

PROPOSED TE TAI O POUTINI PLAN HEARING TOPIC: MINING AND MINERAL EXTRACTION – NGĀI TAHU HEARING STATEMENT

(Submitter 620 and Further Submission FS41)

INTRODUCTION

1. Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu (Ngāi Tahu) have instructed me to advise the Hearing Panel of their concerns around some of the recommended rule changes proposed by David Badham, the Section 42 Officer for the Mining and Mineral Extraction topic in his Section 42A Officer Report.
2. Ngāi Tahu are concerned that some of the changes proposed by the Section 42A Officer will impact, and in places, potentially contradict and invalidate the more enabling provisions contained elsewhere in the proposed Te Tai o Poutini Plan (TTPP) specifically:
 - (a) the extraction of pounamu and aotea stone by Poutini Ngāi Tahu; and
 - (b) the use of the 'Pounamu and Aotea Management Area' Overlay to avoid the unauthorised and deliberate disturbance or removal of these resources by non-hapū members.
3. When I raised these concerns with Mr Badham in late April 2024 using his proposed amendments to Rule MINZ - R1 as an example, Mr Badham advised me that it was not his intention to override the more enabling SASM Rule SASM - R7 and he suggested that I highlight this matter in evidence so he could address it in this introductory statement prior to the hearing or else in his right of reply.
4. In this Statement I have:
 - (a) Identified the relevant provisions for Poutini Ngāi Tahu within the TTPP around enabling pounamu and aotea stone collection, extraction, and management.
 - (b) Identified the rules that Mr Badham has proposed amending in his Section 42A Officer Report, where these recommended amendments may impact or contradict the enabling provisions for Poutini Ngāi Tahu within other chapters of the TTPP around pounamu and aotea stone collection, extraction, and management. I have highlighted for the Hearing Panel the implications of the

proposed amendments for Poutini Ngāi Tahu if these recommendations were to be accepted.

- (c) Detailed the relief sought to ensure the enabling provisions for Poutini Ngāi Tahu within the TTPP around pounamu and aotea stone collection, extraction, and management are retained and that any potentially contradictory provisions are removed.

RELEVANT POUTINI NGĀI TAHU POUNAMU AND AOTEA TTPP PROVISIONS

- 5. The Strategic Direction Chapter of the proposed TTPP includes amongst other matters, the overarching direction for matters relating to Poutini Ngāi Tahu and matters relating to mineral extraction across the West Coast/Te Tai o Poutini. I consider the following provisions are the most relevant to pounamu and aotea stone.
- 6. Poutini Ngāi Tahu Strategic Objective POU - O2(c) states:

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

... (c) Management of Pounamu and Aotea stone; ...
- 7. Poutini Ngāi Tahu Strategic Policy POU - P6 states:

Support the implementation of the Pounamu Vesting Act and the management of Aotea Stone and Pounamu by Poutini Ngāi Tahu through the use of overlays and Plan provisions.
- 8. The Ngāi Tahu submission supported the wording of Poutini Ngāi Tahu Strategic Objective POU - O2 and the Strategic Policy POU - P2 in the proposed TTPP (submission points S620.069 and S620.077).
- 9. Mineral Extraction Strategic Objective MIN - O5 states:

To support Poutini Ngāi Tahu to manage their pounamu and aotea stone resources through the use of Pounamu and Aotea Management Area Overlays.
- 10. The Ngāi Tahu submission supported the wording of the Mineral Extraction Strategic Objective MIN - O5 in the proposed TTPP (submission point S620.062).

11. In addition to the Strategic Direction Chapter, the Sites and Areas of Significance to Māori (SASM) Chapter of the TTPP provides more detailed direction around the collection and extraction of pounamu and aotea stone by Poutini Ngāi Tahu and the use of the 'Pounamu and Aotea Management Areas' Overlay to avoid the unauthorised and deliberate disturbance or removal of these taonga resources by non-hapū members.
12. The amended wording proposed for SASM Policy SASM - P6 by Lois Easton, the Section 42A Officer for the SASM Chapter, states:

Within the Pounamu and Aotea Management overlay, enable tino rangatiratanga and kaitiakitanga of the pounamu and aotea resource by Poutini Ngāi Tahu and avoid the unauthorised deliberate disturbance or removal of this resource by non-hapu members.

13. I have underlined the recommended amendment proposed by Ms Easton, the Section 42A Officer for the SASM Chapter in the policy above for your reference.
14. The Ngāi Tahu submission supported the wording of the SASM Policy SASM - P6 in the proposed TTPP (submission point S620.112). The SASM hearing evidence prepared by the Ngāi Tahu Planner, Rachel Pull, supported the recommended amendment to the wording of SASM Policy SASM - P6 which was proposed by Ms Easton in her Section 42A Officer Report. Ms Pull in her planning evidence also suggested the addition of the word 'and' between 'unauthorised' and 'deliberate'.
15. Policy SASM - P11(a) states:

Recognise the significance to Poutini Ngāi Tahu of the sites and areas of significance to Māori listed in Schedule Three and protect the identified values of these sites and areas by and avoiding the following activities in, or in close proximity to, these areas:

(a) Mining and quarrying other than Poutini Ngāi Tahu collection of Pounamu and Aotea; ...

