

## **SUMMARY OF EVIDENCE OF SANDRA MCINTYRE – PROPOSED OTAGO REGIONAL POLICY STATEMENT (PORPS): FRESHWATER PLANNING INSTRUMENT (FPI) PROVISIONS**

1. My evidence for this hearing is in three parts: my evidence-in-chief, rebuttal evidence and supplementary evidence on the implications of the National Policy Statement in Indigenous Biodiversity (**NPSIB**). The evidence also refers to relevant parts of the evidence I provided for the non-FPI hearing.
2. At paragraph [17] of my evidence-in-chief, I summarise the concerns that the cultural witnesses have highlighted in respect to the impacts of land and water use on wai māori, wai tai and mahika kai. I consider that these concerns are supported by Otago Regional Council information about the state of the environment. At [21] and [22] I refer to deficiencies that have been identified in the current planning framework for freshwater management. These matters are recognised in the RMIA section of the PORPS and provide the context for the Kāi Tahu submissions.

### **Integrated management of wai māori and wai tai**

3. The role of the PORPS is to achieve integrated management of the natural and physical resources of the region. At [28] to [34] of my evidence-in-chief, I discuss the concern of Kāi Tahu about integrated management of freshwater and estuarine/ coastal systems, and the need to ensure that the interconnection between freshwater and coastal water is recognised in FMU boundaries and the environmental outcomes described in freshwater visions. In Appendix 1 I recommend amendments to LF-FW-O1A(1)<sup>1</sup> and LF-VM-O2<sup>2</sup> to this effect. I also support the amendments to FMU boundaries recommended by Ms Boyd in response to the Kāi Tahu ki Otago submission.

### **Te Mana o te Wai**

4. Te Mana o te Wai is the fundamental concept of the NPSFM. It:
  - Requires that the health and wellbeing of water bodies is the first consideration in all decision-making affecting freshwater;
  - Requires a holistic, integrated approach that recognises interconnectedness; and
  - Recognises the relationship of mana whenua with freshwater and their particular role in freshwater management processes.<sup>3</sup>

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<sup>1</sup> See evidence-in-chief, Appendix 1, LF-VM – General (p. 44)

<sup>2</sup> See evidence-in-chief, Appendix 1, Objective LF-VM-O2 (p. 46)

<sup>3</sup> Non-FPI evidence-in-chief at [96]

5. The LF-WAI provisions interpret Te Mana o te Wai for Otago and were developed with input from Kāi Tahu. They recognise the whakapapa relationship of Kāi Tahu with the wai, and the rakatirataka and kaitiakitaka associated with this. They also reflect the Kāi Tahu understanding of mauri and of the interconnectedness of whenua, wai māori and moana.<sup>4</sup> There are two recommendations in the section 42A report that I consider depart from alignment of LF-WAI-O1 with the Kāi Tahu understanding, and I discuss these at [46] of my evidence-in-chief.
6. Apart from these two drafting matters, I support Ms Boyd's analysis of the Te Mana o te Wai requirements and her recommendations to reject submissions seeking the following:
  - An interpretation of "balance" that is not consistent with the way this is referred to in NPSFM Clause 1.3;<sup>5</sup>
  - Deletion of reference to mauri;<sup>6</sup>
  - Amendment of the way the NPSFM hierarchy of priorities is interpreted;<sup>7</sup> and
  - Expansion of LF-WAI-O1 to include policy direction on the contribution of renewable energy generation to emissions reduction.<sup>8</sup>

#### **Freshwater visions and region-wide objective**

7. At [52] to [61] of my evidence-in-chief, I discuss the freshwater visions and the proposed region-wide objective LF-FW-O1A. I support inclusion of a region-wide objective describing the outcomes that must be achieved in all FMUs. At [55] to [59] I assess LF-FW-O1A against the overarching outcomes sought by Kāi Tahu ki Otago in the initial vision statement provided to ORC and in the FPI submission. I conclude that many of these outcomes are appropriately provided for but at [59] I recommend amendments to:
  - Strengthen the outcome for indigenous species and include reference to estuarine ecosystems;
  - Include reference to behaviour that reflects natural flow patterns;
  - Include outcomes for water quality and wetlands;
  - Ensure groundwater outcomes are clearly included; and
  - Strengthen the outcome for wastewater discharges.
8. At [61] I discuss the FMU-specific visions. Because most matters of concern to Kāi Tahu are provided for in LF-FW-O1A (if my recommended amendments are accepted), I do not

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<sup>4</sup> Evidence-in-chief at [44] to [45]

<sup>5</sup> See evidence-in-chief at [42] to [43]

<sup>6</sup> See evidence-in-chief at [47]

<sup>7</sup> See evidence-in-chief at [49] to [50]

<sup>8</sup> See evidence-in-chief at [51]

consider further amendments are needed to the FMU visions except for LF-VM-O2 Clutha Mata-au. In that vision, I recommend inclusion of two new clauses to:

- Address the ecosystem connections between freshwater, wetlands and the coastal environment; and
- State a preference for shifting abstraction from tributaries to sources that have greater flows or volumes of water.<sup>9</sup>

9. I do not support the new clause relating to water allocation that is recommended in the section 42A report for inclusion in LF-VM-O4 (Taiari FMU). I consider water allocation is more appropriately dealt with in proposed LF-FW-P7A.<sup>10</sup>

