

# ORC Omnibus Plan Change - Plan Change 1

## Submission Reference no: 18

Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga c/- Sandra McIntyre, **Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga**

Aukaha (1997) Ltd

PO Box 446

Dunedin 9054

Otago

New Zealand

Ph: 021 246 4138

sandra@aukaha.co.nz

**Submitter Type:** Not specified

**Source:** Email

### Overall Notes:

#### Clause

Are you a trade competitor?

#### Position

I am a person who would not gain an advantage in trade competition through this submission

#### Notes

#### Clause

What are you submitting on? You can submit on specific parts of Plan Change 1 or the whole plan change.

#### Position

I am submitting on the whole plan change.

#### Notes

#### Clause

What is your view on the Plan Change 1 or the specific parts listed above? Please select one, if you have multiple views state clearly in the notes box below.

#### Position

Support

#### Notes

#### Clause

The reason(s) for my views are:

#### Notes

See attached submission document.

#### Clause

What decision would you like the Environment Court to make?

#### Position

Approve the plan change

#### Notes

#### Clause

The reasons form my view and/or any amendment(s) I am seeking are:

#### Notes

See attached submission document.

#### Clause

Do you wish to be heard in support of your submission? All submissions will be considered by the Environment Court. Please indicate if you wish to be heard in support of your submission.

#### Position

I wish to be heard in support of my submission

**Notes****Clause**

Please indicate your choice(s) below. If you do not indicate your intention to call experts, you can change your mind later and decide to call experts to give evidence in relation to your submission, provided you do so in time to meet any procedural direction the Environment Court might make.

**Position 1**

I intend to call an expert witness

**Position 2**

If others make a similar submission I/we would consider presenting a joint case with them at a hearing

**Notes****Clause**

Authority to act:

**Position**

I confirm I have the authority to sign this submission on behalf of the submitter

**Notes**

See authorised signatory on attached submission document.

<b>SUBMISSION</b>	
<b>TO:</b>	Environmental Protection Authority
<b>DATE:</b>	17 August 2020
<b>PLAN CHANGE:</b>	Proposed Plan Change 1 to the Regional Plan: Waste for Otago
<b>KĀI TAHU KI OTAGO PAPATIPU RŪNAKA</b>	Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga (collectively <b>mana whenua</b> )
<b>TRADE COMPETITION:</b>	Mana whenua could not gain an advantage in trade competition through this submission
<p><b>Mana whenua support</b> the overall direction of Proposed Plan Change Plan 1 to the Regional Plan: Waste for Otago (<b>the Plan Change</b>) but seek some amendments.</p> <p><b>Mana whenua do</b> wish to be heard in support of this submission at a hearing and request an opportunity to expand on this submission. If others make a similar submission, we will consider presenting a joint case with them.</p>	

## 1. Introduction

- 1.1 Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga are mana whenua within the Otago region.
- 1.2 The takiwā of Te Rūnanga o Moeraki is based at Moeraki and extends from the Waitaki River to the Waihemo (Shag) River. The takiwā of Kāti Huirapa Rūnaka ki Puketeraki centres on Karitāne and extends from the Waihemo River (Shag River) to Purehurehu Point (north of Heyward Point). The takiwā of Te Rūnanga o Ōtākou centres on Ōtākou and extends from Purehurehu Point to Te Matau (the Clutha River). The takiwā of Hokonui Rūnanga centres on the Hokonui region and includes a shared interest in the lakes and mountains between Whakatipu-Waitai and Tawhititarere with other Murihiku Rūnanga and those located from Waihemo southwards.

1.3 This submission is supported by Te Rūnanga o Ngāi Tahu (Te Rūnanga). The submission should be read in conjunction with the submission of Te Rūnanga o Ngāi Tahu on behalf of Ngāi Tahu Whānui as a whole, and the submission of Te Ao Marama Incorporated on behalf of Murihiku Papatipu Rūnaka.

*Mana whenua in respect of the Otago region and water*

1.4 Two historical deeds are important in the Otago region. The Otago Deed was signed at Koputai (Port Chalmers) on 31 July 1844 for the purchase of half a million acres of coastal Otago for £2,400. On 12 June 1848, the Canterbury Deed of Purchase (otherwise known as ‘Kemp’s Deed’) was signed aboard the warship Fly in Akaroa Harbour. This Deed saw the Crown purchase twenty million acres of land in Canterbury and inland Otago for £2000. The 150-year history of the Kāi Tahu<sup>1</sup> claims founded in the deeds and Te Tiriti o Waitangi clearly demonstrate that both the deeds and Te Tiriti did not alter Kāi Tahu rights and rangatiratanga over freshwater.

