

BEFORE THE FRESHWATER HEARING PANEL

UNDER the Resource
Management Act
1991

AND

IN THE MATTER of the Proposed
Otago Regional
Policy Statement
2021 (Freshwater
Planning Instrument
parts)

STATEMENT OF EVIDENCE OF SANDRA JEAN McINTYRE

ON BEHALF OF

**ON BEHALF OF KĀI TAHU KI OTAGO, NGĀI TAHU KI MURIHIKU AND TE RŪNANGA O
NGĀI TAHU**

28 June 2023

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INTRODUCTION

1. My name is Sandra Jean McIntyre. I hold the qualifications of Bachelor of Horticultural Science from Massey University and Master of Science in Resource Management (with honours) from Canterbury University. I have more than 30 years' experience in resource management planning and policy development at district, regional and central government levels. This includes experience in developing regional policy statement, district and regional plan provisions and in managing plan development and decision-making processes.
2. I am currently employed as Principal Planner at Aukaha, a consultancy based in Otago and owned by Te Rūnanga o Waihao, Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga.
3. My evidence addresses the submissions of the following parties in respect to provisions in the Proposed Otago Regional Policy Statement 2021 (PORPS):
 - a) Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga (collectively Kāi Tahu ki Otago);
 - b) Waihōpai Rūnaka, Ōraka Aparima Rūnaka and Te Rūnanga o Awarua (collectively Ngāi Tahu ki Murihiku); and
 - c) Te Rūnanga o Ngāi Tahu.

When referring to these submitters collectively in my evidence, I have used the form Kāi Tahu, which is most commonly used by mana whenua in Otago.

4. I took a leading role in providing input on behalf of Kāi Tahu ki Otago to the PORPS throughout its development. Involvement relevant to the freshwater planning instrument (FPI) part of the PORPS included:
 - a) facilitating discussions with papatipu rūnaka to develop the expression of Te Mana o te Wai that has been included in the Land and Freshwater – Te Mana o te Wai (LF-WAI) provisions in the PORPS, and to articulate aspirations that mana whenua sought to be incorporated in the Land and Freshwater Visions and Management (LF-VM) provisions;
 - b) leading the drafting of the section on Resource Management Issues of Significance to Iwi Authorities (RMIA) on behalf of papatipu rūnaka;

- c) providing input to the drafting of the Te Mana o te Wai (LF-WAI) provisions and the Freshwater Management Unit (FMU) long term visions to ensure the mana whenua interpretation of Te Mana o te Wai and visions for freshwater were appropriately reflected; and
 - d) reviewing and providing comments on draft provisions in the Land and Freshwater chapter of the PORPS.
5. I led the preparation of the submission and further submission on the FPI provisions on behalf of Kāi Tahu ki Otago.
6. I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 and I agree to comply with it. I confirm that the issues addressed in this statement are within my area of expertise except where I state that I am relying on information provided by another party. I have not knowingly omitted to consider material facts known to me that might alter or detract from the opinions expressed.
7. The key documents that I have referred to in preparing my evidence include:
- a) The PORPS;
 - b) Section 32 evaluation, dated May 2021;
 - c) The National Policy Statement for Freshwater Management 2020 (**NPSFM**);
 - d) The National Policy Statement for Renewable Energy Generation (**NPSREG**);
 - e) The National Policy Statement for Highly Productive Land 2022 (**NPSHPL**);
 - f) Kāi Tahu ki Otago Natural Resource Management Plan 2005;
 - g) Te Tangi a Tauira, the Cry of the People, Ngāi Tahu ki Murihiku Natural Resource and Environmental Management Plan 2008;
 - h) Waitaki Iwi Management Plan 2019;
 - i) The section 42A report, and the revised version of the PORPS reflecting the section 42A report recommendations;
 - j) Relevant submissions of other parties;
 - k) Cultural evidence of Edward Ellison, Justin Tipa and Brendan Flack on behalf of Kāi Tahu ki Otago;
 - l) Cultural evidence of Evelyn Cook and planning evidence of Maria Bartlett on behalf of Ngāi Tahu ki Murihiku.

SCOPE OF EVIDENCE

8. My evidence addresses the following matters:

- a) Kāi Tahu rights, interests and values in freshwater;
 - b) The concerns of Kāi Tahu about how freshwater has been managed in Otago;
 - c) The importance of integrated management of land and water, and across the freshwater / saltwater interface;
 - d) Direction on Te Mana o te Wai, and its interpretation in the PORPS;
 - e) The long term freshwater visions;
 - f) Policy direction on wastewater and stormwater management; and
 - g) The submissions and further submissions of Kāi Tahu on other FPI provisions.
9. The section 42A report recommends acceptance of many of the points in the Kāi Tahu submissions. Rather than discussing matters that are non-contentious, my evidence focuses on the central matters of concern to the Kāi Tahu submitters and areas of remaining disagreement between Kāi Tahu and ORC or other parties.
10. The section 32 report includes an overview of the statutory framework for the PORPS, and the section 42A report also discusses aspects of this framework as relevant to the analysis of submissions. I do not consider it is necessary to repeat this discussion, but instead will highlight matters that are of particular relevance to the Kāi Tahu submissions and offer my planning assessment where my opinion differs from those expressed in the section 42A report.
11. Appendix 1 to my evidence sets out my recommendations with respect to each of the Kāi Tahu submission and further submission points, with reference to where these are discussed in the evidence.

PROVIDING FOR KĀI TAHU RIGHTS, INTERESTS AND VALUES IN FRESHWATER

12. This section should be read together with the following paragraphs of my evidence for the non-FPI part of the PORPS:¹
- a) Paragraphs [16] to [18] relating to obligations under sections 6(e), 7(a) and 8 of the Resource Management Act 1991 (**RMA**);²

¹ Evidence of Sandra McIntyre on the PORPS, dated 23 November 2022.

² Cultural evidence in the current hearing that is relevant to these paragraphs includes: evidence of Edward Ellison, [48], [52], [59], [61] – [70]; evidence of Brendan Flack, [20] – [26], [37]; evidence of Justin Tipa, [7] – [14]; evidence of Evelyn Cook, [21] – [24].

- b) Paragraphs [37] and [38] relating to use of te reo Māori terms and traditional place names. The related evidence of Justin Tipa and Edward Ellison should also be read together with this.³

13. The submissions support the recognition in the PORPS of the mana and rakatirataka of Kāi Tahu and of mana whenua rights, interests and values. The submitters consider that, in general, the FPI provisions appropriately recognise and reflect the relationship of Kāi Tahu to freshwater. As a result, the focus of relief sought in the submissions is on firming up the direction of the provisions and addressing gaps rather than changing the overall direction of those provisions. Kāi Tahu ki Otago has also lodged further submissions opposing requests by other submitters that would weaken provision for the relationship of Kāi Tahu to freshwater and recognition of the values held by Kāi Tahu.

The relationship of Kāi Tahu to wai

14. The cultural evidence for the submitters describes the deep and enduring relationship of Kāi Tahu to wai. Important characteristics of the relationship include:

- a) the relationship is founded in the concepts of mana, mauri, tapu and whakapapa that are central to te ao Māori;⁴
- b) the relationship with wai is inseparable from any aspect of cultural identity;⁵
- c) the mana of the wai and the mana of mana-i-te-whenua are intrinsically linked;⁶
- d) wai is an integral and enduring part of wāhi tūpuna, and the relationship of whānau and hapū with wāhi tūpuna is sustained by ongoing interaction with the wai;⁷
- e) the gathering of mahika kai, to provide for whānau sustenance, as an expression of manaakitaka, and as a means of passing on knowledge and cultural traditions from one generation to the next, is a fundamental part of our cultural identity;⁸

³ Evidence of Edward Ellison on the PORPS, dated 23 November 2022, [35] – [37]; evidence of Justin Tipa on the PORPS, dated 23 November 2022, [22] – [25].

⁴ Evidence of Edward Ellison, [17] - [29]; evidence of Brendan Flack, [9].

⁵ Evidence of Justin Tipa, [5] – [6]; evidence of Evelyn Cook, [7].

⁶ Evidence of Edward Ellison, [18].

⁷ Evidence of Edward Ellison, [46] – [48]; evidence of Justin Tipa, [9].

⁸ Evidence of Edward Ellison, [52] – [59]; evidence of Justin Tipa, [7]; evidence of Brendan Flack, [17] – [19].

- f) there is a strong obligation on mana-i-te-whenua to protect the mauri of the wai, and of the indigenous species and habitats that are supported by the wai,⁹ and to ensure that healthy resources are passed on to future generations.¹⁰

Obligations to provide for Kāi Tahu rights, interests and values

15. As discussed in my evidence for the non-FPI part of the PORPS, Sections 6(e), 7(a) and 8 of the RMA impose obligations in respect to the principles of the Treaty of Waitangi and the relationship of Māori to their land, waters and other taoka.¹¹
16. The NPSFM recognises the role of mana-i-te-whenua in freshwater management in the principles of Te Mana o te Wai.¹² It requires that mana-i-te-whenua are actively involved in freshwater planning, management and decision-making at all stages,¹³ and specifically refers to:
- a) involvement in determining how Te Mana o te Wai applies in the region and the approach to how it is given effect to;¹⁴
 - b) involvement in identifying long term visions;¹⁵
 - c) identification and provision for Māori freshwater values;¹⁶
 - d) incorporation of mātauraka in freshwater management.¹⁷

KĀI TAHU CONCERNS ABOUT MANAGEMENT OF FRESHWATER IN OTAGO

17. The cultural witnesses discuss long-held concerns about the degradation of wai māori, wai tai and mahika kai resources resulting from land and water use practices that have not provided for the mauri of the wai. The concerns are wide-ranging. They include:
- a) the impacts on mauri and wāhi tūpuna of diversion, straightening or piping of stream channels and transfer of water across and between catchments through water races;¹⁸

⁹ Evidence of Edward Ellison, [20] - [25] and [49] – [51]; evidence of Justin Tipa, [20].

¹⁰ Evidence of Edward Ellison, [60]; evidence of Brendan Flack, [30].

¹¹ Evidence of Sandra McIntyre on the PORPS, dated 23 November 2022, [16] – [18].

¹² NPSFM 1.3(4)(a) - (c).

¹³ NPSFM Policy 2; 3.2(1); 3.2(2)(a) - (b); 3.4.

¹⁴ NPSFM 3.2(1) and 3.4(1)(a).

¹⁵ NPSFM 3.2(2)(b) and 3.3(3)(a).

¹⁶ NPSFM Policy 2 and 3.4.

¹⁷ NPSFM 3.2(d) and 3.4.

¹⁸ Evidence of Justin Tipa, [23]; evidence of Edward Ellison, [62] and [64].

- b) imposition of barriers to migration of tuna and other indigenous species;¹⁹
 - c) depletion of rivers and their tributaries from excessive abstraction, and the impacts of this on wāhi tūpuna, habitat and the availability of water to meet the needs of whānau;²⁰
 - d) drainage of wetlands, and the effects of priority being given to controlling land inundation over the natural values of wetlands;²¹
 - e) effects of water quality degradation on mauri, on taoka species and mahika kai in freshwater bodies and in the estuarine systems and coastal waters they feed into, and on the ability to safely interact with the wai;²² and
 - f) poor recognition of the interconnectedness of quality and quantity, land and water, wai māori and coastal waters.²³
18. The cultural evidence points to the cultural, economic and social costs incurred by Kāi Tahu as a result of this degradation.²⁴
19. I consider that Ms Boyd’s discussion in Section 2 of the section 42A report supports the concerns described by the cultural witnesses in respect to water quality and freshwater habitats. For example, Mr Ellison’s concerns about degradation of the Taiari and the Kaikarae are borne out by the water quality trends Ms Boyd refers to in these rivers.²⁵ She also describes water quality results in North Otago rivers that reflect the concerns that Mr Tipa refers to.²⁶
20. Ms Boyd notes that ORC has not produced any state of the environment information about water quantity. In 2021 ORC produced evidence about the magnitude of over-allocation in Otago catchments for the hearing of Plan Change 7. My understanding, from my involvement with ORC in development of the Land and Water Regional Plan, is that despite some reduction in “paper” allocation as a result of Plan Change 7, there are still concerns about over-allocation in a number of catchments across the region. It would be helpful for ORC to provide information on this to assist the Panel.

