

Before the Independent Hearings Commissioners

Mai I Kā Kaikōmihana Motuhake

**Under the** Resource Management Act 1991

**In the matter** hearing of the submissions and further submissions on the proposed Te Tai o Poutini Plan:  
Hearing One - Introduction and General Provisions  
Hearing Two – Strategic Direction

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**LEGAL SUBMISSIONS ON BEHALF OF TE RŪNANGA O NGĀTI WAEWAE, TE  
RŪNANGA O MAKAAWHIO AND TE RŪNANGA O NGĀI TAHU  
(Submitter 620 and Further Submission FS41)**

**16 October 2023**

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**May it please the Panel:**

**1. INTRODUCTION**

**1.1** These submissions are given on behalf of Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu, collectively referred to in these submissions as “**Ngāi Tahu**”. Ngāi Tahu lodged a submission (S620) and further submissions (FS41) in relation to the proposed Te Tai o Poutini Plan (**proposed TTPP**).

**1.2** As explained in the evidence of Ms Veronica Baldwin-Smith, Ngāi Tahu are manawhenua of the Te Tai o Poutini region (the West Coast). As identified in the Te Rūnanga o Ngāi Tahu Act 1996 (**Ngāi Tahu Act**), the Ngāi Tahu Deed of Settlement 1997 (**Deed of Settlement**) and the Ngāi Tahu Claims Settlement Act 1998 (**Settlement Act**), Ngāi Tahu’s takiwā extends over the West Coast in its entirety.

**1.3** As Ngāi Tahu holds rangatiratanga over its takiwā, it feels a strong responsibility to ensure the sustainable use and management of natural resources and the environment on the West Coast. Through the proposed TTPP process Ngāi Tahu seeks to exercise kaitiakitanga and to ensure there is sufficient protection and acknowledgement of mahinga kai practices.

**1.4** This is the first opportunity for Ngāi Tahu to address you on the content of the proposed TTPP. As such, these submissions cover those matters which sit at the core of the Ngāi Tahu submission – their identity, their relationship with te taiao, and the history associated with that relationship.

## 2. WITNESSES

2.1 Ngāi Tahu filed evidence from the following expert witnesses in support of its submissions on hearing streams 1 and 2:

- (a) **Veronica Jane Baldwin-Smith** – Cultural Expert. Ms Baldwin-Smith’s evidence provides an overview of Ngāi Tahu’s relationship with the West Coast, and the importance of its rangatiratanga rights as mana whenua of that area. This evidence explains why Ngāi Tahu is committed to partnering with the Buller, Grey and Westland District Councils, and underpins its interest in the TTPP; and
- (b) **Rachael Pull** – Planner. Ms Pull’s evidence sets out the high degree of agreement between the section 42A reporting officer for hearing streams 1 and 2, and Ngāi Tahu. Appendix 1 of her evidence provides a summary of the Ngāi Tahu submission points and the position of the reporting officer. The substance of Ms Pull’s evidence focuses on the confined areas where there is not agreement.

## 3. NGĀI TAHU’S INVOLVEMENT WITH THE TTPP

3.1 At the outset Ngāi Tahu recognises the high degree of collaboration that has occurred in the development of the TTPP. As required by the Local Government Reorganisation Scheme (West Coast Region) Order 2019, representatives from Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio are members of the Te Tai o Poutini Plan Committee (**TTPP Committee**). Ms Baldwin-Smith discusses Francois Tumahai and Paul Madgwick’s membership of the TTPP Committee at paragraph [12].

3.2 Ngāi Tahu acknowledges the collaborative approach taken in the development of the TTPP and, again as discussed by Ms Baldwin-Smith, considers that this approach

taken is in keeping with the spirit of the Paetae Kotahitanga ki Te Tai Poutini, and the Mana Whakahono ā Rohe agreement with the West Coast Regional Council.<sup>1</sup>

#### **4. STATUTORY FRAMEWORK**

**4.1** For Ngāi Tahu, the relationship with their takiwā is one of whakapapa and ahi kā with extensive occupation and use patterns. As kaitiaki, Ngāi Tahu are bound to ensure the wairua and mauri of the land and water are maintained. Degradation of the waterways and land negatively impacts on the mana of individuals and their hapū and iwi, as well as their collective identity.

