

Before the Hearings Panel

For the Proposed Te Tai o Poutini Plan (TTP Plan)

**Under the** Resource Management Act 1991

**In the matter** of the Proposed Te Tai o Poutini Plan – Hearing One: Introduction and General Provisions and Hearing Two: Strategic Direction to provide for papakāinga.

Outcome of Online Meetings Held 1 and 6 November 2023

The Office of the Māori Trustee: Vanesa Griffiths, Hannah McKinlay, Sonya Rimene and Ngahuia Huirama (Submission 440)

Poutini Ngāi Tahu: Veronica Baldwin, Francois Tumahaï and Paul Madgwick, Philippa Lynch and Rachael Pull (Submission 620)

**Positions** (Summarised in the meetings)

- The Office of the Māori Trustee seek to advocate for Māori freehold landowners.
- Poutini Ngāi Tahu seek to exercise tino rangatiratanga for Ngāi Tahu members.

### **Scene Setting**

1. We are familiar with the Environment Court Code of Practise 2023 as it relates to expert witnesses and conferencing, having read the relevant parts within the last twelve months, have complied with it in all aspects of participating in this conference and preparing this statement.
2. All references to the TTP Plan are the version in the s42A report of Lois Easton circulated 18 September 2023;
3. During our discussions, the following points were made in agreement by both submitters:
  - a. Poutini Ngāi Tahu are the mana whenua of the Te Tai o Poutini/West Coast region;
  - b. People who have proven whakapapa to the region (either through the Māori Land Court or in the Whakapapa Unit of Te Rūnanga o Ngāi Tahu) should have the ability to undertake papakāinga activities within the region;
  - c. As not all Poutini Ngāi Tahu members may be able to at this time, register with the whakapapa unit, providing the option of verification of whakapapa to the region through being confirmed as an owner of Māori land through the Māori Land Court process is reasonable and won't allow just anyone to undertake papakāinga; and

- d. Poutini Ngāi Tahu want to retain the ability for registered Ngāi Tahu members to undertake papakāinga no matter what the status of the land.

### The definition of Papakāinga

4. The current definition in the plan for papakāinga is:  
*means a development for Poutini Ngāi Tahu residing on the West Coast providing residential accommodation for members of Poutini Ngāi Tahu and may also include communal buildings and facilities.*
5. The only higher order document that defines papakāinga is the National Statement of Plantation Forestry/Commercial Forestry which states:  
*means a traditional layout of residential accommodation where dwellings are erected to exclusively house members of a whānau, hapū, or iwi, on land that is owned by the whānau, hapū, or iwi, and is Maori land within the meaning of section 4 of Te Ture Whenua Maori Act 1993 (including Māori customary land and Māori freehold land)*
6. This definition is focused on effect identification for forestry and does not reflect what papakāinga is as an activity.
7. After discussion, the definition we jointly put forward is:  
*Papakāinga means a development on **Māori land** which provides residential accommodation, including communal buildings and facilities, for the benefit of members of Poutini Ngāi Tahu and others who whakapapa to Poutini Ngāi Tahu.*
8. The important parts of this definition to note are:
  - a. that it includes people who whakapapa to the region even if they are not registered with Te Rūnanga o Ngāi Tahu or live in the region;
  - b. that it is still limited to those who whakapapa to the region;
  - c. that through the inclusion of 'Māori Land', Council has a way of verifying who these provisions provide for (see definition discussion below); and
  - d. that it is not limited to land classified as 'Māori Land' by title.

### The definition of Māori Land

- a. The definition of 'specified Māori land' in the National Policy Statement for Indigenous Biodiversity (NPS-IB) is focused on an exemption in relation to biodiversity provisions and is not fit to achieve the agreed points above of enabling papakāinga.
- b. The current TTP Plan definition which is focused on enabling mana whenua states:

