

Appendix 9

Manaaki ki te Toka—Southeast Marine Protection Rōpū Report: Summary of Engagement on Proposed Measures to address Marine Protection Impacts on Kāi Tahu Rights and Interests

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Department of
Conservation
Te Papa Atawhai



Fisheries New Zealand

Tini a Tangaroa

Manaaki ki te Toka—Southeast Marine Protection Rōpū Report

Summary of Engagement on Proposed Measures to
Address Marine Protection Impacts on
Kāi Tahu Rights and Interests

Te Papa Atawhai and Tini a Tangaroa



Exercising tino rakatirataka to the fullest extent possible in the full
expression of Kāi Tahutaka.

Te Rūnaka o Kāi Tahu



October 2021

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Southeast Marine Protection Rōpū Report

Exercising tino rakatirataka to the fullest extent possible in the full expression of Kāi Tahu

1 Purpose of the Rōpū Report

This report summarises outcomes of the Rōpū engagement between Kāi Tahu¹, Te Papa Atawhai and Tini a Tangaroa (agencies) as of October 2021 on the network of marine protected areas (MPAs) proposed for the southeast of the South Island (the Network).

The report has been developed by agencies and is drawn primarily from hui records. It was provided to Kāi Tahu for feedback, but none was received in time for finalisation of the report.

The report will help inform agencies' separate advice to the Minister of Conservation and the Minister for Oceans and Fisheries and is intended to support arrangements for implementation of any approved MPAs.

2 Background and context

2.1 Origin of proposed Network and overlap with the takiwā of Kāi Tahu

In 2014, the Government appointed the Roopu Manaaki Ki Te Toka—South-East Marine Protection Forum 'the Forum' to consider and recommend marine protection options for the coastal region from Timaru to Waipapa Point (the Forum region). The Forum included Kāi Tahu representatives.

The Forum's recommendations² were presented to the former Ministers of Conservation and Fisheries in early 2018. In May 2019, the former Ministers announced their intention to progress the proposed MPA Network 1 under existing legislation.^{3,4} The Network includes six marine reserves, five Type 2 MPAs and one kelp protection area.⁵ The Forum region is entirely within the Kāi Tahu takiwā and overlaps the rohe moana of these six patatipu rūnaka:

- Te Rūnaka o Arowhenua
- Te Rūnaka o Waihao
- Te Rūnaka o Moeraki
- Kāti Huirapa Rūnaka ki Puketeraki
- Te Rūnaka o Ōtākou
- Te Rūnaka o Awarua

¹ For the purposes of this report, the term Kāi Tahu refers to the 6 patatipu rūnaka with mana moana over the relevant coastline, and Te Rūnanga o Ngāi Tahu (TRoNT).

² Roopu Manaaki Ki Te Toka (South-east Marine Protection Forum) Recommendations Report: <https://www.doc.govt.nz/globalassets/documents/conservation/marine-and-coastal/semf/semf-recommendations-report.pdf>.

³ Media release: <https://www.doc.govt.nz/news/media-releases/2019/south-east-marine-protection/>.

⁴ Marine Reserves Act 1971 (<https://www.legislation.govt.nz/act/public/1971/0015/latest/DLM397838.html>) and Fisheries Act 1996 (<https://www.legislation.govt.nz/act/public/1996/0088/latest/DLM394192.html>).

⁵ Map of MPA network: <https://www.doc.govt.nz/globalassets/documents/conservation/marine-and-coastal/semf/network-1-map.pdf>.

2.2 Giving effect to te Tiriti partnership

The Crown has obligations to Kāi Tahu through Te Tiriti o Waitangi (Te Tiriti), deeds of settlement, legislation, protocols and legislation when establishing and managing any MPAs in their takiwā. When making a decision under the Marine Reserves Act, the Minister of Conservation and the Minister for Oceans and Fisheries are required by section 4 of the Conservation Act 1987 to give effect to the principles of Te Tiriti.⁶ The Supreme Court in the decision of Ngāi Tai Ki Tāmaki Supreme Court decision⁷ emphasised the importance of decision makers giving effect to the principles of the Te Tiriti as required by section 4 of the Conservation Act 1987⁸, and highlighted the importance of Te Tiriti partnership. When making decisions under the Fisheries Act, the Minister for Oceans and Fisheries must act in a manner that is consistent with the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.⁹