¹⁹ Evidence of Evelyn Cook, [16]; evidence of Brendan Flack, [34]; evidence of Edward Ellison, [62].

²⁰ Evidence of Justin Tipa, [14], [21], [23]; evidence of Brendan Flack, [21] and [34]; evidence of Edward Ellison, [62] and [64].

²¹ Evidence of Justin Tipa, [23]; evidence of Edward Ellison, [62] and [64].

²² Evidence of Justin Tipa, [14], [21], [23]; evidence of Brendan Flack, [21], [22] and [34]; evidence of Edward Ellison, [63] and [64].

²³ Evidence of Brendan Flack, [20] – [26].

²⁴ Evidence of Edward Ellison, [68] – [69]; evidence of Brendan Flack, [27] and [40]; evidence of Justin Tipa, [7] and [13].

²⁵ See evidence of Edward Ellison, [66], and section 42A report, [144] – 146].

²⁶ See section 42A report, [148], and evidence of Justin Tipa, [23].

21. Ms Boyd describes some of the deficiencies of the current Regional Plan: Water (**RPW**) in respect to the management of water quantity and water quality. In particular, she discusses the problems of the “effects-based” approach to water quality introduced in Plan Change 6A, which attempted to manage water quality without imposing controls on rural land use activities. That approach was opposed by Kāi Tahu ki Otago.
22. Further deficiencies in the framework for water takes in the RPW are highlighted in the decision of the Environment Court on Plan Change 7, drawing on evidence produced by me and by other witnesses in that hearing.²⁷ In my opinion, the RPW framework does not recognise over-allocation, largely prioritises consumptive uses over instream values, and does not adequately consider effects on the freshwater system beyond the vicinity of the abstraction point.

Submissions on RMIA issues

23. The concerns discussed in the cultural evidence are recognised in the RMIA section, including in RMIA-WAI-I1 and RMIA-WAI-I3 being considered in this hearing.²⁸ That section was drafted by Aukaha with input from papatipu rūnaka and is aligned with the issues identified in the Kāi Tahu ki Otago Natural Resource Management Plan 2005. Ngāi Tahu ki Murihiku input was also incorporated through the agency of Te Ao Marama.
24. Some submitters have requested changes to the RMIA provisions. As stated in the section 42A report, these issues are meant to express the Kāi Tahu perspective, not those of other parties, and I support the section 42A report recommendation to reject such submissions.
25. Some amendments to RMIA-WAI-I3 are sought in the Kāi Tahu ki Otago submission, to provide further clarity and explanation of the issue, and I support the section 42A recommendation to accept this.

INTEGRATED MANAGEMENT

26. This section should be read together with the following paragraphs of my evidence for the non-FPI part of the PORPS:²⁹

²⁷ *Re Otago Regional Council* [2021] NZEnvC 164 – Interim Decision of the Environment Court, [71] – [73].

²⁸ Other relevant RMIA issues include RMIA-MKB-I1, RMIA-WTA-I1, RMIA-CE-I1.

²⁹ Evidence of Sandra McIntyre on the PORPS, dated 23 November 2022.

- a) Paragraphs [44] to [46] relating to the role of the PORPS in achieving integrated management of the natural and physical resources of the region.
27. The Kāi Tahu submissions support the focus on integrated management in the PORPS but seek some amendments to strengthen the integrated management approach. These include requests for:
- a) amendments to the boundaries of FMUs;
 - b) better recognition, in the freshwater visions, of interconnections across te taiao; and
 - c) better provision for integrated management between land and water in the LS provisions.

Integrated management of wai māori and wai tai

28. Mr Flack's evidence emphasises the interconnection between wai māori and wai tai, and the impact of activities in the river catchment on the health of estuarine habitats. He comments that the health of the awa is seen in the health of the estuaries.³⁰ Mr Tipa and Mr Ellison also refer to the importance of this interconnection.³¹
29. The Kāi Tahu submissions seek that LF-WAI-O1 includes reference to the connectedness between freshwater and coastal waters, and that the freshwater visions include outcomes relating to the health of estuaries and coastal waters. They also request that the FMU boundaries be redrawn to include estuaries and enclosed inlets, to better reflect a ki uta ki tai approach and ensure that environmental outcomes for the freshwater / coastal interface are achieved.
30. Policy 3 and clauses 3.2 and 3.5 of the NPSFM require that freshwater is managed in an integrated way, ki uta ki tai, which recognises the interconnectedness of the whole environment, from the mountains to the sea,³² including consideration of effects on receiving environments, which are defined to include estuaries and the coastal marine area more generally. The National Objectives Framework (**NOF**) in the NPSFM establishes a process for giving effect to Te Mana o te Wai that is based on setting environmental outcomes for each value identified in an FMU, and then setting target attribute states to achieve those outcomes.³³ When setting target attribute states, the

³⁰ Evidence of Brendan Flack, [48].

³¹ Evidence of Justin Tipa, [14] and [24]; evidence of Edward Ellison, [36] – [39].

³² NPSFM 3.5(1)(a).

³³ NPSFM 3.9 to 3.11.

regional council must have regard (among other matters) to the connection of water bodies to receiving environments.³⁴ The council must also identify sites within the FMU to be used for monitoring, and these sites must be representative of the FMU and / or relevant part of the FMU.³⁵ Monitoring sites relating to Māori freshwater values need not meet the requirement of representativeness, but must be determined in collaboration with takata whenua.³⁶

31. If ORC is to have regard to the effects of freshwater management on estuarine health when setting target attribute states, then the outcomes sought for the estuarine areas need to be clearly described. I consider the most effective and efficient way to ensure the intended outcomes are clear is to include them in the freshwater objectives. The section 42A report has recommended acceptance of the requested amendment to LF-WAI-O1 but the outcomes sought have not been fully provided for in the proposed LF-FW-O1A or the FMU visions. In Appendix 1 I recommend amendments to ensure outcomes for the coastal receiving environment are clear.

32. Setting of target attribute states through the NOF process is a key mechanism in the NPSFM for ensuring that the desired environmental outcomes are achieved. As Ms Boyd states in the section 42A report, the current coastal boundaries of the FMUs are inconsistent. While some estuaries are included, there are some significant estuarine systems that are excluded, including the Tautuku estuary in the Catlins, the Kaikarae (Kaikorae) estuary in Dunedin and enclosed inlets on Otago Peninsula and the coast north of Dunedin. I consider that the inclusion of the estuaries and enclosed inlets would better ensure that target attribute states have regard to environmental outcomes for these areas, and that appropriate monitoring sites are identified to measure whether the freshwater management measures in the LWRP and action plans are effective in improving the health of the estuarine systems. I support the section 42A recommendation to accept this submission point and agree with Ms Boyd that the appropriate boundary would be the inner limit of the territorial sea.³⁷

33. The Kāi Tahu ki Otago submission also requests that the boundary between the North Otago and Dunedin and Coast FMUs is amended to ensure that the catchments that feed the coastal waters in the East Otago Taiāpure are included in the same management

³⁴ NPSFM 3.11(8)(a)(iii).

³⁵ NPSFM 3.8(3)(a) and 3.8(4).

³⁶ NPSFM 3.8(5).

³⁷ This is described in section 5 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977 as the low-water mark along the coast of New Zealand. Section 6 of that Act clarifies that this includes enclosed bays.

unit. Mr Flack's evidence discusses the work that is underway in the taiāpure, the connection between the taiāpure and the Waikouaiti freshwater mātaītai, and the importance of improving the health of wai māori to support the health of wai tai in this area.³⁸ I consider that amending the boundary as sought would better support integrated management of wai māori and wai tai and I support the section 42A report recommendation to accept this submission point.

34. Dunedin City Council has made the same request as Kāi Tahu ki Otago and I understand that Mr Taylor, the witness for that Council, will produce a map showing the appropriate location of the boundary. I have reviewed the map of the requested FMU boundary that has been drawn by Dunedin City Council and I support the boundary shown on that map.

Other matters relating to FMU delineation

35. There are two further matters related to the identification and boundaries of FMUs that I wish to comment on.
36. The Kāi Tahu ki Otago further submission opposes a submission by Federated Farmers requesting that the Taiari FMU be divided into rohe, as has been done for the Clutha Mata-au FMU. Mr Ellison's evidence describes the traditions and naming of the Taiari, the seasonal migrations up the length of the awa, and the value associated with the absence of barriers to flow from the headwaters to the sea.³⁹ That evidence emphasises the interconnectedness of the river throughout its length. I consider that splitting the river into several rohe would not appropriately recognise the relationship of hapū to the Taiari.
37. Splitting the Clutha Mata-au into rohe also fails to fully reflect the relationship of Kāi Tahu to the catchment as a whole.⁴⁰ However, in my opinion, there is some justification for management divisions being drawn for the Mata-au because of the distinctly different management approaches that are likely to be needed in different parts of the catchment due to the presence of the dams. Similarly, the management needs of the inland lakes have some clear differences to the needs of the river and its tributaries. There are no such clear management boundaries in the Taiari.
38. ORC has also identified that the Puerua River, which is a tributary of the Mata-au River (entering the Koau Branch near the mouth), has been misplaced into the Catlins FMU.

³⁸ Evidence of Brendan Flack, [27] – [34] and [45] – [47].

³⁹ Evidence of Edward Ellison, [46] and [55].

⁴⁰ This is highlighted in the reasons for submission point FPI032.019.

This is not a matter that had been identified at the time that the Kāi Tahu submissions were prepared. However, I consider that shifting the FMU boundaries to include the Puerua River in the Clutha Mata-au FMU, as recommended in the section 42A report, would be consistent with the submission and evidence of Kāi Tahu ki Otago to manage the Mata-au as a single system.⁴¹ From a planning perspective, I consider that the inclusion of the Puerua in the Mata-au FMU is unlikely to affect the management of either FMU in any material way.

TE MANA O TE WAI

39. This section should be read together with the following paragraphs of my evidence for the non-FPI part of the PORPS:⁴²

- a) paragraph [96] setting out key aspects of Te Mana o te Wai; and
- b) paragraph [97] describing how the mana whenua expression of Te Mana o te Wai was incorporated into the LF-WAI provisions.

40. The following paragraph of my rebuttal evidence for the non-FPI hearings are also relevant:⁴³

- a) Paragraph [23] responding to evidence of Paul Freeland on a Dunedin City Council submission relating to conflict between the health and wellbeing of water and the needs of infrastructure to support housing. This submission point has also been made on LF-WAI-P1 and is opposed by Kāi Tahu.

Direction in NPSFM

41. I agree with most points in the analysis of the NPSFM direction on Te Mana o te Wai in the section 42A report. In addition to the aspects referred to in my earlier evidence cited above, I concur with the following points Ms Boyd makes about the way in which the NPSFM refers to Te Mana o te Wai:

- a) protecting the mauri of the wai is an outcome of applying the concept of Te Mana o te Wai;⁴⁴ and

⁴¹ See reasons for submission points FPI030.020, FPI032.019 and FPI042.010.

⁴² Evidence of Sandra McIntyre on the PORPS, dated 23 November 2022.

⁴³ Rebuttal evidence of Sandra McIntyre, dated 14 December 2022.

⁴⁴ Section 42A report, [747].