10. At [62] to [68] of my evidence-in-chief, I discuss the Kāi Tahu request for vision timeframes that require results to be seen within a generation. I highlight two matters that, in my opinion, should be taken into consideration in decisions about what timeframes are appropriate:

- In addition to the economic costs of change to resource users, the cultural, social and economic costs to Kāi Tahu of continuing degradation, which are costs of delaying change, also need to be taken into account;<sup>11</sup>
- There are a range of approaches that could be developed in the LWRP to reflect differing magnitudes of change needed in different catchments. While one approach would be to allow a longer timeframe for change in the more degraded catchments, an alternative valid approach would be to set the same timeframe across all catchments but to require stronger actions to be taken in the more degraded catchments in order that change could be achieved in the timeframe. Because of the costs to them of delaying change, the latter is the approach preferred by Kāi Tahu.<sup>12</sup>

### **Other matters**

11. *Stormwater and wastewater management (LF-FW-P15 and LF-FW-P16)*: I support the division of policy on stormwater and wastewater discharges into two separate policies, and support most of the drafting of these policies. I recommend some amendments to:

- Strengthen the direction on use of natural processes and on-site management to reduce discharges of sediment and other contaminants in stormwater;<sup>13</sup> and

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<sup>9</sup> See evidence-in-chief, Appendix 1, Objective LF-VM-O2 (p. 46)

<sup>10</sup> See evidence-in-chief at [61c]

<sup>11</sup> See evidence-in-chief at [64]

<sup>12</sup> See evidence-in-chief at [65] to [67]

<sup>13</sup> See evidence-in-chief at [71] to [72] and Appendix 1, LF-FW-P15 (p. 52)

- Strengthen the direction to phase out existing direct discharges of wastewater to water, to address the concern described by Mr Ellison.<sup>14</sup>

12. Wetland protection and restoration (LF-FW-09, LF-FW-P9, LF-FW-P10): In my evidence-in-chief, rebuttal evidence and supplementary evidence, I discuss the need for strong direction to support reversal of wetland loss. Because of this I prefer use of the qualifier “where possible” in most of the policy direction on wetland restoration (LF-FW-P10),<sup>15</sup> and I oppose the proposals of Tim Ensor (Fulton Hogan) and Claire Hunter (Oceana Gold; Contact Energy) that would weaken the direction.<sup>16</sup>
13. I also support the approach recommended by Ms Boyd, in her supplementary evidence, to protect natural wetlands that do not fall within the category of “natural inland wetlands” due to the pasture exclusion clause. I consider that this appropriately recognises that wetlands do not have a hard boundary between wet and dry land or between indigenous and exotic vegetation, and the need to avoid the risk of incremental degradation through edge effects.<sup>17</sup>
14. Provision for indigenous species: In my evidence-in-chief and rebuttal evidence, I draw attention to the fact that indigenous species that are reliant on freshwater are not limited to aquatic species. Objectives and policies must also provide for the needs of species such as water and wading birds, and I consider that care is needed to avoid drafting that inadvertently excludes these species.<sup>18</sup>
15. Water allocation (LF-FW-P7A): I support inclusion of a policy providing direction for water allocation, but I recommend some amendments to make the policy direction clearer and to include provision for allocation of water for the needs and aspirations of mana whenua.<sup>19</sup>
16. Cross-mixing of waters: I recommend an amendment to LF-FW-M6 to address the matter of mixing of water between different catchments discussed in Mr Ellison’s evidence. This was requested in the Kāi Tahu ki Otago submission but has not been considered in the section 42A report.<sup>20</sup>

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<sup>14</sup> See evidence-in-chief at [73] to [74] and Appendix 1, LF-FW-P15 (p. 53)

<sup>15</sup> See evidence-in-chief at [77]

<sup>16</sup> See rebuttal evidence at [12] to [15]

<sup>17</sup> See supplementary evidence at [12] to [13]

<sup>18</sup> See evidence-in-chief at [78] and Appendix 1, LF-FW-P7 (p. 50); rebuttal evidence at [4] to [11]

<sup>19</sup> See evidence-in-chief at [79] and Appendix 1, LF-FW-P7 (pp. 50-51)

<sup>20</sup> See evidence-in-chief at [80] and Appendix 1, LF-FW-M6 (p. 54)

17. LS provisions: At [84] to [88] of my evidence-in-chief, I recommend several amendments to the LF-LS provisions.<sup>21</sup> These are intended to make better provision for integrated management of land and water and to improve alignment with the NPSFM objective to prioritise, first, the health and well-being of water bodies and freshwater ecosystems.

18. Matters more appropriate for LWRP process: Throughout my evidence-in-chief, and in my rebuttal evidence at [16] to [18], I refer to requests of other submitters that I consider (and agree with Ms Boyd) would more appropriately be considered in the development of the LWRP. These include:

- Specific provisions for particular economic activities, including how the Te Mana o te Wai priorities are to be implemented in respect to particular activities;
- Any interim steps/ transition pathways towards achievement of freshwater visions;
- Direction as to the circumstances in which specific management methods and tools are appropriate; and
- Circumstances in which provisions more stringent than the National Environmental Standards for Freshwater and Stock Exclusion Regulations are required in order to achieve freshwater outcomes.

**Sandra McIntyre**

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<sup>21</sup> See evidence-in-chief, Appendix 1, LF-LS-P21 and LF-LS-M11 (p. 56)