Following the Forum process, dedicated engagement between agencies and Kāi Tahu has continued. The purpose of this engagement was to:

- provide a forum for Kāi Tahu and agency officials to openly discuss the impacts of the proposed MPAs on the rights and interests of Kāi Tahu,
- explore mitigation options that might lessen the impacts on Kāi Tahu, and
- plan a fit-for-purpose approach to establishing and managing the proposed MPA Network that supports Kāi Tahu rakatirataka.

2.3 Kāi Tahu's concerns with the proposed Network

During the course of this engagement, Kāi Tahu has expressed concerns regarding the potential impacts of the proposed MPAs on their rights and interests established under the 1992 Fisheries Deed of Settlement¹⁰ and the subsequent Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.¹¹

Kāi Tahu consider the proposed MPAs, particularly the marine reserves, would displace and alienate their customary rights, and that this effect would be compounded across the generations. Kāi Tahu has also emphasised the cost MPAs impose on their commercial fishing interests and concerns regarding the potential impacts new marine reserves might have on their non-commercial customary fishing rights and customary protected areas (CPAs; mātaimai reserves and taiāpure). Kāi Tahu view the displacement of existing commercial, recreational, and customary fishing effort from within the proposed MPAs into remaining areas of their rohe moana as a key impact to be measured, understood, and addressed.

During the hui held on 31 July 2018 Kāi Tahu outlined measures that may help address their concerns (Appendix 1). At a subsequent hui held on 23 September 2019, these measures were further explored and the indication from Kāi Tahu was that they may oppose the network unless the proposed measures were sufficiently addressed (Appendix 2). These measures were the focus

⁶ Section 4, Marine Reserves Act 1971.

⁷ *Ngāi Tai Ki Tāmaki Tribal Trust v Minister of Conservation* - [2018] NZSC 122.

⁸ <https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM103610.html>.

⁹ Section 5, Fisheries Act 1996.

¹⁰ <https://www.govt.nz/assets/Documents/OTS/Fisheries-settlement/Fisheries-Deed-of-Settlement-23-Sept-1992.pdf>.

¹¹ The Settlement Act settled Māori commercial fishing claims and recognised non-commercial customary fishing rights <https://www.legislation.govt.nz/act/public/1992/0121/latest/whole.html>.

of subsequent hui¹² and they fall broadly under the categories of ‘rebalancing’ the impacts of MPAs and co-management of MPAs.

2.4 Establishing the Rōpū

On 29 July 2020, Te Rūnaka o Ōtākou hosted a collective hui with Rangatira from the wider Ngāi Tahu Whānui and agency senior leaders (Appendix 3) at Ōtākou marae. In preparation for this hui, agencies set out their positions on the rebalancing and co-management measures proposed by Kāi Tahu. As part of setting out these positions, agencies confirmed that some measures are matters for the Crown at a Ministerial level and could not be progressed by that group. These measures, and the further detail on the agency positions as to why these matters could not be further progressed is discussed below at section 3. A detailed action plan was developed for the remaining proposed measures, and a working group (Rōpū) was established to progress this plan.

At this hui Kāi Tahu outlined their preference for their views to be heard via direct engagement with the agencies and confirmed they would not make a written submission under the statutory consultation process.¹³ Instead, it was agreed that the record from the 29 July 2020 hui (and subsequent hui) would contribute to agency advice to Ministers. This decision did not preclude individuals or rūnaka from making a submission through the statutory consultation process.

2.5 Kāi Tahu’s views on rebalancing and the focus of the Rōpū

At a Rōpū hui on 23 July 2021 (Appendix 7), Kāi Tahu reclarified for agencies that they see a critical difference between the options for rebalancing the impacts of MPAs and co-management. Kāi Tahu see rebalancing as addressing the biological, economic and mana impacts of MPAs. It has three distinct steps:

1. Rebalancing MPA impacts on biodiversity and the marine environment’s capacity to support fisheries – i.e. impact of displacement of recreational, customary, and commercial fishing effort.
2. Rebalancing economic impacts arising from Step 1.
3. Empowering customary co-management and more robust management of Customary Protected Areas.