- b) that Te Mana o te Wai is the ‘how’ rather than the ‘what’ – it sets the foundation for all freshwater management, and it is the long-term visions for freshwater which then set out the environmental outcomes to be achieved by this approach.⁴⁵

- 42. Clause 1.3 of the NPSFM refers to “restoring and preserving the balance between the water, the wider environment, and the community”. Some submitters have interpreted this in a way that provides for weighing or trading off the needs of the community or resource users against the needs of water and the environment. The Kāi Tahu ki Otago further submission opposes those submissions on the grounds that they are based on a misinterpretation of the reference to balance in the NPSFM, and do not comply with the priorities in the sole objective.
- 43. Mr Ellison refers to the wording of clause 1.3 in his evidence. He points out that the reference to balance needs to be read in context, and he interprets it in a way that aligns with the Kāi Tahu perspective that use of resources must be based on an understanding and prioritisation of the natural balance in te taiao.⁴⁶ I agree with Mr Ellison that the context in clause 1.3 indicates that it is this natural balance that must be restored, and I support the section 42A report recommendations to reject submissions that seek to implement a different interpretation.

Kāi Tahu interpretation for Otago

- 44. Mr Ellison explains the values and principles that are the foundation for the Kāi Tahu ki Otago interpretation of Te Mana o te Wai:
 - a) the mana of the wai is associated with whakapapa and is inseparable from the mana of mana whenua;⁴⁷
 - b) rakatirataka and kaitiakitaka, which derive from whakapapa, sit at the heart of Te Mana o te Wai for Kāi Tahu;⁴⁸
 - c) the mauri of water is a life-giving force that connects all parts of the environment from the mountains to the sea. Each water body has its own unique mauri, which must be protected;⁴⁹

⁴⁵ Section 42A report, [760].

⁴⁶ Evidence of Edward Ellison, [16]. See also the evidence of Evelyn Cook, [24] - [28].

⁴⁷ Evidence of Edward Ellison, [29].

⁴⁸ Evidence of Edward Ellison, [33].

⁴⁹ Evidence of Edward Ellison, [21]-[22].

- d) the interconnected nature of the whenua, wai māori and the moana must be recognised in management of land-based activities.⁵⁰

45. As discussed in paragraph [97] of my non-FPI evidence, the Kāi Tahu ki Otago statement of Te Mana o Wai has been incorporated into the PORPS as LF-WAI-O1 and the accompanying LF-WAI-E1 (which is not part of the FPI provisions). The Kāi Tahu submissions support LF-WAI-O1, only seeking two amendments to address gaps identified after the PORPS was notified. These amendments, which the section 42A report recommends accepting, are:

- a) LF-WAI-O1(4): Inclusion of reference to interconnectedness between freshwater and coastal waters. This is discussed in paragraphs [29] to [31] above; and
- b) LF-WAI-O1(6): Inclusion of a clause recognising that responsibilities to support Te Mana o te Wai extend to all people. I consider that this is appropriate to ensure that the objective makes it clear that Te Mana o te Wai is not a matter only for Kāi Tahu. The proposed clause reflects the principles of governance, stewardship and care and respect in NPSFM clause 1.3(4).

46. The section 42A report recommends two additional amendments to LF-WAI-O1 that I consider do not appropriately reflect the intent of the Kāi Tahu ki Otago statement:

- a) LF-WAI-O1(2): I consider deletion of the words “endures through time” makes the meaning of the clause less clear; and
- b) LF-WAI-O1(4A): Although I agree it is appropriate for the objective to recognise that protecting the health and well-being of water protects the wider environment, the way this clause is worded, and particularly the reference to mauri, is circular and confusing when read together with the chapeau. I agree with Ms Bartlett that it conflates two separate statements in clause 1.3 of the NPSFM,⁵¹ and I support the amended wording proposed by Ms Bartlett to improve alignment with the Kāi Tahu perspective.

47. The Kāi Tahu ki Otago further submission opposes submissions seeking that reference to mauri in LF-WAI-O1, LF-WAI-PR1 and LF-WAI-AER2 is deleted. Mr Ellison discusses the connection between the mauri and mana of the wai⁵² and, as I have highlighted above, Ms Boyd discusses the place of mauri in the concept of Te Mana o te Wai

⁵⁰ Evidence of Edward Ellison, [39].

⁵¹ Evidence of Maria Bartlett, [27] – [32].

⁵² Evidence of Edward Ellison, [23].

described in the NPSFM. Based on Mr Ellison's evidence, and for the reasons given by Ms Boyd, I support the section 42A report to reject these submissions.

Comment on submissions seeking changes in priorities, resolution of conflicting demands, provision for particular activities or expansion beyond freshwater outcome focus

48. The Kāi Tahu ki Otago further submission opposes a number of submissions on the LF-WAI and LF-VM provisions seeking to:
- a) alter the PORPS interpretation of the hierarchy of priorities in the NPSFM objective;⁵³
 - b) include direction on how conflict between competing demands is to be resolved;⁵⁴
 - c) include specific provision for particular economic activities;⁵⁵ and
 - d) expand the LF-WAI provisions beyond their focus on the wai.⁵⁶
49. The section 42A report recommends rejection of these requests, and I generally concur with the section 42A report analysis. I consider the following points made by Ms Boyd are particularly relevant:
- a) the second priority in the Te Mana o te Wai hierarchy of priorities is confined to the health needs of people as they relate to physical contact, through immersion or ingestion of the water (including the safety of food harvested from water bodies), and is not intended to include more indirect matters such as food security or energy generation;⁵⁷
 - b) Te Mana o te Wai is a 'water-centric' concept that does not extend to matters such as emissions reduction;⁵⁸ and
 - c) That it is the role of the LWRP rather than the PORPS to consider how specific activities should be managed to give effect to Te Mana o te Wai.⁵⁹

⁵³ FSFPI1030.039 - FSFPI1030.043 on Horticulture NZ FPI047.001, FPI047.004, FPI047.007, FPI047.013 and FPI047.014; FSFPI1030.045 on Manawa Energy FPI022.004.

⁵⁴ FSFPI1030.020 on Dunedin City Council FPI001.007; FSFPI1030.033 and FSFPI1030.036 on Fulton Hogan FPI033.001 and FPI033.010; FSFPI1030.053 on McArthur Ridge Vineyard FPI041.015; FSFPI1030.071 on Oceana Gold FPI031.004.

⁵⁵ FSFPI1030.033 on Fulton Hogan FPI033.001; FSFPI1030.067 on NZSki FPI038.001; FSFPI1030.096 on Realnz FPI039.001.

⁵⁶ FSFPI1030.055 - FSFPI1030.057 on Meridian Energy FPI016.010 - FPI016.012.

⁵⁷ Section 42A report, [799] – [816].

⁵⁸ Section 42A report, [818].

⁵⁹ Section 42A report, [831].

50. In respect to the request by Dunedin City Council to include clarification on the resolution of conflicting priorities such as conflict between drinking water for new housing development and the health and wellbeing of water bodies, I refer to my non-FPI rebuttal evidence at paragraph [23]. I also agree with Ms Boyd that the NPSFM priorities are quite clear in relation to the example used by the Council.
51. In respect to the request of Meridian Energy to amend LF-WAI-O1 to refer to emission reduction, I also note that policy direction on the contribution of renewable energy generation to emissions reduction is included in the ORC recommendations for the EIT-EN chapter.⁶⁰ Te Mana o te Wai is focused on freshwater outcomes, as opposed to emissions reduction, and I do not consider it would be appropriate to duplicate the EIT-EN direction in the LF-WAI provisions. Those provisions will, of course, need to be reconciled when giving effect to the PORPS through the LWRP and so including reference to emissions reduction in the LF-WAI is also unnecessary to achieve the outcome sought by the submitter.

FRESHWATER VISIONS

52. The following paragraphs of my rebuttal evidence for the non-FPI hearings are relevant to this section:⁶¹
- a) paragraph [26] responding to evidence of Dr Michael Freeman (for OWRUG, Federated Farmers and Dairy NZ) on policy direction to facilitate transition to a Te Mana o te Wai approach. This is also relevant to submissions of these parties on the FPI provisions that seek a transition framework for achievement of the freshwater visions and that request detailed assessment of the benefits and costs of this transition; and
 - b) paragraphs [36] – [37] responding to evidence for Manawa Energy, Contact Energy and Meridian Energy on the significance of renewable energy generation and implications for treatment of its environmental effects. This is relevant to the submission of Manawa Energy seeking recognition of “*the national and regional significance of the Deep Stream, Waipori and Paerau / Patearoa hydro-electric power schemes*” in LF-VM-O4.
53. Mr Ellison discusses the development of the Kāi Tahu ki Otago freshwater vision and the aspects of the relationship of Kāi Tahu to the wai that underlie this vision. Ms Bartlett also

⁶⁰ See EIT-EN-O2A in the PORPS version showing recommendations from the hearing report prepared under Section 42A of the Resource Management 1991 (2 June 2023), attached to the section 42A report.

⁶¹ Rebuttal evidence of Sandra McIntyre, dated 14 December 2022.

discusses the input provided by Ngāi Tahu ki Murihiku into the development of freshwater visions for the Catlins and Clutha Mata-au FMUs.⁶² The Kāi Tahu ki Otago freshwater vision statement is attached to Mr Ellison's evidence as Appendix 1 and a statement of the Ngāi Tahu ki Murihiku feedback on draft FMU visions is attached to Ms Bartlett's evidence as Attachment One.

Region-wide freshwater objective

54. I facilitated the wānaka at which the Kāi Tahu ki Otago vision statement was developed, and also took part in later discussions with rūnaka representatives and with Ms Boyd about how it should be incorporated into the freshwater visions in the PORPS. As explained in the section 42A report, during development of the PORPS ORC made a decision not to include a region-wide vision. Because of this, the discussions on incorporation of the points of the Kāi Tahu ki Otago vision focused on addressing this in the individual FMU visions and in LF-FW-O8. Because the points needed to fit in the context of the other parts of each of the FMU visions, and there were inconsistencies between these visions, the Kāi Tahu ki Otago vision statement has not been consistently expressed in the various FMU-specific visions.
55. During PORPS pre-hearing meetings in mid-2022 (prior to the re-notification of the FPI provisions), ORC indicated a willingness to revisit the idea of an overarching vision if this could be achieved in a way that respected the input from the original consultation process. Taking up this challenge, the Kāi Tahu ki Otago submission proposed doing this by means of an approach that brought together the LF-FW objectives and the outcomes in the various FMU visions that, in the view of Kāi Tahu, it would be appropriate to include in all FMUs. The outcomes identified in the Kāi Tahu ki Otago submission for inclusion in a region-wide vision are as follows:
- a) Kāi Tahu relationship with wāhi tūpuna;
 - b) Kāi Tahu ability to access and use water bodies to maintain their connection with the wai;
 - c) the health and abundance of mahika kai;
 - d) the health of ecosystems and indigenous species;
 - e) the health of wetlands, estuaries and lagoons, and downstream coastal waters;
 - f) the ability for indigenous species to migrate easily;
 - g) sustaining the natural form and function of the water bodies;
 - h) sustainable land and water management practices; and

⁶² Evidence of Maria Bartlett, [40] – [54].

- i) ceasing direct discharges of wastewater to water bodies.

56. These outcomes generally correspond to the matters covered in the earlier Kāi Tahu ki Otago vision statement, but they are framed differently because they are derived from the components of the visions included in the PORPS.

57. Ms Boyd has followed the approach proposed in the Kāi Tahu ki Otago submission to develop LF-FW-O1A. I consider that this region-wide objective addresses most of the outcomes identified in the submission except that:

- a) There is no specific reference to the health of wetlands, estuaries and lagoons, and downstream coastal waters. Although LF-FW-O1A(2) refers to recognition of the interconnection with coastal waters, this falls short of the outcome sought. The cultural evidence emphasises the importance of healthy wetlands and estuarine systems to support mahika kai, and I consider the absence of an outcome providing for this is a significant gap which needs to be filled. Although LF-FW-O9 sets out a detailed objective for wetlands, this is not linked to the vision timeframes as the outcomes in the LF-FW-O1A are:
- b) LF-FW-O1A(1) describes an outcome for the health of mahika kai, but that outcome does not refer to abundance. As Mr Flack's evidence highlights, to enable mahika kai practices to be maintained, populations of mahika kai species must be abundant enough to sustain harvest;⁶³
- c) LF-FW-O1A(8) sets an outcome of phasing out of direct wastewater discharges to waterbodies, but this is qualified by the words "to the greatest extent practicable". I consider this falls short of the Kāi Tahu aspiration described by Mr Ellison.⁶⁴ While I consider it may be appropriate to recognise the need for time to transition to alternative means of wastewater disposal, this is a different consideration to practicability, which broadens the range of considerations beyond what is required under the NPSFM.