16. The Ngāi Tahu submission supported the wording of the SASM Policy SASM - P11 in the proposed TTPP (submission point S620.112).
17. The newly proposed SASM Policy (SASM - P16) by Ms Easton, in her Section 42A Officer Report for the SASM Chapter, states:

Recognise that pounamu and aotea are significant cultural resources and where these are owned by Poutini Ngāi Tahu within the pounamu and aotea management overlays support Poutini Ngāi Tahu management of them.

18. While the Ngāi Tahu Planner, Ms Pull, raised concerns around some of the wording of the newly proposed SASM Policy SASM - P16 by Ms Easton, these concerns did not relate to recognising that pounamu and aotea are significant cultural resources.
19. I consider the provisions referred to above from the Strategic Direction Chapter and the SASM Chapter provide an enabling direction around the collection and extraction of pounamu and aotea by Poutini Ngāi Tahu within the TTPP. The provisions within the Strategic Direction Chapter and the SASM Chapter of the TTPP also support the use of the 'Pounamu and Aotea Management Areas' Overlay to stop the unauthorised and deliberate disturbance or removal of these resources by non-hapū members.

RECOMMENDED CHANGES BY THE SECTION 42A OFFICER WHICH IMPACT POUNAMU AND AOTEA PROVISIONS

20. Appendix 1 of the Section 42A Officer Report for the Mining and Mineral Extraction topic contains Mr Badham's recommended amendments to the provisions in response to submissions. For continuity I have prepared a list of the rules of concern to Ngāi Tahu that Mr Badham has proposed amending using the same rule order adopted in Appendix 1 of his report. The amended rules of concern that impact the prospecting, exploration, extraction and management of pounamu and aotea are as follows:
 - (a) Mineral Extraction Zone Rule MINZ - R1 – recommended insertion of standard 6 into the permitted activity rule (page 5 of Appendix 1 of the Section 42A Report)
 - (b) Mineral Extraction Zone Rule MINZ - RX – recommended insertion of clause 2 into the restricted discretionary rule (page 8 of Appendix 1 of the Section 42A Report)
 - (c) Buller Coalfield Zone Rule BCZ - R1 – recommended insertion of standard 6 into the permitted activity rule (page 14 of Appendix 1 of the Section 42A Report)

- (d) Buller Coalfield Zone Rule BCZ - RX – recommended insertion of clause 2 into the restricted discretionary rule (page 18 of Appendix 1 of the Section 42A Report)
 - (e) Open Space Zone Rule OSZ - R11 – recommended insertion of standard 6 into the permitted activity rule (page 20 of Appendix 1 of the Section 42A Report)
 - (f) General Rural Zone Rule GRUZ - R11 – recommended insertion of standard 6 into the permitted activity rule (page 24 of Appendix 1 of the Section 42A Report)
 - (g) Rural Lifestyle Zone Rule RLZ - R11 – recommended insertion of standard 6 into the permitted activity rule (page 27 of Appendix 1 of the Section 42A)
 - (h) Settlement Zone Rule SETZ - R15 – recommended insertion of standard 6 into the permitted activity rule (page 29 of Appendix 1 of the Section 42A)
21. In the rules listed above, the wording of the proposed new standard 6 within all the permitted activities rules and the wording of the proposed new clause 2 within both of the restricted discretionary rules, recommended by Mr Badham, is generic in nature, in that it requires the activities which are the subject of the rule to not be allowed to occur within the sensitive areas listed within the standard or clause.

Permitted Activity Rules MINZ - R1, BCZ - R1, OSZ - R11, GRUZ - R11, RLZ - R11 and SETZ - R15

22. The Section 42A Officer has recommended several amendments to the permitted activity rules for mineral prospecting and mineral exploration including Rules MINZ - R1, BCZ - R1, OSZ - R11, GRUZ - R11, RLZ - R11 and SETZ - R15. The recommended inclusion of standard 6, in particular standard 6(d) into each of the rules listed above is of concern to Ngāi Tahu.
23. The result of proposed standard 6(d) being inserted into all the rules listed above is that it will prevent pounamu or aotea prospecting or exploration by Poutini Ngāi Tahu from being able to occur as a permitted activity within any SASM that Poutini Ngāi Tahu deem culturally appropriate for them to undertake prospecting or exploration for pounamu or aotea stone within. This is of concern to Ngāi Tahu as many of the SASM contain pounamu and aotea.