Kāi Tahu consider that the mahi undertaken through Rōpū engagement does not achieve rebalancing. Rather, engagement has focussed on co-management. By necessity, co-management would occur after any approved MPAs were created. Kāi Tahu see this as high risk without a legally binding commitment from the Crown setting out how impacts on their rights and interests would be addressed.

Kāi Tahu’s view is that rebalancing of economic impacts will not be achieved because Ministers have previously indicated financial compensation is not under consideration (see below at 3.3), and that the displacement referred to in Step 1 will only be progressed through Total Allowable

¹² Kāi Tahu hui dates: 11 February 2020 with Minister of Conservation and Minister of Fisheries; 29 July 2020 with agencies’ Deputy-Director Generals and officials (Appendix 3); and rōpū hui on: 20 January 2021 (Appendix 4), 4 March 2021 (Appendix 5), 13 April 2021 (no quorum so no record), 20 April 2021 including Minister for Oceans and Fisheries and Acting Minister of Conservation (Appendix 6); and 23 July 2021 (Appendix 7).

¹³ Statutory public consultation on the proposed MPA Network was undertaken from 3 June to 3 August 2020 (under the Marine Reserves Act 1971 and Fisheries Act 1996). 4,056 individuals or organisations made submissions.

Catch¹⁴ changes several years after any approved MPAs are in place and ‘once the fishery is seen to be unsustainable - which is at the detriment of the Settlement’.

Kāi Tahu has indicated that they may not support the proposed network of MPAs without knowing, or having a strategy for, how rebalancing will be addressed by the Crown prior to implementation of MPAs.

Kāi Tahu want to meet again with the Minister of Conservation and the Minister for Oceans and Fisheries to express their views on rebalancing prior to any decisions on the proposed MPAs.

Regardless of their views on rebalancing, Kāi Tahu agreed to continue to engage in good faith with the Rōpū kaupapa.

3 Proposed measures raised by Kāi Tahu but not progressed as part of the Rōpū kaupapa

As noted in section 2.4, agencies confirmed at the hui on 29 July 2020 that the following measures would not be progressed as part of the Rōpū. Note that except for financial compensation and ex gratia payments, these measures have been categorised in the Action Plan (Appendix 3) as ‘Tranche 3’ measures – see Table 1 below.

3.1 Coordinated establishment of customary protected areas and marine protected areas

Throughout our engagement, Kāi Tahu has articulated concern about their non-commercial customary fishing rights. Kāi Tahu view the proposed MPAs, particularly marine reserves, as reducing the likelihood of establishing CPAs and affecting the quality and sustainability of kāimoana in existing CPAs by displacing commercial or recreational catch into them, magnifying the level of fishing pressure on these areas and their wider rohe moana. Kāi Tahu’s view is that the proposed MPAs affect their ability to exercise kaitiakitanga over their fisheries.

Kāi Tahu has highlighted their long-standing frustration with the mechanisms for establishing and managing CPAs. Among other issues, Kāi Tahu see the criteria for establishing mātaimai reserves as more difficult than for marine reserves and the process for establishing and managing taiāpure as difficult and slow.

Kāi Tahu proposed slowing down the southeast marine protection kaupapa so that the proposed MPAs could be considered alongside their aspirations for CPAs in the region.

Agencies’ position on this matter, as outlined during the 29 July 2020 hui is:

- It is practical to advance establishment of CPAs and MPAs on different timeframes.
- In good faith and with effective partnership we can operate an integrated planning process that achieves satisfactory outcomes for tangata whenua.

At the hui on 23 July 2021 Kāi Tahu reiterated that ‘Without the tools to respond in a timely and effective manner, CPA [customary protected area] managers will struggle to manage displacement’ of fishing pressure. Tini a Tangaroa outlined that it is currently exploring regulatory changes or amendments to enable:

- issuing of infringement notices for breaches of mātaimai bylaws,

¹⁴ The annual limit of how much of a fish species managed under the Quota Management System can be caught.