58. I have also assessed the outcomes in LF-FW-O1A against the Kāi Tahu ki Otago vision statement. My analysis is as follows:

⁶³ Evidence of Brendan Flack, [39] – [40].

⁶⁴ Evidence of Edward Ellison, [71] – [73].

Kāi Tahu ki Otago Vision Statement	Comments
<p>1. The wai is health-giving: The quality where the waterway enters another receiving environment should be as good as at the source. We can drink the water and eat the kai.</p>	<p>Although this is addressed in part, neither drinkability nor the concept of the quality at the end being as good as at the source are included. In the form included in the Kāi Tahu ki Otago statement, these could be problematic for inclusion in a region-wide objective, because they do not allow for the effects of naturally occurring changes in water quality. I consider that an outcome requiring that the quality of water reflects the natural water quality range at all points along the course of water bodies (i.e. there is no impact from human-induced contaminants) would encapsulate the intent of this point.</p>
<p>2. The waterways are restored to the way they were when tūpuna knew them: Water flow is continuous through the whole system. There is no further modification of river shape or braided stretches. Existing wetlands are restored and the area of wetlands is increased.</p>	<p>This is partly addressed in LF-FW-O1A(4), but that outcome does not include any reference to continuous flow, braided character or restoration and increase in extent of wetlands.</p>
<p>3. Mahika kai is flourishing, native fish can migrate easily and as naturally as possible, and taoka species and their habitats are protected from negative water quality and quantity impacts.</p>	<p>LF-FW-O1A(1) and (3) address most of this, but the notion of <u>flourishing</u> mahika kai, which I consider is similar to the notion of abundance discussed above, is not included.</p>
<p>4. Over-allocation is reversed, and water is available and allocated to meet mana whenua aspirations.</p>	<p>Availability of water to meet mana whenua aspirations is partly addressed in LF-FW-O1A(5), but the parts relating to allocation and over-allocation are not addressed. However, I consider these aspects are more appropriately dealt with in the LF-FW policies than in this provision, which is intended to focus on freshwater outcomes and how those outcomes will be achieved.</p> <p>Over-allocation is defined in terms of degradation, which itself is defined in terms of the ability to achieve targets and outcomes. I consider that reversing over-allocation is an approach for achieving the freshwater outcomes,</p>

	<p>rather than being an outcome in itself. This matter is dealt with in LF-FW-P7A.</p> <p>Similarly, I consider that direction on how water is allocated is not itself a freshwater outcome. This is dealt with in proposed LF-FW-P7A, and I consider it would be appropriate to include reference to allocation for mana whenua needs and aspirations in that policy.</p>
<p>5. The interconnection of freshwater and coastal waters is recognised: Sea level rise is accommodated in planning for infrastructure and other activities near river mouths, estuaries and hāpua systems. Inaka habitats at the salt-water wedge are protected.</p>	<p>LF-FW-O1A(2) recognises interconnection of freshwater and coastal waters, and LF-FW-O1A(7) refers to practices to improve resilience to the effects of climate change. However, there is no specific reference to outcomes for habitats at the freshwater / saltwater interface. This is a gap I have also identified in coverage of the outcomes sought in the Kāi Tahu ki Otago submission above.</p>
<p>6. The quality and quantity of groundwater is protected, and the interconnections with waterways are recognised.</p>	<p>Although there is reference to groundwater as part of “freshwater” in LF-FW-O1(2), there is no reference to protection of the quality or quantity of groundwater.</p>
<p>7. Mana whenua are integrally involved in freshwater planning, implementation and monitoring, and mātauraka is alive and being passed on.</p>	<p>This is dealt with in the LF-WAI provisions, and I consider it is more appropriately located there than as a freshwater outcome.</p>
<p>8. Land users work together to restore catchment.</p>	<p>I consider this would also be more appropriately located in the LF-WAI provisions. The intent is addressed to some extent in the proposed LF-WAI-O1(6) and in LF-VM-M3.</p>

59. In Appendix 1 I recommend amendments to LF-FW-O1A to address the gaps I have identified above:

- a) clause 1 is amended to specifically include estuarine ecosystems, and also to refer to populations of indigenous species that are flourishing rather than merely healthy;
- b) clause 4 is amended to make it clear that the outcome of natural behaviour relates to flow behaviour as well as river morphology. Reflection of natural flow

behaviour would include aspects such as maintaining flow variability and ensuring that continuity of flow is maintained except to the extent that flow interruptions would naturally occur;

- c) a new clause is proposed to describe the outcome sought for water quality, as explained in the table above;
- d) reference to aquifers is included in the water quality clause and in clause 4 to make it clear that these outcomes apply to groundwater as well as surface water;
- e) a new clause is proposed to describe the outcome sought for wetlands; and
- f) clause 8 is amended to remove the qualifier on phasing out of direct discharges of wastewater.

60. Ms Bartlett has also assessed LF-FW-O1A against the Ngāi Tahu ki Murihiku vision statements for the Clutha Mata-au and Catlins FMUs and has recommended some amendments. I support these amendments and have incorporated them in Appendix 1 to my evidence.

Outcomes in FMU visions

61. The Kāi Tahu submissions seek some substantial changes to the individual FMU visions. Many of these submissions are intended to ensure that, if the request for a region-wide vision is rejected, the outcomes sought for that vision are incorporated in each FMU vision. In light of the recommendation to include the new LF-FW-O1A, I have reassessed the need for the requested amendments in the FMU visions. I consider that most of the outcomes sought are provided for in either the region-wide or individual visions. However, I consider some matters still need to be addressed. My comments on each vision are as follows:

- a) LF-VM-O2 (Clutha Mata-au FMU):
 - i. Kāi Tahu ki Otago sought that clause 7(c)(ii) relating to preservation and restoration of ecosystem connections between freshwater, wetlands and the coastal environment be applied to the whole FMU rather than just the Lower Clutha rohe. As Ms Boyd has identified, this outcome is not fully addressed in LF-FW-O1A.⁶⁵ I agree with Ms Boyd that there would be merit in including it in the overarching objective, but the scope of the Kāi Tahu ki Otago submission only extends as far as applying it to the whole of this FMU. I recommend an amendment to do that; and

⁶⁵ Section 42A report, [912] – [913].

- ii. The submission sought that clause 7(b)(iii) seeking to move abstraction in the Dunstan, Manuherekia and Roxburgh rohe from tributaries to river mainstems or groundwater be applied to the whole FMU, and that it include reference to lakes as well as mainstems and groundwater. The section 42A report recommends deleting this clause. Mr Ellison's evidence refers to the concern about excessive abstraction from small tributaries,⁶⁶ and Ms Bartlett also discusses this in her evidence.⁶⁷ I agree that the practice of taking all or most of the waters needs to change to put the emphasis, first, on the need to restore the mauri of those tributaries and to recognise their role in contributing to the broader river system. Clause (1) of the Clutha Mata-au vision recognises the importance of managing the Clutha Mata-au as a single connected system, and I consider that applying this clause to the whole FMU as sought in the Kāi Tahu ki Otago submission would align with that.
- b) LF-VM-O3 (North Otago FMU): I have not identified any gaps in this FMU. I consider that the amendment recommended in the section 42A report to refer to holistic management of the Waitaki catchment aligns well with Mr Tipa's evidence about the significance of the Waitaki River and the importance to Moeraki hapū of a ki uta ki tai approach to management of the catchment.⁶⁸
- c) LF-VM-O4 (Taiari): I have not identified any gaps in this FMU. However I do not support the proposed clause 5A recommended in the section 42A report in response to a submission point by OWRUG.⁶⁹ That submission point was opposed by Kāi Tahu ki Otago.⁷⁰ This clause provides direction on use of the water rather than on freshwater outcomes. As I have discussed in relation to the need for allocation to meet the needs and aspirations of mana whenua, I consider that direction on how water is allocated would be more appropriately dealt with in the LF-FW provisions. I note that proposed LF-FW-P7A specifically addresses this matter, using wording that is similar to the wording of clause 5A. Elsewhere in her discussion of the visions, Ms Boyd has rejected similar requests to include

⁶⁶ Evidence of Edward Ellison, [64] – [66].

⁶⁷ Evidence of Maria Bartlett, [50] – [52].

⁶⁸ Evidence of Justin Tipa, [15] – [18].

⁶⁹ Section 42A report, [1114].

⁷⁰ FSFPI1030.082 on OWRUG FPI043.002.

outcomes relating to water allocation for specific purposes,⁷¹ and it is not clear why the Taiari should be treated differently in this respect to other FMUs.

- d) LF-VM-O5 (Dunedin and Coast): Associated with the submission requesting adjustment of the boundary between the North Otago and Dunedin and Coast FMUs, Kāi Tahu ki Otago requested recognition of management outcomes for the Waikouaiti freshwater mātaimai and the East Otago Taiāpure.⁷² Mr Flack's evidence discusses the outcomes being pursued in these reserves. They include the interconnected goals of restoring and maintaining a healthy and abundant fishery and reinvigoration of rakatirataka and kaitiakitaka over the awa and coastal estuaries.⁷³ I consider that these goals will be provided for through clauses 1 and 5 subject to the amendments to clause 1 that I have recommended, and that specific reference to the mātaimai and taiāpure in LF-VM-O5 is not necessary.
- e) LF-VM-O6 (Catlins): Clause 5 referring to the health and well-being of coastal water, ecosystems and indigenous species has been deleted. I consider that if LF-FW-O1A(1) is amended to refer to estuarine ecosystems, as I have recommended, then this matter will be adequately addressed in the region-wide objective, and no further amendments are required to address the submission point.

Vision timeframes

62. Mr Ellison's evidence discusses the need for change in freshwater management to take place within a generation, to ensure that mātauraka is not lost.⁷⁴ He describes the steps required to achieve change within that timeframe. Those steps are reflected in the Kāi Tahu submissions with respect to the timeframes for freshwater visions. In particular, the submissions request that where vision timeframes extend beyond 20 years, these are shortened to 20 years from the likely operative date of the LWRP (which is assumed to be 2025).
63. The request of Kāi Tahu ki Otago and Te Runanga o Ngāi Tahu for change in practices within 10 years and visions being achieved by 20 years has been misinterpreted in the

⁷¹ For example, submissions by COWA and OWRUG on the Clutha Mata-au FMU vision.

⁷² See FPI030.021 and FPI030.023.

⁷³ Evidence of Brendan Flack, [27] – [31].

⁷⁴ Evidence of Edward Ellison, [69] – [70].

description of submission points in the section 42A report as a request for interim timeframes.⁷⁵ This is not the case - I understand that the references in the submissions to 10 years and 20 years simply recognise that there can be a lag between when practices are changed and when the results are seen. The intent is for change in practice to occur within the life of the LWRP. I agree with Ms Boyd that details of any interim steps to achieving the visions are a matter for the LWRP rather than the PORPS.