**4.2** The reason for Ngāi Tahu to be involved in resource management issues on the West Coast arises not only from the recognition of their interests in Part 2 of the Resource Management Act 1991 (**RMA**), but further from the inextricable link to the settlement of Treaty of Waitangi claims, including Te Kerēme that resulted in the Settlement Act.

#### **The settlements for historical breaches of Te Tiriti o Waitangi**

**4.3** Consideration of Ngāi Tahu's perspective on the integrated management of the natural and physical resources cannot occur in a vacuum. By necessity, this consideration must take into account the position as it exists today as a result of the Crown's acknowledged historical breaches of Te Tiriti o Waitangi.

**4.4** As discussed by Ms Baldwin-Smith in her evidence, the contemporary relationship between the Crown and Ngāi Tahu is defined by:

- (a) Te Tiriti o Waitangi;
- (b) The Ngāi Tahu Act;
- (c) the Deed of Settlement and
- (d) the Settlement Act.

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<sup>1</sup>[https://www.wcrc.govt.nz/repository/libraries/id:2459ikxj617q9ser65rr/hierarchy/Documents/Publications/Strategies/Mana%20Whakahono%20a%20Rohe%20Arrangement\\_WebInteractive.pdf](https://www.wcrc.govt.nz/repository/libraries/id:2459ikxj617q9ser65rr/hierarchy/Documents/Publications/Strategies/Mana%20Whakahono%20a%20Rohe%20Arrangement_WebInteractive.pdf)

- 4.5 In addition to, and consistent with, the statutory considerations under the RMA, the obligations and principles contained in these documents apply to the Buller, Grey and Westland District Councils as arms of the Crown. Specifically, as the High Court stated in *Ngāti Maru Ki Hauraki Inc v Kruithof*:<sup>2</sup>

*It is the responsibility of successors to the Crown, which in the context of local government includes the council, to accept the responsibility for delivering on the second article promise...[The council] is answerable to the whole community for giving effect to the Treaty vision in the manner expressed in the RMA.*

- 4.6 As discussed by Ms Pull in her evidence, the Ngāi Tahu Act provides for the modern structure of Ngāi Tahu. Of particular relevance, section 15 confirms the status of Te Rūnanga o Ngāi Tahu as being the iwi authority with respect to matters affecting Ngāi Tahu Whanui<sup>3</sup>:

**15 Status of Te Runanga o Ngai Tahu**

- (1) *Te Runanga o Ngai Tahu shall be recognised for all purposes as the representative of Ngai Tahu Whanui.*
- (2) *Where any enactment requires consultation with any iwi or with any iwi authority, that consultation shall, with respect to matters affecting Ngai Tahu Whanui, be held with Te Runanga o Ngai Tahu.*
- (3) *Te Runanga o Ngai Tahu, in carrying out consultation under subsection (2),—*
- (a) shall seek the views of such Papatipu Runanga of Ngai Tahu Whanui and such hapu as in the opinion of Te Runanga o Ngai Tahu may have views that they wish to express in relation to the matter about which Te Runanga o Ngai Tahu is being consulted; and*

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<sup>2</sup> *Ngāti Maru Ki Hauraki Inc v Kruithof* HC Hamilton CIV 2004-485-330, 11 June 2004 at [57].

<sup>3</sup> Section 2 of the Ngāi Tahu Act includes the following definition of Ngai Tahu Whanui:  
*In this Act, unless the context otherwise requires, Ngai Tahu Whanui means the collective of the individuals who descend from the primary hapu of Waitaha, Ngati Mamoe, and Ngai Tahu, namely, Kati Kuri, Kati Irakehu, Kati Huirapa, Ngai Tuahuriri, and Kai Te Ruahikihiki.*

*(b) shall have regard, among other things, to any views obtained by Te Runanga o Ngai Tahu under paragraph (a); and*

*(c) shall not act or agree to act in a manner that prejudices or discriminates against, any Papatipu Runanga of Ngai Tahu or any hapu unless Te Runanga o Ngai Tahu believes on reasonable grounds that the best interests of Ngai Tahu Whanui as a whole require Te Runanga o Ngai Tahu to act in that manner.*

**4.7** In respect of the TTPP, Te Rūnanga o Ngāi Tahu is therefore the relevant iwi authority that is to be consulted in accordance with any requirement under the RMA.