- where appropriate, making possession of fish within mātaimai reserve an offence under mātaimai reserve bylaws (rather than requiring proof that those fish were actually taken within the reserve), and
- use of tertiary legislation to implement fisheries regulations in taiāpure.

3.1.1 Outcome

The southeast marine protection kaupapa was not slowed to allow CPA aspirations and the proposed MPA network to be considered concurrently. The Rōpū mahi continued in good faith. Tini a Tangaroa will undertake a separate process regarding regulatory changes or amendments to the mechanisms for establishing and managing CPAs and will report back to Kāi Tahu on the path forward and timeline for these.

3.2 Integrated management of marine protected areas and customary protected areas

In addition to Kāi Tahu's concern over displacement of fishing effort into CPAs, Kāi Tahu view the proposed MPAs as ineffective in terms of land-based effects on the marine environment. Sedimentation, pollution, and climate change were highlighted as key concerns.

Kāi Tahu seek an integrated approach to managing MPAs and CPAs within the context of the wider marine environment. Kāi Tahu want agencies and rūnaka to work together and alongside councils to address issues affecting the coastal marine environment. This could include providing integrated input into Regional Coastal Plans and the National Policy Statement.

Agencies' position as outlined during the 29 July 2020 hui is:

- Agencies support further exploration with Kāi Tahu of establishing a broader integrated coastal management approach for the region.

3.2.1 Outcome

Kōrero on integrated management of MPAs and CPAs within the context of the wider marine environment was not progressed during the Rōpū hui. The Network Co-Management Groups may be the appropriate entity for engaging with Regional Councils on the development of regional plans and policy statements that could impact on management of MPAs and CPAs.

3.3 Financial compensation and ex gratia payments

Throughout engagement Kāi Tahu has expressed concern that the proposed MPAs will reduce the space for Kāi Tahu-owned commercial quota to be fished, resulting in less profitable fisheries and so decreased quota value. Additionally, there is concern that localised depletion of stocks due to the displacement of commercial recreational and customary fishing from the proposed MPAs could require the Total Allowable Catch (TAC) to be reduced to decrease fishing pressure to sustainable levels, directly affecting quota provided to Kāi Tahu as part of the redress made by the Crown under the 1992 Fisheries Deed of Settlement. The proposed Te Umu Koau marine reserve and its potential impact on the sustainability and value of the CRA7 rock lobster fishery is of particular concern to Kāi Tahu in this regard.

Kāi Tahu has suggested financial compensation (i.e. buy back of quota) or ex gratia payments to address the impact on established fisheries and loss of future opportunities to develop fisheries for species that have yet to be introduced into the quota management system.

Agencies' positions outlined during the 29 July 2020 hui are:

- Ministers indicated financial compensation is not available and will not form part of any rebalancing within the SEMP process.
- Ex gratia payments are a matter to be considered by Ministers if they are proposed by Kāi Tahu.

This position reflects the Crown position, as confirmed by Ministers at the February 2020 hui with Kāi Tahu Rangatira and this was reconfirmed by the Minister for Oceans and Fisheries at the April 2021 hui at Ōtākou marae.

3.3.1 Outcome

Financial compensation and ex gratia payments are matters for the Crown at a Ministerial level and so did not form part of the Rōpū's kaupapa. As outlined in section 2.5, not addressing rebalancing is a critical issue for Kāi Tahu, one they will be again taking up with Ministers directly and prior to any decisions on the proposed network of MPAs.

3.4 Preferential access to commercial development opportunities—eco-tourism

During engagement Kāi Tahu proposed Te Papa Atawhai considers providing preferential access to Kāi Tahu for opportunities such as seabird and marine mammal eco-tourism permits, and concessions for operating in protected areas managed by Te Papa Atawhai. Kāi Tahu expect processes and decisions consistent with the outcomes of the Ngāi Tai Ki Tāmaki Supreme Court case.

Te Papa Atawhai's position outlined during the 29 July 2020 hui is:

- Preferential access to commercial development opportunities may be able to be considered under separate relevant statutory processes associated with the concession or permit applications.