64. Some parties request that the vision timeframes are extended, in part because of the economic and social costs to resource users to make the necessary changes. In her analysis, Ms Boyd comments that the economic costs to resources users are not the only valid consideration in setting vision timeframes, and that section 6(e) of the RMA is also relevant. I agree with that comment. The cultural witnesses describe the cultural, social and economic costs to Kāi Tahu of continuing degradation,⁷⁶ and I consider that these costs, which are costs of delaying change, also need to be taken into account.
65. The FMUs for which Kāi Tahu ki Otago has sought a reduction in timeframe are the Clutha Mata-au FMU (Manuherekia Rohe), the Taiari FMU and the North Otago FMU. These are catchments with some of the most significant over-allocation and water quality concerns in Otago. I understand that longer timeframes were set for these areas because of the magnitude of the change that will be needed, but equally, the degree of the problem means that those catchments have some of the most pressing needs for change.
66. There are a range of approaches that could be developed in the LWRP to reflect differing magnitudes of change needed in different catchments. One approach would be to require the same actions to be taken across all catchments, but to allow a longer timeframe for change in the more degraded catchments to reflect the greater change required. An alternative approach would be to set the same timeframe across all catchments but to require stronger actions to be taken in the more degraded catchments in order that change could be achieved in the timeframe.
67. This is obviously an overly simplistic way of describing the decisions that will need to be made. However, it demonstrates that the “ambitious but reasonable” requirement set for the long term visions in accordance with the NPSFM⁷⁷ does not impose a formula that

⁷⁵ At [979] in the section 42A report, FPI032.018 Te Rūnanga o Ngāi Tahu is cited as one of the submissions seeking interim timeframes.

⁷⁶ Evidence of Edward Ellison, [68] – [69]; evidence of Brendan Flack, [27] and [40]; evidence of Justin Tipa, [7] and [13].

⁷⁷ NPSFM, cl 3.3(2)(b) and (c).

leads to a single solution; instead, there is a spectrum of choices that can be made to meet that requirement. The Kāi Tahu submissions generally urge ORC towards the ambitious end of the spectrum because of the concerns described in the cultural evidence.

68. Ms Boyd has not recommended any changes to vision timeframes for a number of reasons including the potential uncertainty about the achievability of the notified timeframes, and the potential impacts on the LWRP and resource users. As indicated in my discussion above, I do not consider “potential impacts on the LWRP” is a valid reason to limit the ambition of the visions. The PORPS sets the direction for the LWRP, so the provisions of the LWRP will need to be focused on what is needed to give effect to the PORPS objectives. The direction in the PORPS should not be limited by the fact that the implementation measures are still to be developed – that is the nature of the planning process and the hierarchy of instruments under the RMA.

Comment on submissions seeking provision for specific activities and/or for a transition pathway to be set out

69. The Kāi Tahu ki Otago further submission opposes submissions seeking provision for specific economic activities in the visions and/or a transition pathway towards achievement of the visions to be set out.⁷⁸ I agree with Ms Boyd that these are matters that would be more appropriately dealt with in the LWRP.

STORMWATER AND WASTEWATER MANAGEMENT

70. Following discussions in pre-hearing meetings prior to notification of the FPI provisions, a number of submitters, including the Kāi Tahu submitters, agreed that division of the policy on stormwater and wastewater discharges into separate policies would provide greater clarity and a greater ability to reflect the differences between these types of discharges. The pre-hearing process ended without any process to work through the wording of the divided policies, with the result that submissions on the FPI provisions included several versions of this approach provided by different submitters. Aukaha staff drafted one of these versions for the Kāi Tahu ki Otago submission but did not have the benefit of discussion with stormwater and wastewater providers in developing the details of that version. After reviewing Ms Boyd’s analysis of the provisions proposed by the

⁷⁸ See FSFPI1030.012 on Dairy NZ FPI024.041; FSFPI1030.034 on Fulton Hogan FPI033.002; FSFPI1030.081 - FSFPI1030.083 on OWRUG FPI043.001 -FPI043.003.

various submitters, I support most clauses in the recommended policies. However I consider there are two concerns that remain to be addressed.

71. LF-FW-P15 (Stormwater): While recognising the role that stormwater reticulation plays in urban areas, Kāi Tahu wish to see a move towards stormwater management that reduces risks of sediment and contaminants entering water bodies through the use of integrated catchment management plans and the use of natural processes to reduce, absorb and disperse stormwater discharges and to reduce the concentration of contaminants in the discharge. In my opinion, this would give better effect to Te Mana o te Wai than simply relying on concentrating the stormwater through piped systems and discharging it to water.
72. Although the recommended policy makes some steps towards this direction, I consider that it does not sufficiently promote on-site management of the quality and quantity of stormwater or alternatives to reticulation and discharge (such as attenuation and infiltration approaches). Clauses proposed by Kāi Tahu relating to on-site stormwater management (i.e. management at source before or instead of reticulation) have not been accepted in the section 42A report. I recommend that these clauses be included, although I acknowledge that their wording may be able to be improved by input from local authority submitters who manage stormwater systems. I also recommend an amendment to clause 3 relating to reticulation in urban areas, to allow for the possibility of well-planned alternatives to this.
73. LF-FW-P16 (Wastewater): Mr Ellison's evidence describes the concern of Kāi Tahu about direct discharge of sewage and animal effluent to water.⁷⁹ This is a longstanding and significant concern and change in practice in Otago has been very slow. Mr Ellison also refers to the impact of discharges of industrial and trade waste on the Kaikarae River system.⁸⁰ I consider that the proposed reference to "minimising" rather than "avoiding" the effects of these discharges and use of the qualifier "to the greatest extent possible" does not recognise the strength of the concern about the impacts of these discharges on mauri.
74. Clause 1 relates to phasing out existing direct discharges. It does not require immediate cessation of these, but rather that the operators make clear plans to shift to an alternative system. While I understand there is a need for time to transition to alternative means of wastewater disposal, and that the process involved will sometimes be complex and

⁷⁹ Evidence of Edward Ellison, [71] – [74].

⁸⁰ Evidence of Edward Ellison, [66].

challenging, this is not the same as saying it is impossible. The requirement to give effect to Te Mana o te Wai changes the way in which planning for wastewater will need to happen and I consider that the policy direction needs to make this clear.

75. Clause 2(c) and clause 4 include wording that mirrors the stormwater policy but is less relevant or inappropriate in the wastewater policy. The Kāi Tahu ki Otago submission adjusted this wording to suit the different type of discharge, but that wording has not been accepted:

- a) Clause 2(c) requires use of a reticulated system where one is made available by its owner. I do not consider that this proviso is appropriate in the wastewater policy and recommend it be deleted.
- b) Clause 4 promotes source control to reduce contaminants. I cannot see how this would be a realistic option in respect to sewage or animal effluent and recommend it only apply to industrial and trade waste.

OTHER LF-FW PROVISIONS

76. The section 42A report recommends acceptance of many of the Kāi Tahu submission points on the LF-FW provisions. Remaining concerns are discussed below.

77. LF-FW-P10:

- a) The Kāi Tahu submissions support the notified version of this policy and the strong direction on wetland protection and restoration in the PORPS provisions more generally. Mr Ellison and Mr Tipa discuss the importance of wetlands for mahika kai, and the extent to which loss of wetlands through drainage, land development, contamination and loss of flow has impacted on Kāi Tahu communities.⁸¹ Because of this I have some concern about the proposed relaxation of the policy direction on wetland restoration recommended in the section 42A report from “where possible” to “to the greatest extent practicable”. As I have discussed elsewhere, my experience is that the notion of “practicability” often limits consideration to issues of cost, rather than broader considerations (including s 6(e) matters).

⁸¹ Evidence of Edward Ellison, [46], [56] – [58], [66] and [68]; evidence of Justin Tipa, [7] and [19] – [21].

- b) Given of the extent of wetland loss that has occurred in Otago, I consider that there must be a strong driver towards reversal of wetland loss. I consider that “where possible” is the appropriate qualifier for the matters in clauses 2, 3 and 4 – the integrity of hydrological processes and wetland vegetation, control of pests and avoidance of stock damage are critical to avoid incremental loss of wetland values, as well as supporting restoration. However I accept that, in respect to increasing the extent of habitat, the “where possible” bar could be too onerous. I recommend amendments to reflect this view.

78. LF-FW-P7:

- a) In response to other submitters, the section 42A report recommends replacing reference to protection of “indigenous species associated with freshwater” with a reference to “indigenous freshwater species”. The reason given is that it is more consistent with NPSFM Policy 9.⁸² I accept this is true, but I consider that limiting the policy in this way could exclude species such as water and wading birds that do not spend all their time in the water but are still reliant on the health of the water body for some part of their life stages. As Mr Ellison discusses, all indigenous species are taoka to Kāi Tahu.⁸³ Significant areas of habitat for indigenous fauna are also protected under s 6(c) of the RMA. The definition of threatened species (a compulsory value) in the NPSFM includes indigenous species that rely on water bodies for only part of their life cycle. I recommend an amendment to clause 2 to include such species.
- b) Ms Boyd also recommends a new clause 2A that protects habitats of trout and salmon insofar as is consistent with clause 2. This is consistent with an agreement the Kāi Tahu submitters, DOC and ORC reached with Fish and Game prior to notification of the FPI provisions, and I support the recommended amendment. That agreement also resulted in a recommendation, in the non-FPI hearings, of a method for developing species interaction plans to manage conflict between trout and salmon and indigenous species. Ms Boyd refers to this method in the section 42A report but it is not included in the version of the PORPS used for the current hearing. I assume this is simply an oversight that can be easily addressed.

⁸² Section 42A report, [1386].

⁸³ Evidence of Edward Ellison, [49].

79. Allocation (LF-FW-P7A): Ms Boyd has recommended this new policy in response to a range of submissions seeking further direction on water allocation and/or recognition of the benefits of using water. The policy replaces LF-FW-P7(6) and part of LF-FW-M6. I agree there was a gap in the policy framework with respect to allocation and use of water, and I generally support the policy. However, there are four components of the policy which I recommend amendments to:
- a) Although the policy refers to phasing out or avoiding allocation by the approaches listed in clauses 1 to 4, those approaches relate mostly to allocation and to general efficiency requirements rather than addressing any significant over-allocation. The exception to this is the provision for off-stream storage, but this single tool might not always be the most appropriate. I recommend an amendment to refer to the requirement in LF-FW-M6 for managing over-allocation.
 - b) In clause 1, I consider the reference to allocating water “to the extent possible within limits” could be interpreted as encouraging use up to those limits. Encouraging allocation to a point of maximum use does not reflect the approach of Kāi Tahu, or of Te Mana o te Wai, to the need to first preserve the natural balance in te taiao (discussed at paragraphs [42] to [43] above). In my Appendix 1, I recommend amended wording to make the intent of the policy clearer and more consistent with the priorities under the single objective of the NPSFM.
 - c) In my discussion of the region-wide objective, I have commented that a part of the Kāi Tahu ki Otago freshwater vision relating to allocation of water to mana whenua would be better addressed in the LF-FW provisions.⁸⁴ I recommend a new clause to include that provision;
 - d) Clause 3 removes the detailed direction on off-stream storage previously included in LF-FW-M6. Much of this direction is now provided through the region-wide vision, but there remains a need to make it clear that off-stream storage will not be appropriate in every circumstance. I recommend an amendment to link the policy to the overarching requirement to support Te Mana te Wai.
80. Cross-mixing (LF-FW-M6): The Kāi Tahu ki Otago submission requests reference to consideration, in regional plans, of Kāi Tahu cultural and spiritual concerns about mixing

⁸⁴ See table at paragraph [58].

of water between different catchments. Although this submission point is described in the section 42A report, it does not appear to have been considered in the analysis of, or implemented through, amendments to LF-FW-M6.

81. Mr Ellison's evidence describes this concern and the approach that should be taken to addressing it.⁸⁵ I consider it would be appropriate, and consistent with section 6(e) of the RMA, to make provision for this in LF-FW-M6.
82. AERs: I recommend amendment of the following AERs as consequential to amendments recommended to other provisions:
 - a) LF-FW-AER7: The section 42A report recommends deletion of this AER on the basis that it does not reflect the policy direction. I consider that this AER is consistent with the region-wide objective for water quality that I recommend be included in LF-FW-O1A and therefore it should be retained.
 - b) LF-FW-AER9: The qualifier "to the greatest extent practicable" should be deleted as a consequential amendment to the recommended changes to LF-FW-P16 referred to at [73] and [74] above.