**4.8** The Deed of Settlement and the Settlement Act resolved the Ngāi Tahu Claim. The nine “tall trees” of Te Kerēme, consisting of eight major land transactions (including Te Tai Poutini) and mahinga kai as the ninth tree, resulted in a Waitangi Tribunal inquiry during which the Crown conceded that it had failed to ensure that Ngāi Tahu were left ample lands for their present and future needs.<sup>4</sup>

**4.9** Section 6 of the Settlement Act contains the Crown apology to Ngāi Tahu. Section 6(2) of the Settlement Act recorded the unconscionable and repeated breaches of Te Tiriti by the Crown in its dealings with Ngāi Tahu in its purchases of Ngāi Tahu land, which included the eight “tall trees” referred to above. The Crown also acknowledged that it had failed to set aside adequate lands for Ngāi Tahu and to provide adequate economic and social resources, in relation to those deeds of purchase.

**4.10** Section 6(3) recorded the Crown’s acknowledgement that it has breached Article 2 of Te Tiriti by failing to preserve and protect Ngāi Tahu of such use and ownership of their land and valued possessions as they wished to retain.

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<sup>4</sup> Refer to the quote from the Waitangi Tribunal provided at paragraph [30] of Ms Baldwin-Smith’s Evidence.

**4.11** Importantly, section 6(7) of the Settlement Act recognises Ngāi Tahu as “the tangata whenua of, and as holding rangatiratanga within, the takiwā of [Ngāi] Tahu Whānui”. This is important as it specifically provides that the Crown recognises rangatiratanga, in fulfilment of its Te Tiriti obligations. The Ngāi Tahu Act recognises the takiwā of Ngai Tahu Whanui at section 5. Ms Pull has attached a map of the takiwā as Appendix Two to her evidence, which shows that it encompasses the entirety of the land subject to the TTPP.

**4.12** Section 6(8) of the Settlement Act also provides that the Crown wishes to “enter a new age of co-operation with [Ngāi] Tahu”.

## **Part 2 of the RMA**

**4.13** As acknowledged by the High Court:<sup>5</sup>

*There is comprehensive provision within the RMA for Māori and iwi interests, both procedurally and substantively. In this regard ss 6(e), 7(a) and 8 in Part 2 of the RMA are of particular importance. These are strong directions to be borne in mind at every stage of the planning process.*

**4.14** In accordance with section 74 of the RMA, the TTPP is required to be prepared and changed in accordance with a number of factors. Of relevance to Ngāi Tahu’s interests, this requirement includes the provisions of Part 2.

**4.15** Part 2 of the RMA provides, amongst other matters, for the following in achieving its sustainable management purpose:

- (a) recognition and provision for the relationship of Ngāi Tahu and their culture and traditions with their ancestral lands, waters, wāhi tapu and other taonga<sup>6</sup> as a matter of national importance;
- (b) the ability for Ngāi Tahu to exercise kaitiakitanga in relation to the West Coast. Kaitiakitanga is defined in section 2 to mean “*the exercise of guardianship by tangata whenua of an area in accordance with tikanga*”

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<sup>5</sup> *Ngāti Paoa Trust Board v Auckland Council* [2022] NZHC 893, at [76].

<sup>6</sup> RMA, section 6(e) Matters of National Importance - *the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*

*Māori in relation to natural and physical resources and includes the ethic of stewardship”;*<sup>7</sup> and

- (c) the principles of Te Tiriti o Waitangi are to be taken into account in the exercise of functions and powers under the RMA (including decision making in relation to the TTPP).<sup>8</sup>

**4.16** The sustainable management purpose of the RMA includes the management of natural and physical resources in a way or at a rate that provides for current and future generations. Ms Baldwin-Smith’s evidence details the background to the breaches of Te Tiriti, the subsequent redress, and the need to recognise the special role and responsibilities Ngāi Tahu has as mana whenua of the West Coast. Their role as rangatira and katiaki of the region underpin their submission on the TTPP. As expressed by Ms Baldwin-Smith Ngāi Tahu feels “*a strong responsibility for the sustainable use and management of natural resources and the environment – mō tātou, ā, mō kā uri ā muri ake nei (for us and our children after us).*”<sup>9</sup> The relief sought through Ngāi Tahu’s submission is therefore aligned with achieving the sustainable management purpose of the RMA.