*Tino Rakatirataka recognised under the Ngāi Tahu Settlement*

1.5 The Ngāi Tahu Claims Settlement Act 1998 (Settlement Act) gives effect to the Deed of Settlement signed by the Crown and Te Rūnanga o Ngāi Tahu on 21 November 1997. The purpose of these documents was to:

- confirm the Treaty relationship, obligations and responsibilities between Kāi Tahu and the Crown. The settlement marked the beginning of a “*a new age of co-operation*” between Kāi Tahu and the Crown. The Otago Regional Council must work in partnership with Te Rūnanga and Papatipu Rūnanga;
- achieve a final settlement of Kāi Tahu historical claims against the Crown as outlined in the settlement; and
- confirm Kāi Tahu tino rakatirataka. This includes an express acknowledgement (in both the Settlement Act and the earlier Deed) that:

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<sup>1</sup> The southern Māori Kāi Tahu dialect uses a ‘k’ interchangeably with ‘ng’. The preference for mana whenua is to use a ‘k’. In this document, the ‘k’ will be used except for names and references to legislation, except for the tribal entity, Te Rūnanga o Ngāi Tahu, or the wider Ngāi Tahu whānui.

*“The Crown apologises to Ngāi Tahu for its past failures to acknowledge Ngāi Tahu rangatiratanga and mana over the South Island lands within its boundaries, and, in fulfilment of its Treaty obligations, the Crown recognises Ngāi Tahu as the tāngata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui.”*

- 1.6 The Deed of Settlement and Settlement Act also acknowledge the requirement for Kāi Tahu to express its traditional relationship with the natural environment and to exercise its kaitiaki responsibilities.

#### *Kaitiakitaka*

- 1.7 All fresh water is of great significance to Kāi Tahu. Mana whenua have responsibilities through whakapapa to act as kaitiaki and care for catchments as a whole. The right of Kāi Tahu to oversee land, resources, aspirations and wellbeing was protected under the Te Tiriti o Waitangi, and this right still exists today, as recognised by the Kāi Tahu Settlement.

- 1.8 Section 2 of the Resource Management Act 1991 (**RMA**) provides the interpretation of tikaka/tikanga<sup>2</sup> and kaitiakitaka/kaitiakitanga for the purposes of the RMA:

**tikanga Māori** means Māori customary values and practices

**kaitiakitanga** means the exercise of guardianship by the tangata whenua of an area in accordance with tikanga Maori in relation to natural and physical resources; and includes the ethic of stewardship.

- 1.9 Tikaka values and practises associated with kaitiakitaka are dependent on, and reflect, the exercise of rakatirataka. Kāi Tahu tikaka is an intergenerational source of mātauraka that gives insight into customary views and practices and how they have evolved over time.

- 1.10 Section 7 of the RMA requires consent authorities to have ‘particular regard’ to kaitiakitaka in a manner that respects and accounts for tikaka unique to each iwi exercising kaitiakitaka within their rohe.

- 1.11 The Kāi Tahu ki Otago Natural Resource Management Plans 1995 and 2005 and the Waitaki Iwi Management Plan 2019 are the principal resource management planning documents for Kāi Tahu ki Otago and the embodiment of Kāi Tahu rakatirataka and kaitiakitaka. The kaupapa



of the plans is 'Ki Uta ki Tai' (Mountains to the Sea), which reflects the holistic Kāi Tahu ki Otago philosophy of resource management.

- 1.12 The plans express Kāi Tahu ki Otago values, knowledge and perspectives on natural resource and environmental management issues. While the plans are first and foremost planning documents to assist Kāi Tahu ki Otago in carrying out their kaitiaki roles and responsibilities, they are also intended to assist others in understanding tākata whenua values and policies.
- 1.13 As kaitiaki exercising rakatirataka over the water of the Otago region, mana whenua have both a responsibility and a right to ensure that decision-making puts the interests of the water first. Mana whenua request that this submission is afforded status and weight appropriate to recognise their rakatirataka and exercise of kaitiakitaka over the Otago region, and fresh water in particular.

## 2.0 Consultation with Mana whenua

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- 2.1 Mana whenua acknowledge the work that was undertaken by the Otago Regional Council to work with staff at Aukaha on drafting this plan change. This included multiple meetings and discussions around the wording of the provisions for this plan change. Mana whenua provided feedback via Aukaha throughout the pre-notification consultation process.