Comment on further submissions

83. The Kāi Tahu ki Otago further submission opposes submissions seeking:
 - a) detailed provisions for particular activities (and the analysis of costs associated with these) and/ or reference to specific methods and tools such as storage.⁸⁶ I consider that these are matters that need to be determined as part of the detailed development of policy and management approaches in the LWRP; and
 - b) deletion of matters in scope of National Environmental Standards for Freshwater and Stock Exclusion Regulations.⁸⁷ I agree with the analysis in the section 42A report⁸⁸ that it is open to ORC to include provisions in the LWRP that are more stringent than in these instruments, and that it would be inappropriate to foreclose the opportunity for ORC to consider that option.

⁸⁵ Evidence of Edward Ellison, [75] – [76].

⁸⁶ FSFPI1030.002 on Beef & Lamb/ Deer Industry NZ FPI025.028; FSFPI1030.006 on Central Otago Winegrowers Assn FPI009.009; FSFPI1030.035 on Fulton Hogan FPI033.009; FSFPI1030.038 on John Highton FPI007.017; FSFPI1030.044 on Horticulture NZ FPI047.025; FSFPI1030.048 on Manawa Energy FPI022.009; FSFPI1030.050 and FSFPI1030.052 on McArthur Ridge Vineyard FPI041.007 and FPI041.014; FSFPI1030.058 - FSFPI1030.059 on Meridian Energy FPI016.017 - FPI016.018; FSFPI1030.109 on The Fuel Companies FPI034.002.

⁸⁷ FSFPI1030.001 on Beef & Lamb NZ and Deer Industry NZ FPI025.011.

⁸⁸ This occurs in several places, including at [1487].

LS PROVISIONS

84. In addition to my earlier discussion regarding integrated management and a ki uta, ki tai approach, I consider the following concerns relating to the integrated management of land and water and the effects of land use on freshwater outcomes remain to be addressed.
85. LF-LS-P21: The request of Kāi Tahu ki Otago for reference to ecosystem values has been rejected in the section 42A report on the basis that it is not clear what is meant by ecosystem values. Other amendments recommended to the chapeau align wording more closely to that in the sole NPSFM objective, but without the reference to freshwater ecosystems included in that sole objective. I consider it would be appropriate to include reference to freshwater ecosystems in this policy, to better give effect to the sole objective.
86. The section 42A report also recommends an amendment to clause 1 that I consider weakens the direction to reduce contamination of water. As discussed in relation to LF-FW-O1A, the Kāi Tahu vision for water quality is that it should reflect the natural water quality. To achieve this vision, I consider that the requirement in clause 1 of LF-LS-P21 should be to reduce discharges of contaminants. In my opinion, the inclusion of “otherwise managing the adverse effects” within that policy does not provide the clear direction needed to achieve the overarching vision.
87. The Kāi Tahu ki Otago submission requests an amendment to clause 3 to recognise that the functions of riparian margins are not confined to biodiversity functions only, but also include functions relating to water quality and to the ability to support natural flow behaviour at times of high flow. This point is not addressed in the section 42A report. It appears to have been misinterpreted as referring to the biodiversity functions already mentioned in the clause, rather than to the additional functions I have referred to above. I recommend an amendment to recognise these additional functions.
88. LF-LS-M11: The Kāi Tahu ki Otago submission requests that this method refer to the ability for regional plans to provide for changes in land use that reduce demand for water by methods other than simply improving efficiency of use. This has not been accepted in the section 42A report, but nor clear reason is given for this. I consider that in areas where there is a need to reverse over-allocation, a broad range of tools must be available to ORC to achieve this. In some areas I consider that improvements in water use efficiency alone are unlikely to achieve this. In such circumstances, controls on water-

demanding land uses should be a tool that ORC can consider in development of the LWRP. I recommend an amendment to provide for this, and also to delete reference to allocation in this clause. The intent of the clause is to achieve more sustainable water use; water allocation is the tool rather than the end to be achieved.

CONCLUSION

89. The collaborative approach taken by ORC to working with Kāi Tahu in development of the provisions relating to freshwater management in the PORPS, and the careful consideration ORC given to interpretation of Te Mana o te Wai, has meant that the direction of the FPI provisions is generally supported by Kāi Tahu.

90. The remaining concerns addressed in my evidence relate in large part to particular aspects of the relationship of Kāi Tahu with wai māori and wai tai. I recommend some amendments to better reflect this relationship and to strengthen the policy direction so that the PORPS provides better for protection and restoration of mauri.



Sandra McIntyre

APPENDIX 1: RECOMMENDED AMENDMENTS

The following tables list the specific submission points in the parts of the Kāi Tahu ki Otago, Te Rūnanga o Ngāi Tahu and Ngāi Tahu ki Murihiku submissions and further submissions that refer to the Freshwater Planning Instrument provisions of the Proposed Otago Regional Policy Statement. They identify points for which I support the section 42A report recommendations and, for other points, my recommended alternatives.

The section 42A report version is used as the base for recommendations, with recommended amendments to this version shown by underlining and strikethrough.

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
General			
General submission	Kāi Tahu ki Otago FPI030.046, FPI030.050, FPI030.052 Te Rūnanga o Ngāi Tahu FPI032.028 Ngāi Tahu ki Murihiku FPI042.014, FPI042.015, FPI042.145	Accept s. 42A report recommendation	Providing for Kāi Tahu rights, interests and values in freshwater
General submission	Ngāi Tahu ki Murihiku FPI042.016	Accept s. 42A report recommendation	-
General submission	Ngāi Tahu ki Murihiku FPI042.017	Accept s. 42A report recommendation	-
General submission	Kāi Tahu ki Otago FPI030.047	Accept s. 42A report recommendations except as set out elsewhere in this table	Te Mana o te Wai

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
	Te Rūnanga o Ngāi Tahu FPI032.029, FPI032.030		
General submission	Kāi Tahu ki Otago FPI030.048	Accept s. 42A report recommendations except as set out elsewhere in this table	Integrated management
General submission	Kāi Tahu ki Otago FPI030.049; FSFPI1030.009 (on Contact Energy FPI027.038), FSFPI1030.065 (on Ngāi Tahu ki Murihiku FPI042.132) Ngāi Tahu ki Murihiku FPI042.132, FPI042.142; FPI042.138	Accept s. 42A report recommendation	Evidence on non-FPI parts of PORPS, [37] - [38]
General submission	Kāi Tahu ki Otago FPI030.051 Te Rūnanga o Ngāi Tahu FPI032.018	Amend timeframes for achievement of visions in Manuherekia Rohe and Taiari and North Otago FMUs as set out elsewhere in this table	Freshwater visions – vision timeframes
General submission	Ngāi Tahu ki Murihiku FPI042.133	Accept s. 42A report recommendation	-
General submission	Kāi Tahu ki Otago FSFPI1030.036 (on Fulton Hogan FPI033.010); FSFPI1030.052 (on McArthur Ridge Vineyard FPI041.014); FSFPI1030.053 (on McArthur Ridge Vineyard FPI041.015);	Accept s. 42A report recommendation	Te Mana o te Wai, [48] – [51]

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
	FSFPI1030.067 (on NZSki FPI038.001), FSFPI1030.096 (on Realnz FPI039.001)		
General submission	Kāi Tahu ki Otago FSFPI1030.108 (on Wise Response FPI035.031)	Accept s. 42A report recommendation	-
General submission	Kāi Tahu ki Otago FSFPI1030.054 (on McArthur Ridge Vineyard FPI041.016)	Accept s. 42A report recommendation	-
General submission	Kāi Tahu ki Otago FSFPI1030.012 (on Dairy NZ FPI024.041)	Accept s. 42A report recommendation	Freshwater visions, [69]
General submission	Kāi Tahu ki Otago FSFPI1030.039, FSFPI1030.040, FSFPI1030.041 (on Horticulture NZ FPI047.001, FPI047.004, FPI047.007)	Accept s. 42A report recommendation	Te Mana o te Wai, [48] – [51]
General submission	Kāi Tahu ki Otago FSFPI1030.035 (on Fulton Hogan FPI033.009)	Accept s. 42A report recommendation	-
General submission	Kāi Tahu ki Otago FSFPI1030.080 (on Otago Fish & Game FPI037.050)	Accept s. 42A report recommendation	-

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
General submission	FSFPI1030.068 (on NZSki FPI038.003), FSFPI1030.097 (on Realnz FPI039.005)	Accept s. 42A report recommendation except as set out elsewhere in this table.	-
General submission – Over-allocation	Ngāi Tahu ki Murihiku FPI042.001 Kāi Tahu ki Otago FSFPI1030.062 (on Ngāi Tahu ki Murihiku FPI1042.001)	Accept s. 42A report recommendation except as set out elsewhere in this table.	Other LF-FW provisions, [79]
General submission – Dams and weirs	Ngāi Tahu ki Murihiku FPI042.002 Kāi Tahu ki Otago FSFPI1030.063 (on Ngāi Tahu ki Murihiku FPI1042.002)	Amend LF-VM-E2 to include reference to the impact of dams and weirs on implementation of the region-wide objective and FMU visions.	Evidence of Maria Bartlett, [61]
Interpretation - Definitions			
Certified freshwater farm plan	Kāi Tahu ki Otago FPI030.001 Te Rūnanga o Ngāi Tahu FPI032.001	Accept s. 42A report recommendation	-
Drinking water	Kāi Tahu ki Otago FPI030.002 Te Rūnanga o Ngāi Tahu FPI032.002	Accept s. 42A report recommendation	-
National Objectives Framework	Kāi Tahu ki Otago FPI030.003 Te Rūnanga o Ngāi Tahu FPI032.003	Accept s. 42A report recommendation	-
Natural hazard works	Kāi Tahu ki Otago FPI030.004	Accept s. 42A report recommendation	-

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
	Te Rūnanga o Ngāi Tahu FPI032.004		
Other infrastructure	Kāi Tahu ki Otago FPI030.005 Te Rūnanga o Ngāi Tahu FPI032.005	Accept s. 42A report recommendation	-
Over-allocation	Kāi Tahu ki Otago FPI030.006; FSFPI1030.066 (on Ngāi Tahu ki Murihiku FPI042.140) Te Rūnanga o Ngāi Tahu FPI032.006 Ngāi Tahu ki Murihiku FPI042.140	Accept s. 42A report recommendation	-
Specified infrastructure	Kāi Tahu ki Otago FPI030.007; FSFPI1030.102 (on Royal Forest and Bird Protection Society FPI045.001) Te Rūnanga o Ngāi Tahu FPI032.007	Accept s. 42A report recommendation	-
Specified rivers and lakes	Kāi Tahu ki Otago FPI030.008 Te Rūnanga o Ngāi Tahu FPI032.008	Accept s. 42A report recommendation	-
Wetland utility structure	Kāi Tahu ki Otago FPI030.009 Te Rūnanga o Ngāi Tahu FPI032.009	Accept s. 42A report recommendation	-

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
DEF – New provision – Community drinking water supply	Kāi Tahu ki Otago FSFPI1030.024 (on DCC FPI001.030)	Accept s. 42A report recommendation	-
DEF – New provision – Effects management hierarchy (Other Matters)	Kāi Tahu ki Otago FSFPI1030.090 (on OWRUG FPI043.080)	Accept s. 42A report recommendation	-
DEF - New provision – Minimise	Kāi Tahu ki Otago FSFPI1030.074 (on Otago Fish & Game FPI037.003), FSFPI1030.098 (on Realnz FPI039.006)	Accept s. 42A report recommendation	-
DEF – New provision – Natural environment	Kāi Tahu ki Otago FSFPI1030.073 (on Otago Fish & Game FPI037.002), FSFPI1030.099 (on Realnz FPI039.007)	Accept s. 42A report recommendation	-
DEF – New provision – Precautionary approach	Kāi Tahu ki Otago FSFPI1030.075 (on Otago Fish & Game FPI037.004)	Accept s. 42A report recommendation	-