#### **Relevance of higher order planning documents**

**4.17** Further considerations required by the Council are set out in sections 74 and 75, in particular section 75(3) requires:

- (3) *A district plan must give effect to—*
- (a) *any national policy statement; and*
  - (b) *any New Zealand coastal policy statement; and*
  - (ba) *a national planning standard; and*
  - (c) *any regional policy statement.*

**4.18** The following national policy statements (**NPS**) include objectives and policies that are particularly relevant to Ngāi Tahu’s submission on the TTPP:

- (a) New Zealand Coastal Policy Statement: objective 3, and policy 2;
- (b) National Policy Statement for Freshwater Management: objective, and policies 1 and 2;

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<sup>7</sup> RMA, section 7(a).

<sup>8</sup> RMA, section 8.

<sup>9</sup> Refer to [57].

- (c) National Policy Statement for Indigenous Biodiversity: objective 2.1(1)(b)(i), and policy 2;
- (d) National Policy Statement for Urban Development: objective 5, and policy 9.

**4.19** The NPS listed above will have direct relevance to the Panel’s consideration of specific TTPP topics and chapters. They are raised here for completeness, and to acknowledge the national recognition of Te Tiriti o Waitangi principles, acknowledge tangata whenua involvement and values in planning processes and the role of mana whenua as katiaki. The objectives and policies identified above are set out in **Attachment A** to these submissions.

**4.20** In relation to the provisions being considered in Hearing Streams 1 and 2, the West Coast Regional Policy Statement (**WCRPS**) is submitted to be of particular relevance. Chapter 2 of the WCRPS identifies the following “Significant issues for Poutini Ngāi Tahu”, as being significant resource management issues for the West Coast:

1. *Expression of rangitiratanga through active involvement in resource management decision-making.*
2. *The need for integrated environmental management of and between all resources, reflecting ki uta ki tai.*
3. *It is important to Poutini Ngāi Tahu that the life-supporting capacity of the environment is safeguarded, and this capacity is restored where it has been impaired by use and development of resources.*
4. *The need to use resources, including mahinga kai resources, to sustain the community.*
5. *The obligation to protect wāhi tapu and other taonga for future generations.*
6. *The wise and efficient allocation and use of non-mineral resources within their capacity to regenerate themselves, and having regard to the effects of the use.<sup>10</sup>*

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<sup>10</sup> Refer to page 7, WCRPS.

**4.21** The above issues are then expanded upon and discussed further in the provisions of the WCRPS, in particular in Chapter 3. That chapter identifies two objectives and four policies that seek to address the significant resource management issues for Poutini Ngāi Tahu. These objectives and policies are set out in **Attachment A**.

**4.1** The TTPP is required to “give effect to” the WCRPS. The term ‘give effect’ is a strong statutory directive. “Give effect to” simply means “implement”, it places a firm obligation on the Panel in respect of the TTPP’s content.

**4.2** However, in relation to the requirement to “give effect to” a national policy statement, the Supreme Court in *King Salmon* stated:<sup>11</sup>

*The implementation of such a directive will be affected by what it relates to, that is, what must be given effect to. A requirement to give effect to a policy which is framed in a specific and unqualified way may, in a practical sense, be more prescriptive than a requirement to give effect to a policy which is worded at a higher level of abstraction.*

**4.3** The WCRPS objectives and policies set out in **Attachment A** provide specific recognition of Ngāi Tahu’s special relationship with te taio, and are prescriptive in the outcomes they are seeking. This relates to requirements to provide for the protection of ancestral land, wāhi tapu, water, sites, and other taonga, acknowledges Poutini Ngāi Tahu’s role as katiaki (which is to be given particular consideration in RMA decision making and practice), and requires Poutini Ngāi Tahu’s aspirations regarding development of papakāinga housing be recognised and supported.

