

Summary of legal submissions on behalf of Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu

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Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu jointly made a submission and further submissions on the proposed Te Tai o Poutini Plan. Ngāi Tahu has a longstanding and deep relationship with the West Coast which have been recognised by the Crown in its acknowledgement of the Ngāi Tahu rangatiratanga rights and its mana over this area. Through its submission Ngāi Tahu seeks that these rights are respected, recognised and provided for in the TTPP.

In relation to this hearing topic, Ngāi Tahu has filed expert evidence from:

- (a) **Veronica Jane Baldwin-Smith** – Cultural Expert.
- (b) **Rachael Pull** – Planner.

Ngāi Tahu acknowledges the collaborative approach taken in the development of the TTPP, including the involvement of Francois Tumahai and Paul Madgwick's membership of the TTPP Committee on behalf of Te Rūnanga o Ngāti Waewae, and Te Rūnanga o Makaawhio.

The contemporary relationship between the Crown and Ngāi Tahu is defined by:

- (a) Te Tiriti o Waitangi;
- (b) Te Rūnanga o Ngāi Tahu Act 1996;
- (c) the Ngāi Tahu Deed of Settlement 1997; and
- (d) the Ngāi Tahu Claims Settlement Act 1998.

Ngāi Tahu are mana whenua of the West Coast, and their takiwā extends across the Coast in its entirety. 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 and other rights guaranteed to them through their settlement.

For completeness, the Ngāi Tahu Act recognises that Te Rūnanga o Ngāi Tahu is to be recognised as the representative of Ngāi Tahu Whānui, and for the purposes of the RMA Te Runanga o Ngāi Tahu is to be recognised as the iwi authority for matters affecting Ngāi Tahu Whānui.

Approach to consideration of the TTPP

I have reviewed the opening legal submissions on behalf of the Te Tai o Poutini Plan Committee, and agree with counsel's summary of the legal framework to be considered when developing and considering a district plan.

Of relevance a district plan is required to achieve the purpose of the RMA.¹ As set out at paragraph [4.15] of my submissions, in considering the TTPP this this requires the Panel to:

- (a) recognise and provide for the relationship of Ngāi Tahu and their culture and traditions with their ancestral lands, waters, wāhi tapu and other taonga² as a matter of national importance;

¹ RMA, sections 72 and 74.

² 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.*

- (b) have regard to 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 Māori in relation to natural and physical resources and includes the ethic of stewardship*”;³ and
- (c) take into account the principles of Te Tiriti o Waitangi.⁴

The Ngāi Tahu settlement and the related legislation is highly relevant to the Panel’s consideration of these matters through the TTPP process.

The TTPP is also required to give effect to relevant higher order planning documents. This includes relevant national policy statements and the West Coast Regional Policy Statement. The objectives and policies that are relevant to Ngāi Tahu will be discussed in the expert evidence presented on its behalf during the hearings on the TTPP. **Attachment A** to my legal submissions sets out a number of provisions that are relevant to consideration of the TTPP, and the relief sought in the submission made by Ngāi Tahu.

Relevant to the broader context of the RMA framework that applies to the West Coast, the West Coast Regional Council has signed a Mana Whakahono ā Rohe with Te Rūnanga o Makaawhio, Te Rūnanga o Ngāti Waewae and Te Rūnanga o Ngāi Tahu. This document was developed to assist the Regional Council with complying with its statutory duties under the RMA, including through the implementation of sections 6(e), 7(a) and 8. Given the Mana Whakahono ā Rohe extends over the same area as the TTPP, in my submission it will have a high degree of relevance for the Panel in understanding its obligations in relation to the tangata whenua aspects of Part 2 of the RMA.

Relief sought in hearing topics 1 and 2

There is a high degree of agreement between Ngāi Tahu and the position set out in the section 42A report.

Ms Pull’s evidence provides detailed analysis of Ngāi Tahu’s submission points and the areas where there is not agreement with the section 42A report recommendations. I have expanded on a number of these points from paragraph [5.3] of my written submissions. There are two points I wish to briefly comment on:

- (a) First, Ngāi Tahu seeks that its values are included as a matter of control or discretion for all controlled and restricted discretionary activities in the TTPP. To assist the Panel, Table 3 of Ms Pull’s evidence sets out Ngāi Tahu values. Not accepting this relief would prevent those values from being considered by decision-makers for future applications for resource consent for controlled and restricted discretionary activities. I signal here that this issue is likely to be considered across a number of hearings on the TTPP.
- (b) Second, nohoanga entitlements are guaranteed to Ngāi Tahu through its settlement. As these entitlements are recognised by statute they are distinct from other camping activities. Therefore in my submission the TTPP needs to be clear that nohoanga should not be characterised as a camping ground, and should clearly not be captured by any provisions relating to freedom camping.

³ RMA, section 7(a).

⁴ RMA, section 8.

Although it sits outside the TTPP, I also note that it is inappropriate for nohoanga to be subject to freedom camping bylaws or any similar regulation.