## 3.0 General submission

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- 3.1 The purpose of Proposed Plan Change 1 to the Otago Regional Plan: Waste is to strengthen Otago's regional planning framework in the interim period while a new Regional Policy Statement is prepared and the Water Plan and Waste Plan reviews are undertaken, by amending provisions for specific activities with known water quality impacts.
- 3.2 The National Policy Statement for Freshwater Management 2014 (amended 2017) (**NPSFM 2017**) requires that land use and development be sustainably managed to safeguard the life-supporting capacity and ecosystem processes of freshwater, and the health of people and communities as affected by contact with freshwater.<sup>3</sup>

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<sup>3</sup> NPSFM Objective A1

3.3 The National Policy Statement for Freshwater Management 2020 (**NPSFM 2020**) comes into force on 3 September 2020. The NPSFM requires that freshwater is managed in a way that gives effect to Te Mana o te Wai,<sup>4</sup> and describes six principles of Te Mana o te Wai. These are:

(a) *Mana whakahaere*: the power, authority, and obligations of tangata whenua to make decisions that maintain, protect, and sustain the health and well-being of, and their relationship with, freshwater

(b) *Kaitiakitanga*: the obligation of tangata whenua to preserve, restore, enhance, and sustainably use freshwater for the benefit of present and future generations

(c) *Manaakitanga*: the process by which tangata whenua show respect, generosity, and care for freshwater and for others

(d) *Governance*: the responsibility of those with authority for making decisions about freshwater to do so in a way that prioritises the health and well-being of freshwater now and into the future

(e) *Stewardship*: the obligation of all New Zealanders to manage freshwater in a way that ensures it sustains present and future generations

(f) *Care and respect*: the responsibility of all New Zealanders to care for freshwater in providing for the health of the nation.<sup>5</sup>

3.4 Policy 3 of the NPSFM 2020 requires that freshwater is managed in an integrated way that considers the effects of land use and development.

3.5 Both the Waitaki Iwi Management Plan and the Kāi Tahu ki Otago Resource Management Plan identify deteriorating water quality as a concern in the Otago region. Poor water quality has significant impacts on mahika kai, taonga species, drinking water sources and the mauri of waterways.

3.6 Mana whenua consider that all land users have a responsibility to manage their land in a way that avoids impacts on the quality of surface water and groundwater, and have long held concerns about weaknesses in the planning framework with respect to land use activities. Continuing failure to address the impacts of poor land management practices on water quality does not provide for the relationship of mana whenua to the freshwater resources of Otago,

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<sup>4</sup> NPSFM 2020, Policy 1.

<sup>5</sup> NPSFM 2020 1.3(4).

as required by section 6(e) of the RMA. It also inhibits the ability for mana whenua to sustain cultural practices and carry out kaitiakitaka responsibilities in respect to the water bodies.

- 3.7 The current planning framework is inconsistent with the RMA, NPSFM 2017 and NPSFM 2020 and fails to have sufficient regard to Kāi Tahu rakatirataka and kaitiakitaka. Mana whenua agree that an interim solution is necessary to improve management of high-risk activities while the Regional Plan: Water and Regional Plan: Waste are being reviewed. We support strengthening of policies and rules for managing dust suppressants and landfills in the Regional Plan: Waste to improve management of water quality effects, but have an expectation that the comprehensive plan review will incorporate additional measures to provide for management of other activities that are beyond the scope of this Plan Change.

#### 4.0 Specific Submissions

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- 4.1 Mana whenua submissions specific to each provision are shown in Appendix 1.
- 4.2 Mana whenua generally support the stronger policy and rule framework established in Proposed Plan Change 1 and consider that this will contribute to improved environmental outcomes for freshwater quality. Mana whenua seek that the provisions are retained.
- 4.3 If other submitters seek to change any provisions, we retain an interest across the entire Plan Change.

Nahaku noa, nā



**Maree Kleinlangevelsloo**  
Manager Mana Taiao (acting)



**Address for Service:**

Sandra McIntyre  
Principal Planner  
Aukaha (1997) Ltd  
PO Box 446  
Dunedin 9054  
E-mail: [sandra@aukaha.co.nz](mailto:sandra@aukaha.co.nz)



Appendix 1: Mana whenua submission Regional Plan: Waste (Plan Change 1)

Chapter / Provision	Support/oppose	Relief sought	Reason/comment
<b>Dust suppressants</b>			
Policy 6.4.10 Rules 6.6.2 and 6.6.3 New Rule 6.6.4	Support	Retain as notified.	Use of waste oil as a dust suppressant on roads can result in contamination of water bodies that may have significant adverse impacts on mahika kai and on the life-supporting capacity and mauri of freshwater resources. Mana whenua support strengthening the policy and rule framework to prevent use of waste oil and to encourage use of less hazardous alternatives, subject to appropriate controls. This will contribute to improved water quality outcomes and will better give effect to Te Mana o te Wai.
<b>Landfills</b>			
New Policy 7.4.11 Rules 7.6.1.1 and 7.6.1.2	Support	Retain as notified.	Contamination of freshwater and coastal waters by leachate or stormwater run-off from landfills can have significant adverse impacts on mahika kai and on the life-supporting capacity and mauri of freshwater resources and the coastal marine area. Mana whenua support policy and rule requirements for landfills to be located, designed, constructed and operated in accordance with industry best practice, in order to minimise the risk of contamination. This will contribute to improved water quality outcomes and will better give effect to Te Mana o te Wai.