**4.4** The objectives and policies are both process based (objective 1, policies 1 and 2), and also provide clear direction as to how Poutini Ngāi Tahu’s rangatiratanga rights are to be recognised (objective 2, policies 3 and 4). In accordance with the requirement to “give effect to” the WCRPS, and the Supreme Court’s direction above, significant weight should be given to those objectives and policies.

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<sup>11</sup> *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited* [2014] NZSC 38 at [80].

- 4.5 These objectives and policies not only relate to these hearing streams, but are also relevant to consideration of Ngāi Tahu’s submission on the TTPP as a whole.

#### **Mana Whakahono ā Rohe - Iwi Participation Arrangement**

- 4.6 A Mana Whakahono ā Rohe - Iwi Participation Arrangement was signed by representatives from Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio, Te Rūnanga o Ngāi Tahu, and West Coast Regional Council, at the Arahura Marae on 22 October 2020.

- 4.7 Section 58M of the RMA sets out the purpose of Mana Whakahono ā Rohe, which includes:

*to assist local authorities to comply with their statutory duties under this Act, including through the implementation of sections 6(e), 7(a), and 8.*

- 4.8 This Arrangement formally acknowledges the partnership and relationship between Council and Ngāi Tahu, and includes the Paetae Kotahitanga ki Te Tai Poutini - Partnership Protocol.

- 4.9 As explained by Ms Pull in her evidence, Ngāi Tahu’s submission sought consistency between the TTPP and the Mana Whakahono ā Rohe. The Mana Whakahono ā Rohe was entered into with the Regional Council and therefore relates to the same spatial area as the TTPP. It is considered to be a highly relevant document for consideration by the Panel, as it will assist in particular to ensure that it is complying with its obligation to give effect to sections 6(e), 7(a), and 8.

### **5. RELIEF SOUGHT IN HEARING STREAMS 1 AND 2**

- 5.1 As acknowledged by Ms Pull<sup>12</sup> there has been a high level of support for Ngāi Tahu’s submission and further submissions in the recommendations made in the section 42A reports for hearing streams 1 and 2. The table attached to her evidence as Appendix 1 details each of Ngāi Tahu’s submission points and the response on the

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<sup>12</sup> Refer to paragraph [31] and appendix 1.

section 42A. These submissions touch on some of the matters identified by Ms Pull as remaining outstanding.

- 5.2 The legislative context above provides justification for the relief sought by Ngāi Tahu in its submission on the TTPP.

### ***Hearing Stream 1 – Introduction and General Provisions***

#### **Ngāi Tahu values as a consent consideration**

- 5.3 Through its submission Ngāi Tahu has sought that consideration of Poutini Ngāi Tahu values be added as a matter of control or discretion on all controlled or restricted discretionary activities. Ngāi Tahu's values are identified in the Tangata Whenua chapter of the TTPP, and are consistent with the WCRPS, and the West Coast Land and Water Plan<sup>13</sup>. Ms Pull has provided detail on each of the values in Table 3 in her evidence.
- 5.4 Recognition of Ngāi Tahu values, as sought by the submission, is submitted to give effect to sections 6(e), 7(a) and 8 of the RMA, and to the objectives and policies of the WCRPS (particularly those set out in **Attachment A**), and will assist with ensuring that the adverse effects of activities on those areas are managed to ensure they meet the purpose of the RMA.<sup>14</sup>
- 5.5 Identification of Ngāi Tahu values as matters of control and discretion enable a decision maker to consider those values when considering applications for resource consent. Not including reference to those values will mean that they cannot be taken into account in decision making on controlled or restricted discretionary activities.
- 5.6 Ngāi Tahu acknowledges that its values may not be relevant to the consideration of all controlled or restricted discretionary activities as this will depend on the nature and scale of an activity proposed to be undertaken by an applicant.

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<sup>13</sup> Refer to the Resource Management Issues of Significance to Poutini Ngāi Tahu section in the West Coast Regional Policy Statement and the Poutini Ngāi Tahu / Ngāi Tahu Perspective discussion in the West Coast Land and Water Plan.

<sup>14</sup> Refer Objective 2 and Policy 2 of the WCRPS in particular (Chapter 3 Resource Management Issues of Significance to Poutini Ngāi Tahu)

However, it is difficult to know whether those values will be relevant for decision making until an application is being considered.