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
DEF - New provision – Restoration	Kāi Tahu ki Otago FSFPI1030.094 (on QLDC FPI046.028)	Accept s. 42A report recommendation	-
DEF - New provision – Restore	Kāi Tahu ki Otago FSFPI1030.076 (on Otago Fish & Game FPI037.005)	Accept s. 42A report recommendation	-
DEF – New provision – Water sensitive urban design	Kāi Tahu ki Otago FSFPI1030.026 (on DCC FPI001.036)	Accept s. 42A report recommendation	-
SRMR – Significant resource management issues for the region			
SRMR - General	Ngāi Tahu ki Murihiku FPI042.003	Accept s. 42A report recommendation except as set out elsewhere in this table.	-
SRMR–I5	Kāi Tahu ki Otago FPI030.010 Te Rūnanga o Ngāi Tahu FPI032.010 Ngāi Tahu ki Murihiku FPI042.004	Accept s. 42A report recommendation	Evidence of Maria Bartlett, [56] – [57]
SRMR–I6	Kāi Tahu ki Otago FPI030.011; FSFPI1030.001 (on Beef & Lamb/ Deer Industry NZ FPI025.011), FSFPI1030.084 (on OWRUG FPI043.023)	Amend final sentence as follows: ... it culminates in a loss of rakatirataka and <u>diminishing of mana</u> .	Evidence of Maria Bartlett, [62]

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
	Te Rūnanga o Ngāi Tahu FPI032.011		
SRMR-I9	Kāi Tahu ki Otago FPI030.012 Te Rūnanga o Ngāi Tahu FPI032.012	Accept s. 42A report recommendation	
RMIA – Resource management issues of significance to iwi authorities in the region			
RMIA - General	Ngāi Tahu ki Murihiku FPI042.005	Accept s. 42A report recommendation	Kāi Tahu concerns about management of freshwater in Otago
RMIA-WAI-I1 – The loss and degradation of water sources	Kāi Tahu ki Otago FPI030.013; FSFPI1030.010 (on Dairy NZ FPI024.013), FSFPI1030.060 (on Moutere Station FPI023.006) Te Rūnanga o Ngāi Tahu FPI032.013	Accept s. 42A report recommendation	Kāi Tahu concerns about management of freshwater in Otago
RMIA-WAI-I3 – The effects of land and water use	Kāi Tahu ki Otago FPI030.014; FSFPI1030.037 (on John Highton FPI007.004) Te Rūnanga o Ngāi Tahu FPI032.014 Ngāi Tahu ki Murihiku FPI042.006	Accept s. 42A report recommendation	Kāi Tahu concerns about management of freshwater in Otago
RMIA-WAI-I5	Kāi Tahu ki Otago FSFPI1030.049 (on	Agree with s. 42A report that this provision is out of scope of this hearing.	-

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
	Manuherekia Catchment Group FPI005.006)		
LF – Land and freshwater			
LF - General	Ngāi Tahu ki Murihiku FPI042.007	Accept s. 42A report recommendation except as set out in the table below	-
LF-WAI - General submission	Kāi Tahu ki Otago FSFPI1030.019 (on DCC FPI001.005)	Agree with s. 42A report that this provision is out of scope of this hearing	-
Objective LF-WAI-O1 Te Mana o te Wai	Kāi Tahu ki Otago FPI030.015; FSFPI1030.027 (on Federated Farmers FPI026.018), FSFPI1030.055 (on Meridian Energy FPI016.010), FSFPI1030.085 (on OWRUG FPI043.051) Te Rūnanga o Ngāi Tahu FPI032.014 Ngāi Tahu ki Murihiku FPI042.008	Accept 42A report recommendation except as follows: a) Restore the notified version of clause 2; and b) Amend clause 4A to read: (1) (4A) <i>protecting the health and well-being of water protects the wider environment and the mauri of water ...</i>	Integrated management; Te Mana o te Wai , Evidence of Maria Bartlett, [25] – [32]
Policy LF-WAI-P1 Prioritisation	Kāi Tahu ki Otago FPI030.016; FSFPI1030.007 (on Contact Energy FPI027.016); FSFPI1030.020 (on DCC FPI001.007), FSFPI1030.033	Accept s. 42A report recommendation	Te Mana o te Wai

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
	(on Fulton Hogan FPI033.001), FSFPI1030.042 (on Horticulture NZ FPI047.013), FSFPI1030.045 (on Manawa Energy FPI022.004), FSFPI1030.056 (on Meridian Energy FPI016.011), FSFPI1030.071 (on Oceana Gold FPI031.004) Te Rūnanga o Ngāi Tahu FPI032.015		
Principal reasons LF-WAI-PR1	Kāi Tahu ki Otago FPI030.017; FSFPI1030.004 (on Central Otago Winegrowers Assn FPI009.005), FSFPI1030.011 (on Dairy NZ FPI024.017), FSFPI1030.028 (on Federated Farmers FPI026.020), FSFPI1030.043 (on Horticulture NZ FPI047.014), FSFPI1030.057 (on Meridian Energy FPI016.012), FSFPI1030.087 (on OWRUG FPI043.057)	Accept s. 42A report recommendation	Te Mana o te Wai

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
	Te Rūnanga o Ngāi Tahu FPI032.016		
LF – WAI – New AER	Kāi Tahu ki Otago FSFPI1030.086 (on OWRUG FPI043.054)	Reject FPI043.054 (this does not appear to be subject of any s.42A report recommendations)	Te Mana o te Wai
LF-WAI-AER2	Kāi Tahu ki Otago FPI030.018; FSFPI1030.088 (on OWRUG FPI043.058), FSFPI1030.103 (on Royal Forest and Bird Protection Society FPI045.007) Te Rūnanga o Ngāi Tahu FPI032.017 Ngāi Tahu ki Murihiku FPI042.009	Amend as follows: <i>The mauri of Otago's water bodies and the The health and well-being of water bodies and freshwater ecosystems protects the wider environment and the mauri of water is protected, and restored where degraded.</i>	Evidence of Maria Bartlett, [34] – [37]
LF-VM - General	Kāi Tahu ki Otago FPI030.019 Te Rūnanga o Ngāi Tahu FPI032.018	Accept s. 42A report recommendation except for specific amendments to LF-VM-O2, LF-VM-O3, LF-VM-O4 and LF-VM-O5, LF-VM-O6 as set out elsewhere in this table, and the following amendments to LF-FW-O1A: <i>In all FMUs and rohe in Otago and within the timeframes specified in the freshwater visions in LF-VM-O2 to LF-VM-O6: (1) healthy freshwater and estuarine ecosystems support healthy <u>flourishing</u> populations of indigenous species and mahika kai that are safe for consumption,</i>	Freshwater visions, Evidence of Maria Bartlett, [42] – [43]

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
		<p><i>(2) the interconnection of land, freshwater (including <u>springs, groundwater, ephemeral waterbodies, wetlands, rivers, streams and lakes</u>) and coastal water is recognised,</i></p> <p><i>(3) indigenous species migrate easily and as naturally as possible,</i></p> <p><i>(4) the natural <u>form, and character, including form and function and the flow patterns, of water bodies (including aquifers)</u> reflects their natural characteristics and natural behaviours to the greatest extent practicable,</i></p> <p><i>(x) <u>The quality of water reflects the natural range at all points along the course of water bodies (including aquifers),</u></i></p> <p><i>(z) Existing wetlands are restored and the area of wetlands is increased,</i></p> <p><i>(5) the ongoing relationship of Kāi Tahu with wāhi tūpuna, including access to and use of water bodies, is sustained,</i></p> <p><i>(6) the health of the water supports the health of people and their connections with water bodies,</i></p> <p><i>(7) innovative and sustainable land and water management practices provide for the health and well-being of water bodies and freshwater ecosystems and improve resilience to the effects of climate change, and</i></p> <p><i>(8) direct discharges of wastewater to water bodies are phased out to the <u>greatest extent practicable.</u></i></p>	
LF-VM – General submission	Kāi Tahu ki Otago FSFPI1030.034 (on Fulton Hogan FPI033.002)	Accept s. 42A report recommendation on FPI1033.001. (FPI033.002 does not appear in the s. 42A report but is similar to FPI1033.001)	Te Mana o te Wai

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
Objective LF-VM-O2 Clutha Mata-au FMU vision	Kāi Tahu ki Otago FPI030.020; FSFPI1030.013, FSFPI1030.014 (on DOC FPI044.008, FPI044.009); FSFPI1030.021 (on DCC FPI001.008), FSFPI1030.081 (on OWRUG FPI043.001), FSFPI1030.105 (on Waka Kotahi FPI018.001) Te Rūnanga o Ngāi Tahu FPI032.019 Ngāi Tahu ki Murihiku FPI042.010	Amend as follows: <i><u>In the Clutha Mata-au FMU, and in addition to the matters in LF-FW-O1A:</u></i> ... <i><u>(2) the ecosystem connections between freshwater, wetlands and the coastal environment are preserved and, wherever possible, restored.</u></i> <i><u>(3) sustainable abstraction occurs from lakes, river main stems or groundwater in preference to tributaries.</u></i> ... <i>(7A) in the Lower Clutha rohe, opportunities to restore the natural form and function of water bodies are promoted wherever possible, land management practices reduce discharges of nutrients and other contaminants to waterbodies so that they are safe for the health needs of people, and</i> <i>(8) the outcomes sought in (7) are to be achieved within the following timeframes:</i> <i>(a) by 2030 in the Upper Lakes rohe, and</i> <i>(b) by 2045 in the Dunstan, Manuherekiā, Roxburgh and Lower Clutha rohe, and</i> <i>(c) by 2050 in the Manuherekiā rohe.</i>	Freshwater visions, Evidence of Maria Bartlett, [20] – [24], [38] and [52] – [54]

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
LF-VM-O3 – North Otago FMU vision	Kāi Tahu ki Otago FPI030.021; FSFPI1030.015 (on DOC FPI044.010)	Amend as follows: <i>By 2050 2045 in the North Otago FMU, and in addition to the matters in LF-FW-O1A:</i> ...	Freshwater visions Evidence of Maria Bartlett, [38]
LF-VM-O4 – Taieri FMU vision	Kāi Tahu ki Otago FPI030.022; FSFPI1030.016 (on DOC FPI044.011), FSFPI1030.022 (on DCC FPI001.010), FSFPI1030.029 (on Federated Farmers FPI026.024), FSFPI1030.046 (on Manawa Energy FPI022.005), FSFPI1030.082 (on OWRUG FPI043.002)	Amend as follows: <i>By 2050 2045 in the Taieri FMU, and in addition to the matters in LF-FW-O1A:</i> ... <i>(5A) within limits, the allocation of fresh water provides for land-based primary production that supports the social, economic, and cultural well-being of communities in this FMU.</i>	Freshwater visions Evidence of Maria Bartlett, [38]
LF-VM-O5 – Dunedin & Coast FMU vision	Kāi Tahu ki Otago FPI030.023; FSFPI1030.017 (on DOC FPI044.012), FSFPI1030.023 (on DCC FPI001.012), FSFPI1030.106 (on Waka Kotahi FPI018.002)	Amend as follows: <i>By 2040 in the Dunedin & Coast FMU, and in addition to the matters in LF-FW-O1A:</i> ...	Freshwater visions Evidence of Maria Bartlett, [38]
LF-VM-O6 – Catlins FMU vision	Kāi Tahu ki Otago FPI030.024; FSFPI1030.018 (on DOC FPI044.013)	Amend as follows: <i>By 2030 in the Catlins FMU, and in addition to the matters in LF-FW-O1A:</i> ...	Freshwater visions Evidence of Maria Bartlett, [38]