Preferential access to commercial development opportunities is more generally being considered by Te Papa Atawhai at a national level.¹⁵

Te Papa Atawhai notes the concessions regime under Part 3B of the Conservation Act does not apply in respect of activities undertaken within marine reserves. Provided an activity is not prohibited under the Marine Reserves Act (see sections 18I and 21), then subject to any other legal requirements that may apply, the activity can continue irrespective of whether it is undertaken for commercial purposes. A concession is not required. A permit is required, however, to undertake commercial activities involving marine mammals. This is a requirement under the Marine Mammals Protection Regulations 1992¹⁶ and applies irrespective of whether the area in question is a marine reserve.

3.4.1 Outcome

Kōrero on preferential access for Kāi Tahu to this type of commercial opportunity was not progressed during Rōpū hui. It is proposed that this be managed through direct engagement with local Te Papa Atawhai offices and via the relevant statutory processes when Kāi Tahu seek such permits.

¹⁵ As of October 2021, this is still being considered.

¹⁶ <https://www.legislation.govt.nz/regulation/public/1992/0322/latest/DLM168286.html>.

4 Rōpū kaupapa—proposed measures proposed by Kāi Tahu and progressed by the Rōpū

To help focus the kaupapa, the Rōpū organised the Rōpū actions arising from the 29 July 2020 hui into three prioritised tranches, based on whether the information is required before or after Ministerial decisions on MPAs (Table 1).

During the Rōpū kaupapa, some proposed co-management measures were moved into Tranche one to help progress the mahi. The tranches are:

- **Tranche one:** proposed co-management measures to be considered in agencies' separate detailed advice for consideration by Ministers.
- **Tranche two:** proposed co-management measures that also need to be considered in agencies' Ministerial advice, but the specifics need to be included in the Order in Council paperwork prior to the gazettal of any marine reserve (in particular).
- **Tranche three:** proposed co-management measures to be progressed following Ministerial decisions for implementation (although preparatory work may be advanced through the Rōpū).¹⁷ Inclusion in tranche three does not imply these are measures are not important.

Table 1 Proposed co-management measures and tranches

Proposed co-management measure	Tranche	Rōpū Report
Establishment of formal co-management arrangements across the Network and for individual marine protected areas	One	Section 4.1
Appointment of Kāi Tahu rangers for marine protected areas and customary protected areas	One	Section 4.2
Provision for continued enhancement of mātauraka Māori through wānaka	One	Section 4.3
Provision for generational review (25 years) of marine protected areas and the Network	One	Section 4.4
Provisions for the retrieval of kōiwi tākata and archaeological artefacts	One	Section 4.5
Provisions for the gathering of cultural materials	One	Section 4.5
A boundary amendment to Te Umu Koau (pertains to one marine reserve)	One	Section 4.6
9(2)(g)(i) access to permits issued for control of marine pest species that enable control costs to be recovered (for example control of <i>Undaria pinnatifida</i> within proposed marine reserves)	One	Section 4.7
Provision for periodic review (5 years) of marine protected areas	Two	Section 4.4
Naming and pou for each of the new marine protected areas	Two	Section 4.8
Preferential access to commercial development opportunities (e.g., eco-tourism concessions and permits)	Three	Section 3.2
Coordinated establishment of customary protected areas and marine protected areas (slow down marine protected area establishment if necessary)	Three	Section 3.2
Integrated management of marine protected areas and customary protected areas (in context of wider marine environment)	Three	Section 3.2

¹⁷ With the exception of financial compensation and ex gratia payments, these are the measures set out above in section 3.

Despite significant disruptions due to COVID-19-related restrictions, the Rōpū has convened on multiple occasions to progress the kaupapa (Appendix 4 to Appendix 7).


Rōpū engagement outcomes from our hui through to the end of July 2021 are covered in the remainder of this report. Table 2 provides an overview of these outcomes across the proposed Network and for each proposed MPA. It also shows which proposed MPAs sit within the rohe moana of the six papatipu rūnaka of the region.