- 5.7** Schedule 4 of the RMA sets out the requirements for information that is required in an application for resource consent. Of relevance, clause 2(2) requires an assessment of the activity against the relevant provisions in a document, and clause 1 states:

*Any information required by this schedule, including an assessment under clause 2(1)(f) or (g), must be specified in sufficient detail to satisfy the purpose for which it is required.*

- 5.8** Where a matter of control or discretion is not considered relevant to the activity for which consent is sought, it does not need to be discussed in detail in the consent application. For example if Ngāi Tahu values are not relevant to an application (e.g. a minor infringement of external storage standards in a commercial zone that has no impact on Ngāi Tahu's interests) then this can be covered off briefly in the assessment of environmental effects.

- 5.9** As this submission point will be relevant to multiple topics and hearings, as set out at paragraph [89(d)] of Ms Pull's evidence, Ngāi Tahu requests that the Panel provide a direction that can be used for later hearings as to its position on this submission point. This approach is intended to avoid the need for this issue to continue to be raised in multiple hearings.

### **Removal of overlays**

- 5.10** Grey District Council sought the removal, review or reassessment of all of the overlays in the TTPP. Ngāi Tahu lodged a further submission in opposition to this submission point.

- 5.11** No evidence has been filed by Grey District Council, and therefore there remains no evidential basis for the wholesale removal of overlays from the TTPP. Conversely, the section 32 analysis in support of the TTPP provides justification as

to why the inclusion of each of the overlays is considered to be efficient and effective in achieving the objectives of the TTPP.

- 5.12** Furthermore, a number of the overlays (for example significant natural areas, outstanding natural landscapes, sites of significance to Māori) are required to meet the requirements of Part 2 of the RMA, and to give effect to national policy statements<sup>15</sup> and/or the national planning standard.

### **Tangata whenua chapter**

- 5.13** Ngāi Tahu generally supports the provisions of the Tangata Whenua chapter as set out in the section 42A report. Ms Pull's evidence discusses some fairly minor amendments sought to this chapter which have been proposed for accuracy and clarity.

### **Definitions**

- 5.14** Ms Pull has set out Ngāi Tahu's position on a number of definitions. As a general position, Ngāi Tahu supports the discussion of the definitions for particular terms within the context of the relevant hearing stream which includes the provisions that use the term. As an example, the definition for "sensitive activities" should be considered in the 'Noise' hearing stream so that the term can be considered within the context of the provisions that use it.
- 5.15** As Ms Pull has discussed the amendments sought to definitions in some detail, other than one exception, these submissions do not specifically address the proposed amendments to definitions.
- 5.16** In relation to the definition of "camping grounds" Ngāi Tahu requests that the proposed definition be amended to clarify that the term does not include nohoanga. Although Ngāi Tahu did not directly submit on this definition, the scope

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<sup>15</sup> For example the New Zealand Coastal Policy Statement, and the National Policy Statement for Indigenous Biodiversity.

for the clarification now proposed by Ngāi Tahu derives from its submissions seeking appropriate recognition of nohoanga sites.<sup>16</sup>

- 5.17** Nohoanga sites traditionally refer to areas used by Ngāi Tahu in the pursuit of food and other natural resources. In accordance with section 256(2) of the Settlement Act:

*Nohoanga entitlements are created and granted for the purpose of permitting members of Ngāi Tahu Whānui to occupy temporarily land close to waterways on a non-commercial basis, so as to have access to waterways for lawful fishing and gathering of other natural resources.*

- 5.18** The proposed definition of “camping grounds” references a requirement that the land be used “for rent, hire, donation, or otherwise for reward”. Given that nohoanga entitlements are provided to enable temporary occupation of land “on a non-commercial basis”, the definition would exclude nohoanga. However, to ensure that this is clear to plan users, and to appropriately recognise nohoanga within the TTPP, Ngāi Tahu seeks a minor clarification to make it clear that nohoanga are not captured within the definition of “camping grounds”.