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
	Ngāi Tahu ki Murihiku FPI042.011		
LF-VM-P5 – Freshwater Management Units (FMUs) and rohe	Kāi Tahu ki Otago FPI030.025; FSFPI1030.030 (on Federated Farmers FPI026.027)	Accept s. 42A report recommendation	Integrated management
LF-VM-P6 – Relationship between FMUs and rohe	Kāi Tahu ki Otago FPI030.026; FSFPI1030.008 (on Contact Energy FPI027.022), FSFPI1030.072 (on Oceana Gold FPI031.005) Te Rūnanga o Ngāi Tahu FPI032.020	Accept s. 42A report recommendation	-
LF-VM-E2 – Explanation	Kāi Tahu ki Otago FPI030.027	Accept s. 42A report recommendation	-
LF-FW - General	Kāi Tahu ki Otago FPI030.045	Accept s. 42A report recommendation, provided that LF-FW-O1A is amended as recommended elsewhere in this table	Freshwater visions
LF-FW - General	Kāi Tahu ki Otago FSFPI1030.083 (on OWRUG FPI043.003)	Accept s. 42A report recommendation	Freshwater visions

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
LF-FW - General	Kāi Tahu ki Otago FSFPI1030.093 (on QLDC FPI046.015)	Accept s. 42A report recommendation	Te Mana o te Wai
LF-FW – New provision	Kāi Tahu ki Otago FSFPI1030.050 (on McArthur Ridge Vineyard FPI041.007)	Accept s. 42A report recommendation	Te Mana o te Wai
LF-FW – New provision	Kāi Tahu ki Otago FSFPI1030.059 (on Meridian Energy FPI016.018)		Other LF-FW provisions
LF-FW – New provision	Kāi Tahu ki Otago FSFPI1030.070 (on NZSki FPI038.012), FSFPI1030.101 (on Realnz FPI039.014)	Accept s. 42A report recommendation	Other LF-FW provisions
LF-FW – New provision	Kāi Tahu ki Otago FSFPI1030.078 (on Otago Fish & Game FPI037.021)	Accept s. 42A report recommendation	Other LF-FW provisions
LF-FW-O8 – Fresh water	Kāi Tahu ki Otago FPI030.028; FSFPI1030.005 (on Central Otago Winegrowers Assn FPI009.007), FSFPI1030.077 (on Otago Fish & Game FPI037.015) Te Rūnanga o Ngāi Tahu FPI032.022	Accept s. 42A report recommendation, provided that LF-FW-O1A is amended as recommended elsewhere in this table	Freshwater visions

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
LF-FW-O9 – Natural wetlands	Kāi Tahu ki Otago FPI030.029; FSFPI1030.107 (on Wise Response FPI035.012) Te Rūnanga o Ngāi Tahu FPI032.023	Accept s. 42A report recommendation	Other LF-FW provisions
LF-FW-P7 – Fresh water	Kāi Tahu ki Otago FPI030.030; FSFPI1030.002 (on Beef & Lamb/ Deer Industry NZ FPI025.028), FSFPI1030.047 (on Manawa Energy FPI022.006), FSFPI1030.061 (on Moutere Station FPI023.010), FSFPI1030.109 (on The Fuel Companies FPI034.002) Te Rūnanga o Ngāi Tahu FPI032.021	<p>1. Amend LF-FW-P7 as follows:</p> <p>...</p> <p><i>(2) the habitats of indigenous freshwater species <u>with life stages dependent on water bodies</u> are protected and sustained, including by providing for fish passage,</i></p> <p>...</p> <p>2 Amend LF-FW-P7A as follows:</p> <p><i>LF-FW-P7A – Water allocation and use</i></p> <p>Within limits and in <i>In accordance with any relevant environmental flows and levels, the benefits of using fresh water are recognised and over-allocation is either phased out or avoided by:</i></p> <p><i>(x) managing over-allocation as set out in LF-FW-M6;</i></p> <p><i>(1) allocating fresh water efficiently to support the social, economic, and cultural well-being of people and communities to the extent possible within limits, including for:</i></p>	Other LF-FW provisions

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
		<p><i>(a) community drinking water supplies,</i></p> <p><i>(b) renewable electricity generation,</i></p> <p><i><u>(y) mana whenua needs and aspirations,</u> and</i></p> <p><i>(c) land-based primary production,</i></p> <p><i>(2) ensuring that no more fresh water is abstracted than is necessary for its intended use,</i></p> <p><i>(3) ensuring that the efficiency of freshwater abstraction, storage, and conveyancing infrastructure is improved, including by providing for off-stream storage capacity <u>in locations where this will support Te Mana o te Wai,</u> and</i></p> <p><i>(4) providing for spatial and temporal sharing of allocated fresh water between uses and users where feasible.</i></p>	
LF-FW-P9 – Protecting natural wetlands	Kāi Tahu ki Otago FPI030.031; FSFPI1030.069 (on NZSki FPI038.011), FSFPI1030.092 (on QLDC FPI046.011), FSFPI1030.100 (on Realnz FPI039.013)	Accept s. 42A report recommendation	-
LF-FW-P10 – Restoring natural wetlands	Kāi Tahu ki Otago FPI030.032 Te Rūnanga o Ngāi Tahu FPI032.024	Amend as follows: <i>Improve the ecosystem health, hydrological functioning, water quality and extent of natural wetlands that have been degraded or lost by requiring, where possible:</i>	Other LF-FW provisions

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
		<p>(1) <u>to the greatest extent practicable, an increase in the extent and condition of habitat for indigenous species,</u></p> <p>(2) <u>where possible:</u></p> <p>(a) <u>the restoration of hydrological processes,</u></p> <p>(3) <u>(b) control of pest species and vegetation clearance, and</u></p> <p>(4) <u>(c) the exclusion of stock.</u></p>	
<p>LF-FW-P15 – Stormwater and wastewater discharges</p>	<p>Kāi Tahu ki Otago FPI030.033; FSFPI1030.104 (on Transpower New Zealand FPI013.003) Te Rūnanga o Ngāi Tahu FPI032.025</p>	<p>1. Amend LF-FW-P15A as follows:</p> <p><i>Minimise the adverse effects of direct and indirect discharges of stormwater to fresh water by:</i></p> <p>(1) <i>requiring: ...</i></p> <p><u>(d) consideration of the use of on-site systems to attenuate flow and filter stormwater prior to discharge into any reticulated system.</u></p> <p>...</p> <p><u>(da) on-site stormwater management systems to be in accordance with best practice.</u></p> <p>...</p> <p>(3) to the greatest extent practicable, <i>requiring the reticulation of stormwater in urban areas except where an integrated catchment management plan shows an alternative system will produce better freshwater outcomes, and</i></p>	<p>Stormwater and wastewater management</p>

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
		<p>...</p> <p>2. Amend LF-FW-P16 as follows:</p> <p>Minimise <u>Avoid</u> the adverse effects of direct and indirect discharges containing animal effluent, sewage and industrial and trade waste to fresh water by:</p> <p>(2) phasing out existing discharges containing sewage or industrial and trade wastes directly to water to the greatest extent possible,</p> <p>(3) requiring:</p> <p>...</p> <p>(c) that all discharges containing sewage or industrial and trade waste are discharged into a reticulated wastewater system, where one is made available by its owner, unless alternative treatment and disposal methods will result in improved environmental outcomes,</p> <p>...</p> <p>(4) promoting source control as a method for reducing contaminants in discharges <u>containing industrial and trade waste.</u></p>	
LF-FW-M6 – Regional plans	Kāi Tahu ki Otago FPI030.034; FSFPI1030.006 (on Central	Amend as follows: ...	Other LF-FW provisions

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
	<p>Otago Winegrowers Assn FPI009.009), FSFPI1030.025 (on DCC FPI001.032), FSFPI1030.031 (on Federated Farmers FPI026.033), FSFPI1030.038 (on John Highton FPI007.017), FSFPI1030.044 (on Horticulture NZ FPI047.025), FSFPI1030.048 (on Manawa Energy FPI022.009), FSFPI1030.051 (on McArthur Ridge Vineyard FPI041.010), FSFPI1030.058 (on Meridian Energy FPI016.017), FSFPI1030.089 (on OWRUG FPI043.069), FSFPI1030.110 (on The Fuel Companies FPI034.004)</p>	<p><u>(9) recognise and respond to Kāi Tahu cultural and spiritual concerns about mixing of water between different catchments.</u></p>	
<p>LF-FW-M7 – District plans</p>	<p>Kāi Tahu ki Otago FPI030.035</p>	<p>Accept s. 42A report recommendation</p>	<p>-</p>
<p>LF-FW-M8 – Action plans</p>	<p>Kāi Tahu ki Otago FPI030.036</p>	<p>Accept s. 42A report recommendation</p>	<p>-</p>

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
LF-FW-E3 – Explanation	Kāi Tahu ki Otago FPI030.037	Accept s. 42A report recommendation	-
LF-FW-PR3 – Principal reasons	Kāi Tahu ki Otago FPI030.038	Accept s. 42A report recommendation	-
LF-FW-AER4, LF-FW-AER5, LF-FW-AER6, LF-FW-AER7, LF-FW-AER8, LF-FW-AER11	Kāi Tahu ki Otago FPI030.039	Accept s. 42A report recommendation except as follows: Reinstate LF-FW-AER7 as follows: <u>Water in Otago's aquifers is suitable for human consumption, unless that water is naturally unsuitable for consumption</u>	Freshwater visions, Other LF-FW provisions
LF-FW-AER9	Kāi Tahu ki Otago FPI030.040 Te Rūnanga o Ngāi Tahu FPI032.026 Ngāi Tahu ki Murihiku FPI042.012	Amend as follows: Direct discharges of wastewater to water are phased out to the greatest extent practicable and the frequency of wastewater overflows is reduced.	Stormwater and wastewater management
LF-FW-AER10	Kāi Tahu ki Otago FPI030.039 Ngāi Tahu ki Murihiku FPI042.013	Amend as follows: <u>Direct discharges of stormwater to water bodies are reduced across the region and the quality of stormwater discharges from existing urban areas is improved.</u>	Evidence of Maria Bartlett, [60]
LF-LS - General	Ngāi Tahu ki Murihiku FPI042.014 Kāi Tahu ki Otago FSFPI1030.064 (on Ngāi Tahu ki Murihiku FPI042.014)	Accept s. 42A report recommendation	-

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
LF-LS - General	Kāi Tahu ki Otago FSFPI1030.003 (on Beef & Lamb/ Deer Industry NZ FPI025.044)	Accept s. 42A report recommendation	-
LF-LS-P18 – Soil erosion	Kāi Tahu ki Otago FPI030.041	Accept s. 42A report recommendation	
LF-LS-P21 – Land use and fresh water	Kāi Tahu ki Otago FPI030.042	<p>Amend as follows:</p> <p><i>The health and well-being of water bodies <u>and freshwater ecosystems</u> is maintained or, if degraded, improved to meet environmental outcomes set for Freshwater Management Units and/or rohe by:</i></p> <p><i>(1) reducing or otherwise managing the adverse effects of direct and indirect discharges of contaminants to water from the use and development of land, and</i></p> <p><i>(2) ...</i></p> <p><i>(3) <u>managing riparian margins to maintain or enhance their habitat and biodiversity values, reduce sedimentation of water bodies and support natural flow behaviour.</u></i></p>	LS provisions
LF-LS-M11 – Regional plans	Kāi Tahu ki Otago FPI030.043; FSFPI1030.079 (on Otago Fish & Game FPI037.022), FSFPI1030.091 (on Otago forestry companies FPI036.004), FSFPI1030.095	<p>Amend clause 2 as follows:</p> <p><i>(2) <u>provide for changes in land use that improve the sustainable and efficient allocation and use of fresh water and that reduce water demand where there is existing over-allocation, and ...</u></i></p>	LS provisions

PORPS provision	Submission point/ further submission point	Recommendation	Reference in evidence
	(on Rayonier Matariki Forests FPI014.004)		
LF-LS-AER14	Kāi Tahu ki Otago FPI030.044	Accept s. 42A report recommendation	-
Maps			
MAP1	Kāi Tahu ki Otago FPI030.045; FSFPI1030.032 (on Federated Farmers FPI026.038) Te Rūnanga o Ngāi Tahu FPI032.027	Accept s. 42A report recommendations (4)	Integrated management