). My evidence relates to planning matters drawn from the Orari, Temuka, Opihi and Pareora Zone (**OTOP Zone**) section of PC7 as it relates to Arowhenua.
3. The purpose of this summary of evidence is to distil key points from my evidence, particularly those related to:
 - (a) Importance of the OTOP Zone;
 - (b) Rock Art Management Areas;
 - (c) Mātaitai Management Zones; and
 - (d) Waipuna (Springs).

IMPORTANCE OF THE OTOP ZONE TO TE RŪNANGA O AROWHENUA

4. The OTOP Zone is in the takiwā of Arowhenua. Cultural beliefs, values and practices that underpin the interactions of mana whenua with the catchments in their takiwā include mauri, kaitiakitanga, whakapapa, rangatiratanga, manaakitanga, mahinga kai and ki uta ki tai - the philosophy of a mountains to the sea approach to managing and using all resources, including water resources. Consistent with this philosophy, there is an understanding that all parts of the catchments within the zone were traditionally valued and used, and that all values of iwi and hapū need to be represented.
5. The recommendations within the Ngāi Tahu and Arowhenua Submission and Further Submission, and in my evidence, reiterate the desire of Arowhenua to seek that all rock art, mātaitai protection zones and waipuna be protected. The

recommendations also re-iterate the desire of Arowhenua that all freshwater be of drinking water quality. Arowhenua therefore seek recommendations and actions that improve water quality rather than providing for, and maintaining, the status quo.

ROCK ART MANAGEMENT AREAS

6. South Canterbury has New Zealand's largest collection of rock art sites. Māori rock art is a significant and unique aspect of New Zealand's national heritage, and as such are protected by Heritage New Zealand.
7. Māori rock art sites are intrinsically associated with the wider cultural landscape, which involves waipuna, natural waterways and wetlands. The cultural landscape provided important links to freshwater ecosystems that were essential for gathering and harvesting mahinga kai, providing drinking water and transportation of goods. Positioned approximately one day apart by foot, the rock art sites provided a visual description of the resources that were available in the surrounding area. Together, they were a cultural road map for other groups to utilise in their travels.
8. Rock art sites are fragile, with pigments applied to the surface of rock overhangs and boulders, either dry, or mixed with other components to form a paint. Most of the art is applied to limestone, a soft and porous rock which is particularly vulnerable. Ms Amanda Symon has expended on these matters in her evidence.
9. Rock art sites are particularly sensitive to:
 - (a) changes in the local groundwater environment – changes in water table height (rises, declines or seasonal range in level);
 - (b) changes in the local microclimate (increased air moisture, irrigation spray drift);
 - (c) changes in local drainage systems (diversions, new channels, ponding);
 - (d) increased saturated weight of overburden above an overhang/cave; and

- (e) changes in water chemistry of natural seepages onto the rock surface and into freshwater ecosystems caused by irrigation and ground water abstraction.
- 10.** Under the operative CLWRP there is no mechanism to address the vulnerability of the rock art sites, specifically in relation to land and water use activities. Any protection is derived from the more generic provisions of the plan that relate to Ngāi Tahu values.
- 11.** Arowhenua support a more refined Rock Art Management Area that is based on a specific mapping approach rather than the broad scale limestone outcrop version proposed by the Regional Council. As Ms Symon explained in her evidence, rock art has largely been identified and mapped with GPS marking; therefore, a broad spectrum approach to protect rock art sites located within the OTOP Zone is largely unnecessary.
- 12.** As outlined in my evidence, there appears to be a disconnect within PC7 in that it includes objectives and policies that seek to avoid and mitigate effects on rock art from farming activities; however, there are no rules to support the higher order provisions. My professional opinion is that, if the regulatory provisions in PC7 are to protect rock art, one would expect to see activities that are known and proven to negatively impact rock art included in the relevant provisions with a restricted discretionary or discretionary activity status.
- 13.** For Arowhenua, limiting the management of rock art to the Farm Environmental Plan (**FEP**) process is a significant concern. FEPs are not statutory documents and no enforcement action can be applied to non-complying landowners. I am also aware that the content, quality, and auditing of a FEP varies substantially depending on the author, the willingness of the landowner to incorporate good management practice, and the qualifications and expertise of the auditor. In this way, FEPs are by no means a substitute for or alternative to regulatory provisions.
- 14.** Arowhenua is also concerned that the creation and auditing of FEPs is external to the Regional Council. Rūnanga are also excluded from the process entirely; therefore, there is no input from rūnanga into the management of a culturally

sensitive taonga. Additionally, a rock art expert is not required to assist in the formulation and auditing of a FEP.

15. Given the concerns with the ability of FEPs to regulate the protection of rock art sites from effects associated with groundwater takes, the discharge of nitrates, irrigation and stock, I support the approach put forward in the December 2019 Zone Implementation Programme Addendum (**ZIPA**) and by Arowhenua in its Submission.