## ***Hearing Stream 2 – Strategic Directions***

### **Objective POU-O2**

- 5.19** Ngāi Tahu supported the notified version of Objective POU-O2, which reads:

*To include Te Tai Poutini wide provisions to support Poutini Ngāi Tahu exercise of cultural rights and interests including:*

- a. Establishment of papakāinga;*
- b. Access to mahinga kai and cultural materials;*
- c. Management of Pounamu and Aotea stone; and*
- d. Management of taonga and wāhi tapu*

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<sup>16</sup> Submission points 620.025, and 620.057.

- 5.20** Te Tumu Paeroa - The office of the Māori Trustee (submitter 440) seeks the introduction of a “where appropriate” qualifier in the chapeau of this objective.<sup>17</sup> Ngāi Tahu opposes the inclusion of a “where appropriate” qualifier.
- 5.21** First and foremost, as the West Coast is within Ngāi Tahu’s takiwā, over which it has rangatiratanga, for the reasons set out in section 4 of these submissions, in order to fully give effect to Part 2 of the RMA and the WCRPS it is not appropriate to qualify its rights and interests.
- 5.22** Second, it is submitted that this submission point goes beyond the legislative role of the Māori Trustee. The Māori Trustee explains in her submission that the Trustee is appointed by the Minister for Māori Development to provide for the administration and management of whenua and other client assets in compliance with the principles and obligations of trusteeship and agency, and in accordance with the Māori Trustee Act 1953. The submission also notes that “[a] primary objective of The Māori Trustee, is to protect, utilise and grow the assets of our Māori land owners.”<sup>18</sup>
- 5.23** The amendment sought to Objective POU-O2 does not relate to whenua or assets administered by the Māori Trustee. Rather, Ngāi Tahu considers that the addition of the qualifier would curtail Ngāi Tahu’s rangatiratanga rights without a connection back to the assets administered by the Māori Trustee. For the reasons set out in these submissions, Ngāi Tahu opposes the amendment sought to Objective POU-O2.

## **6. CONCLUSION**

- 6.1** These submissions are provided in support of Ngāi Tahu’s submission as it relates to the Introduction/Whole Plan, and Strategic Directions provisions. For reasons set out in the evidence of Ms Baldwin-Smith, Ms Pull and these submissions, Ngāi Tahu:

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<sup>17</sup> Te Tumu Paeroa seeks the following Amendment to POU-O2:  
*To include Te Tai Poutini wide provisions to support Poutini Ngāi Tahu exercise of cultural rights and interests, where appropriate, including...*

<sup>18</sup> Paragraphs [15] – [20], in the Appendix to submission 440.

- (a) Generally supports the recommendations made by the section 42A officer (as identified in Appendix 1 to Ms Pull's evidence); and
- (b) Requests further amendments be made to the provisions as identified in paragraph [89] of Ms Pull's evidence.

**Katherine Viskovic**

20 October 2023

Counsel for Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu

## **Attachment A – Relevant Objectives and Policies from higher order planning documents**

### **New Zealand Coastal Policy Statement 2010**

Objective 3: To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:

- recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;
- promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;
- incorporating mātauranga Māori into sustainable management practices; and
- recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.

Policy 2: The Treaty of Waitangi, tangata whenua and Māori heritage in taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi), and kaitiakitanga, in relation to the coastal environment:

- (a) recognise that tangata whenua have traditional and continuing cultural relationships with areas of the coastal environment, including places where they have lived and fished for generations;
- (b) involve iwi authorities or hapū on behalf of tangata whenua in the preparation of regional policy statements, and plans, by undertaking effective consultation with tangata whenua; with such consultation to be early, meaningful, and as far as practicable in accordance with tikanga Māori;
- (c) with the consent of tangata whenua and as far as practicable in accordance with tikanga Māori, incorporate mātauranga Māori in regional policy statements, in plans, and in the consideration of applications for resource consents, notices of requirement for designation and private plan changes;
- (d) provide opportunities in appropriate circumstances for Māori involvement in decision making, for example when a consent application or notice of requirement is dealing with cultural localities or issues of