Key outputs of the Rōpū kaupapa are a draft co-management framework, draft role description for Kāi Tahu rangers and intention statements that outline agency positions on other proposed co-management measures.

It is expected that if Ministers make decisions to progress all or some of the MPAs, the collaboration between the agencies and Kāi Tahu will continue with a view to transition to formal co-management arrangements to support establishment and implementation of any new MPAs. It is expected this commitment will be underpinned by a formal agreement to be the focus of our next hui.

Table 2 Overview of Rōpū engagement outcomes on proposed co-management measures for each proposed marine protected area, and how the proposed marine protected areas are spread among the rohe moana of papatipu rūnaka

Key: Proposed measure applies to marine protected area (MPA) Proposed measure not affected by proposed MPA, OR proposed measure does not apply Proposed MA within rohe moana

Proposed marine protected area	Proposed co-management measure									Papatipu rūnaka rohe moana						
	Formal co-management	Kāi Tahu rangers	Mātauraka Māori and wānaka	Generational reviews (25 years)	Periodic reviews (5 years)	Kōiwi tākata and archaeological artefacts	Cultural materials	Boundary amendment	Public access—  Undaria harvest	Naming and pou	Te Rūnaka o Arowhenua	Te Rūnaka o Waihao	Te Rūnaka o Moeraki	Kāti Huirapa Rūnaka ki Puketeraki	Te Rūnaka o Ōtākou	Te Rūnaka o Awarua
Waitaki marine reserve	■							■	■				■			
Te Umu Koau marine reserve	■							■	■				■			
Papanui marine reserve	■							■	■					■		
Ōrau marine reserve	■							■	■					■		
Okaihae marine reserve	■							■	■					■		
Hākinikini marine reserve	■							■	■					■		
Tuhawaiki Type 2 MPA	■							■	■	■	■					
Moko-tere-a-torehu Type 2 MPA	■							■	■		■	■				
Kaimata Type 2 MPA	■							■	■					■		
Whakatorea (estuary) Type MPA	■							■	■					■		
Tahakopa Type 2 MPA	■							■	■							■
Arai Te Uru (kelp protection area)	■							■	■	■	■	■	■	■		

4.1 Formal co-management across the Network and for individual marine protected areas

Throughout our engagement Kāi Tahu has stated their requirement of formal co-management arrangements with the Crown for the proposed MPAs and the Network. Kāi Tahu consider formal co-management reflects tino rakatirataka (self-determination) and that co-management would enhance the retention and transfer of knowledge through generations and maintain the connection of Kāi Tahu to their takiwā.

Kāi Tahu view co-management as primarily between Kāi Tahu, Te Papa Atawhai and Tini a Tangaroa, but with opportunities for input from the community and stakeholders, and input into wider coastal issues affecting the takiwā of Kāi Tahu.

Agencies' position for engagement has been:

- Agencies support in principle the establishment of a co-management framework with Kāi Tahu.
- Co-management should be undertaken in the spirit of partnership, co-design, and informed decision-making.

4.1.1 Rōpū progress on this proposed measure

Over several hui¹⁸ the Rōpū drafted and refined a co-management framework and associated role descriptions (Appendix 8). The co-management framework sets out that Kāi Tahu and agencies will work together to the fullest extent possible to reach joint decisions and oversee the strategic direction and operational management for the MPAs, while:

- recognising the separate mandate and responsibilities of each Tiriti partner, and
- acknowledging that there are several statutory decisions and functions that sit with the agencies under the relevant legislation (noting the statutory obligations in respect of Te Tiriti o Waitangi and the Marine and Coastal Area (Takutai Moana) Act 2011¹⁹ that apply to such decisions).

4.1.2 Unresolved matters or key points of difference

4.1.2.1 Giving effect to equitable decision-making aspirations by Kāi Tahu

Kāi Tahu position

As Tiriti partners, Kāi Tahu seek to make joint decisions on the management of any MPAs established under the southeast marine protection process. This includes 'operational' day-to-day decisions and statutory decisions made at a Ministerial level or by agency officials. Kāi Tahu believe reconsideration of the approach to joint statutory decision making under Conservation legislation is warranted due to the Ngāi Tai Ki Tāmaki Supreme Court decision and Te Papa Atawhai's obligations under section 4 of the Conservation Act.