*means:*

- a. *Land owned by Te Rūnanga o Ngāi Tahu, Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio or one of their holding companies;*
  - b. *Land gazetted or determined by order of the Māori Land Court as Māori reservation under s338 Te Ture Whenua Māori Act 1993;*
  - c. *Māori customary and Māori freehold land as defined in s4 and s129 of Te Ture Whenua Māori Act 1993;*
  - d. *Any land where:*
    - i. *A status declaration under the Māori Affairs Amendment Act 1967 was made converting Māori freehold land to general title, and where there have been no changes of ownership since the conversion other than to an owner's bloodline successor(s); or*
    - ii. *One or more owners are able to provide written evidence of Whakapapa to the original grantees of the land as confirmed by the Te Rūnanga o Ngāi Tahu Whakapapa Unit or the Māori Land Court; or*
    - iii. *The land is vested in a Trust constituted pursuant to Part 12 of Te Ture Whenua Māori Act 1993 or a Māori incorporation constituted pursuant to Part 13 of the Te Ture Whenua Māori Act 1993.*
- c. The National Planning Standard states in regard to multiple definitions of the same term:
1. *Where terms defined in the Definitions List are used in a policy statement or plan, and the term is used in the same context as the definition, local authorities must use the definition as defined in the Definitions List. However if required, they may define:*
    - a. *terms that are a subcategory of, or have a narrower application than, a defined term in the Definitions List. Any such definitions must be consistent with the higher level definition in the Definitions List.*
    - b. *additional terms that do not have the same or equivalent meaning as a term defined in the Definitions List. ...*
  6. *If a term is used in more than one context (eg, 'bed' may relate to the bottom of a river or a place to sleep), local authorities must, in their Definitions chapter, add the context in which the term is defined in brackets after the term name eg, bed (in relation to lakes, rivers and the sea).*
- d. From this, it can be concluded that defined terms that are used in different contexts is allowed as long as the definition is clear.

9. After discussion, the Office of the Māori Trustee stated that both definitions achieve their purpose in regards to papakāinga. Poutini Ngāi Tahu seek to retain the ability establish papakāinga on sites not defined by Māori title or held by a holding company as in the original definition of papakāinga.
10. Since the defined version of Māori Land is not used anywhere else in the TTP Plan, should the proposed definition of papakāinga be adopted, that the following amendments to the definition of Māori Land are also made as a consequential amendment:



*Māori Land means **(in relation to provisions for papakāinga):***

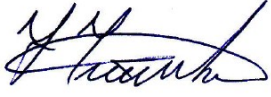

- a. *Land owned by Te Rūnanga o Ngāi Tahu, Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio or one of their holding companies;*
- b. *Land gazetted or determined by order of the Māori Land Court as Māori reservation under s338 Te Ture Whenua Māori Act 1993;*
- c. *Māori customary and Māori freehold land as defined in s4 and s129 of Te Ture Whenua Māori Act 1993;*
- d. *Any land where:*
  - iv. *A status declaration under the Māori Affairs Amendment Act 1967 was made converting Māori freehold land to general title, and where there have been no changes of ownership since the conversion other than to an owner's bloodline successor(s); or*
  - v. *One or more owners are able to provide written evidence of Whakapapa ~~to the original grantees of the land~~ to Poutini Ngāi Tahu as confirmed by the Te Rūnanga o Ngāi Tahu Whakapapa Unit or the Māori Land Court; or*
  - vi. *The land is vested in a Trust constituted pursuant to Part 12 of Te Ture Whenua Māori Act 1993 or a Māori incorporation constituted pursuant to Part 13 of the Te Ture Whenua Māori Act 1993.*

## **Conclusion**

11. We agree to the above statements and believe that it addresses the submission points specifically in relation to papakāinga. This does not create a prescient, provide a pathway or indicate any consensus regarding the Office of the Māori Trustee's other submission points to incorporate Māori landowners into other provisions within the TTP Plan that reference Poutini Ngāi Tahu.

Signatures and dates

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| Organisation | Te Tumu Paeroa – The Office of the Māori Trustee                                  | Te Rūnanga o Ngāi Tahu   |
| Name         | Dr Charlotte Severne  | Fiona McQuade  |
| Position     | The Māori Trustee   | General Manager  |
| Date         | 10/11/2023  | 10/11/2023   |

|              |  |   |
|--------------|--|---|
|              |  |  |
| Organisation | Te Rūnanga o Ngāti Waewae  | Te Rūnanga o Makaawhio  |
| Name         | Francois Tumahai   | Paul Madgwick   |
| Position     | Chairperson  | Chairperson   |
| Date         | 10/11/2023   | 10/11/2023  |