- cultural significance, and Māori experts, including pūkenga, may have knowledge not otherwise available;
- (e) take into account any relevant iwi resource management plan and any other relevant planning document recognised by the appropriate iwi authority or hapū and lodged with the council, to the extent that its content has a bearing on resource management issues in the region or district; and
    - (i) where appropriate incorporate references to, or material from, iwi resource management plans in regional policy statements and in plans; and
    - (ii) consider providing practical assistance to iwi or hapū who have indicated a wish to develop iwi resource management plans;
  - (f) provide for opportunities for tangata whenua to exercise kaitiakitanga over waters, forests, lands, and fisheries in the coastal environment through such measures as:
    - (i) bringing cultural understanding to the monitoring of natural resources;
    - (ii) providing appropriate methods for the management, maintenance and protection of the taonga of tangata whenua;
    - (iii) having regard to regulations, rules or bylaws relating to ensuring sustainability of fisheries resources such as taiāpure, mahinga mātaītai or other non-commercial Māori customary fishing; and
  - (g) in consultation and collaboration with tangata whenua, working as far as practicable in accordance with tikanga Māori, and recognising that tangata whenua have the right to choose not to identify places or values of historic, cultural or spiritual significance or special value:
    - (i) recognise the importance of Māori cultural and heritage values through such methods as historic heritage, landscape and cultural impact assessments; and
    - (ii) provide for the identification, assessment, protection and management of areas or sites of significance or special value to Māori, including by historic analysis and archaeological survey and the development of methods such as alert layers and

predictive methodologies for identifying areas of high potential for undiscovered Māori heritage, for example coastal pā or fishing villages.

## **National Policy Statement for Freshwater Management 2020**

### OBJECTIVE

1. The objective of this National Policy Statement is to ensure that natural and physical resources are managed in a way that prioritises:
  - (a) first, the health and well-being of water bodies and freshwater ecosystems
  - (b) second, the health needs of people (such as drinking water)
  - (c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

### POLICIES

Policy 1: Freshwater is managed in a way that gives effect to Te Mana o te Wai.

Policy 2: Tangata whenua are actively involved in freshwater management (including decision making processes), and Māori freshwater values are identified and provided for.

## **National Policy Statement on Urban Development 2020**

Objective 5: Planning decisions relating to urban environments, and FDSs, take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

Policy 9: Local authorities, in taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) in relation to urban environments, must:

- (a) involve hapū and iwi in the preparation of RMA planning documents and any FDSs by undertaking effective consultation that is early, meaningful and, as far as practicable, in accordance with tikanga Māori; and
- (b) when preparing RMA planning documents and FDSs, take into account the values and aspirations of hapū and iwi for urban development; and
- (c) provide opportunities in appropriate circumstances for Māori involvement in decision-making on resource consents, designations, heritage orders, and water conservation orders, including in relation to sites of significance to Māori and issues of cultural significance; and

- (d) operate in a way that is consistent with iwi participation legislation.

## **National Policy Statement for Indigenous Biodiversity 2023**

### 2.1 Objective

1. The objective of this National Policy Statement is:
  - (a) to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date; and
  - (b) to achieve this:
    - (i) through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and
    - (ii) by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and
    - (iii) by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and
    - (iv) while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.

Policy 2: Tangata whenua exercise kaitiakitanga for indigenous biodiversity in their rohe, including through:

- (a) managing indigenous biodiversity on their land; and
- (b) identifying and protecting indigenous species, populations and ecosystems that are taonga; and
- (c) actively participating in other decision-making about indigenous biodiversity.

## **Chapter 3 Objectives and Policies from the WCRPS**

### OBJECTIVES

1. To take into account the principles of the Treaty of Waitangi in the exercise of functions and powers under the RMA.
2. Recognise and provide for the relationship of Poutini Ngāi Tahu and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga within the West Coast Region.

## POLICIES

1. Acting cooperatively and in good faith, the Regional and District Councils will continue to provide opportunities for active involvement of tangata whenua in resource management processes under the RMA.
2. In consultation with Poutini Ngāi Tahu, provide for the protection of ancestral land, wāhi tapu, water, sites, and other taonga from the adverse effects of activities, in a manner which is consistent with the purpose of the RMA.
3. The special relationship that Poutini Ngāi Tahu have with te taiao (the environment), and their economic, cultural, and spiritual values, including their role as kaitiaki, will be given particular consideration in resource management decisions and practices.
4. The aspirations of Poutini Ngāi Tahu concerning the development of papakāinga housing on Poutini Ngāi Tahu land will be recognised and supported.