MĀTAITAI MANAGEMENT AREAS

16. A mātaimai identifies an area that is a place of cultural importance for customary food gathering. Both the Fisheries Act 1996 and the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 include the obligation to make regulations to recognise and provide for customary food gathering by Māori and the special relationship between tangata whenua and those waterways/grounds which are of customary food gathering importance. A mātaimai reserve cannot be utilised for commercial, monetary gain or trade. Mātaimai are managed by the tangata whenua.
17. In order to establish a mātaimai reserve, tangata whenua must satisfy the Minister of Fisheries that there is a special relationship between the proposed reserve and tangata whenua; the proposed reserve is an identified traditional fishing ground; that it is of a size appropriate to be effectively managed by tangata whenua; the management is consistent with sustainable fishing practices; and the proposed reserve is not a marine reserve under the Marine Reserves Act 1971. Consequently, the legislative requirements for the establishment of a mātaimai reserve are carefully controlled.
18. A driving force behind the creation of the mātaimai was the concern of whānau that, when rivers emerge onto the lowlands and wetlands, they have collected everything unhealthy in the catchment and make ill-health visible. Additionally, the wetlands along the Canterbury coast and the banks of significant braided rivers that provide natural filtering systems for waterways, protecting the quality of mahinga kai species, have dramatically reduced in number, flow and area.

19. The New Zealand Policy Statement for Freshwater Management 2020 (**NPSFW 2020**) stipulates that regional councils must avoid the loss of natural wetlands, protect their values and promote their restoration.
20. The NPSFW 2020 also introduces a new definition of “natural wetland” and the requirement [Policy 3.22(1)] that new policies are included in regional plans with the intent of ensuring that there is no further loss of the extent natural wetlands and their values are protected.
21. I consider therefore, that there must be no further loss of the extent of mātaimai.
22. In its Submission, Arowhenua proposed the inclusion of separation distances from freshwater bodies within the Mātaimai Protection Zone in multiple rules related to the discharging of contaminants, various land use activities and to the taking and using of water. A key driver for this relief was the critical need to protect mahinga kai, especially eel (tuna) populations.
23. In further analysing this matter following the submitting of planning evidence, I am aware that separation distances from water bodies have been provided for in the CLWRP. The provisions that I consider provide for the mātaimai setbacks needed are outlined in **Appendix A** to this summary. Arowhenua is therefore not pursuing relief in respect of these rules for the Mātaimai Protection Zone.¹

WAIPUNA (SPRINGS)

24. Waipuna have significant cultural value to Ngāi Tahu. Wai (water) is the essence of life and a medium between the physical and metaphysical worlds, so all wai is taonga. Waipuna are regarded by some whānau and hapū as a very pure form of wai and are wāhi tapu or wāhi taonga, depending on their whakapapa and use. Some waipuna are associated with special uses such as ceremonies or blessings or wai baptisms; some have important associations with gods and tupuna (ancestors) and are integral to the whakapapa of manawhenua within an area.

¹ For the avoidance of doubt, the relief set out in the submission is maintained in relation to Rock Art Management Areas.

25. The interconnectedness of waipuna and the wider environment is also demonstrated in the fact that waipuna are often areas of rich biodiversity with distinctive flora and fauna, which may be endemic to the waipuna or the surrounding locality. Waipuna can also provide cold-water inputs that act as refuge habitats at times of low flow, particularly in summer.
26. The Arowhenua submission sought that a definition of “springs” was provided in PC7 to ensure the term is used consistently. The term “waipuna” is referred to in the Māori glossary of the Canterbury Regional Policy Statement (**CRPS**) as “spring of water”, but the definition within the CLWRP will also need to address those waipuna that do not arise within rivers, streams, and wetlands, as well as those that are not obviously connected to flowing water. I suggest that in times where it is unclear whether or not something is waipuna, that clarity should be sought from the rūnanga.
27. Given the cultural significance of waipuna to Arowhenua and the intrinsic link between waipuna and freshwater mātaimai reserves, the Submission supported the creation of the ‘Mātaimai Protection Zone’ and the accompanying Planning Maps.
28. In addition to supporting the Mātaimai Protection Zone, Arowhenua adopted the directive put forward by the OTOP Zone Committee in its addendum and sought to expand the Mātaimai Protection Zone to incorporate waipuna. The expansion of the Mātaimai Protection Zone is seen by Arowhenua as a management tool to assist in protecting the mātaimai from water and land-based activities that negatively impact on the quality and quantity water and waipuna.

APPENDIX A

Rule
5.8 – onsite wastewater- new, modified – permitted
5.10 - Swimming Pool or Spa Water – permitted
5.12 – Greywater – permitted
5.14 – Pit toilets – permitted
5.16 – composting toilets – permitted
5.22 – Agrichemicals – permitted
5.24 – offal pits – permitted
5.27 – Onsite refuse disposal pit – permitted
5.29 – animal and vegetable waste – permitted
5.31 – stock holding areas – permitted
5.31 – stock holding area – permitted
5.33 – animal effluent
5.35 – animal effluent originating from a stock holding truck – permitted
5.38 – silage pit – permitted
5.39 – silage pit - permitted
5.65 – fertiliser use – permitted
5.66 – fertiliser use – from aircraft – permitted
5.82 – cemeteries – permitted
5.91 – stormwater – permitted
5.95 – stormwater not from reticulated system – permitted
5.96 – stormwater not from reticulated system into groundwater – permitted
5.98 – other contaminants into groundwater – permitted
5.99 – other contaminants to surface water – permitted
5.113 – small and community water takes – bore construction – permitted
5.114 – use of groundwater – permitted
5.116 – water take for construction and maintenance – permitted

Rule
5.145 – dams and damming – permitted
5.179 – hazardous substances – permitted
5.181 – storage hazardous substances – permitted