24. It was the intention of Ngāi Tahu that the 'Pounamu and Aotea Management Area' overlay not the 'SASM' overlay was to be used as the tool to manage the unauthorised and deliberate disturbance or removal of pounamu and aotea resources by non-hapū members. This is reflected in the provisions of the proposed TTPP and is why SASM Rules SASM - R7 and SASM - R11 refer to the 'Pounamu and Aotea Management Area' overlay and not the SASM overlay.
25. The recommended amendments proposed by Mr Badham to prevent certain activities from occurring with a SASM, via the inclusion of standard 6(d) into the permitted activity rules above will also result in Poutini Ngāi Tahu needing a resource consent for the prospecting or exploration of pounamu or aotea stone within any SASM. This recommended amendment by Mr Badham is not supported by Ngāi Tahu. It is also unclear in Appendix 1 where the scope for the inclusion of the SASM overlay into standard 6 of Rule MINZ - R1, Rule BCZ - R1, Rule OSZ - R11, Rule GRUZ - R11, Rule RLZ - R11 and Rule SETZ - R15 by Mr Badham comes from.
26. I note that attached to most of the rules listed above was an 'Advice Note' which advised plan users wanting to undertake mineral prospecting and mineral exploration within the Pounamu and Aotea Management Area overlay that they were also subject to the standards within Rule SASM - R7. Ngāi Tahu does not support Mr Badham's recommendations to delete these advice notes. Rule SASM - R7 in the proposed TTPP permits extraction of aotea by Te Rūnanga o Makaawhio subject to various matters and extraction of pounamu to Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio subject to various matters.
27. The Ngāi Tahu submission supported the use of the 'Pounamu and Aotea Management Area' overlay in SASM Rules SASM - R7 and SASM - R11 (submission points S620.112, S620.122 and S620.128). Neither SASM Rule SASM - R7 or SASM - R11 refer to the SASM overlay.
28. Ngāi Tahu seeks that if Rules MINZ - R1, BCZ - R1, OSZ - R11, GRUZ - R11, RLZ - R11 and SETZ - R15 are amended to include standard 6, that each rule is rewritten to make it clear that standard 6 does not apply to Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio undertaking pounamu or aotea mineral prospecting and exploration within a SASM.

Restricted Discretionary Rules MINZ - RX and BCZ - RX

29. The Section 42A Officer has recommended a new restricted discretionary activity rule within the Mineral Extraction Zone and Buller Coalfield Zone being Rule MINZ - RX and BCZ - RX. The recommended inclusion of subclause 2 within these two rules, in particular subclause 2(d) is of concern to Ngāi Tahu, for similar reasons as outlined above for Rules MINZ - R1, BCZ - R1, OSZ - R11, GRUZ - R11, RLZ - R11 and SETZ - R15. The proposed inclusion of subclause 2(d) into Rule MINZ - RX and BCZ - RX also prevents mineral related activities from occurring within the SASM overlay. This proposed subclause will prevent pounamu and aotea prospecting, exploration, extraction, processing and certain ancillary activities from occurring within any SASM as a restricted discretionary activity.
30. The amendment proposed by Mr Badham would result in Poutini Ngāi Tahu being unable to comply with this restricted discretionary activity status rule if they wanted to undertake any of these mining related activities within a SASM and consequently they would need a discretionary resource consent for prospecting, exploration, extraction, processing and certain ancillary activities associated with extracting pounamu or aotea within a SASM.
31. Ngāi Tahu seeks that if proposed new restricted discretionary Rules MINZ - RX and BCZ - RX are required, that these rules are rewritten to make it made clear that subclause 2 does not apply to Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio undertaking pounamu or aotea prospecting, exploration, extraction, processing and associated ancillary activities within a SASM.

Rule SASM - R7

32. I have noticed when checking Rule SASM - R7 against the Mineral Extraction rules, that Ms Easton, the Section 42A Officer for the SASM chapter proposed in her Section 42A Officer Report to make an amendment to the title of Rule SASM - R7 from the title notified in the proposed TTPP. Ms Easton has recommended amending the title of SASM - R7 to include the addition words 'Outside of Sites and Areas of Significance to Māori in Schedule 3'. Ms Easton has relied on the scope of a submission point made by the Department of Conservation (S602.059) for this recommended amendment.
33. I have reviewed the submission point made by the Department of Conservation and I do not consider it provides the scope for changing the title of this rule. Changing the title for this rule so that the rule only applies outside of SASM in Schedule 3 is not supported

by Ngāi Tahu. I understand that planner caucusing is to be set up in the next few weeks between the planners involved in providing evidence on the SASM chapter and I have asked the Ngāi Tahu planner, Ms Pull, to bring this scope matter to the attention of Ms Easton during this caucusing.

RELIEF SOUGHT

34. Ngāi Tahu seeks that if permitted activity Rules MINZ - R1, BCZ - R1, OSZ - R11, GRUZ - R11, RLZ - R11 and SETZ - R15 are amended to include standard 6, that each rule is rewritten to make it clear that standard 6 does not apply to Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio undertaking pounamu or aotea mineral prospecting and exploration within a SASM.
35. In addition, Ngāi Tahu seeks that if proposed new restricted discretionary Rules MINZ - RX and BCZ - RX are required, that these rules are rewritten to make it made clear that subclause 2 does not apply to Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio undertaking pounamu or aotea prospecting, exploration, extraction, processing and associated ancillary activities within a SASM.



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