Kāi Tahu want decision-making for statutory decisions that sit with Ministers or within agencies under relevant legislation to be 50/50 with them. At the very least, Kāi Tahu's view is that where decision-making statutorily sits with another, they should have the opportunity to inform the decision-maker of their views.

¹⁸ Rōpū hui dates: 20 January 2021 (Appendix 4), 4 March 2021 (Appendix 5), 20 April 2021 (Appendix 6); 23 July 2021 (Appendix 7); and co-management sub-committee hui 21 July 2021 (Appendix 8).

¹⁹ <https://www.legislation.govt.nz/regulation/public/1993/0230/latest/DLM179649.html?src=qs>.

Agencies' position

There is scope in our operational work for Kāi Tahu to work alongside the agencies and share 'operational' day-to-day decisions in a collaborative and equitable way, wherever possible within statutory constraints.

Under existing legislation, where legislation identifies the Minister or agency official as the decision maker, it is not possible for Kāi Tahu (or any other third party) to be a joint decision maker. It is entirely possible, however, for agencies and Kāi Tahu to find ways within the legislative scheme for Kāi Tahu to participate in all levels of the decision-making process (other than the decision itself), including the opportunity for Kāi Tahu to inform the decision-maker of their views. We want the co-management arrangements as developed by the Rōpū to help ensure and enhance these opportunities.

4.1.2.2 Some aspects are outside of agencies' mandate

Kāi Tahu's desire for statutory decision-making to be 50/50 would require legislative amendment. This is beyond our mandate and out of scope of the Rōpū's kaupapa.

4.1.3 Outcome summary

The Rōpū agree that co-management should apply across all sites of the proposed MPA network (Table 2).

The co-management framework and associated role descriptions are working drafts. They require further consideration during future Rōpū hui where partnership and implementation are the focus in preparation for any proposed MPAs that are approved.

4.2 Appointment of Kāi Tahu rangers for marine protected and customary protected areas

During engagement Kāi Tahu has conveyed that, as part of co-management, they want to be directly involved in the active management of MPAs and CPAs through the establishment of Kāi Tahu ranger roles.

Kāi Tahu propose at least two Kāi Tahu rangers per papatipu rūnaka to undertake mahi associated with the proposed MPAs and the wider coastal area within their takiwā (including existing Kāi Tahu CPAs). Papatipu rūnaka want to determine the focus of the rangers' roles within their rohe moana.

Kāi Tahu seek agency support as Treaty partner to establish these roles and help resource them on an ongoing basis. Integration of Kāi Tahu rangers into agency training and qualification programmes and networks is also requested.

Agencies' position for engagement has been:

- Agencies support in principle the establishment of Kāi Tahu rangers to be actively involved in the day-to-day management of the MPA network.
- Commitment was made at a hui with Ministers on 11 February 2020 to explore shared funding arrangements.²⁰
- Fully warranted officers would need to be employed by agencies. Honorary warranted ranger roles are also possible.

²⁰ Hui held 11 February 2020 in Wellington: Senior Leaders of papatipu rūnaka, Minister of Conservation, Minister of Fisheries.

4.2.1 Rōpū progress on this proposed measure

Over several hui²¹ the Rōpū discussed the key functions and purpose of the Kāi Tahu ranger role. A sub-committee convened and drafted a sample Kāi Tahu ranger job description that would support the management of proposed MPAs and CPAs (Appendix 9). The sample job description states the following key functions: fieldwork, education and outreach, mātauraka Māori based wānaka, relationship building and maintenance, and potentially compliance, enforcement and investigations. The Rōpū considered this on 23 July 2021.

4.2.2 Unresolved matters or key points of difference

4.2.2.1 Focus of the Kāi Tahu ranger role

Many aspects of the Kāi Tahu ranger role require further kōrero. Key issues include:

- the scope of the Kāi Tahu ranger role (e.g. warranted or not),
- whether Kāi Tahu rangers would work across the southeast marine protection region or be restricted to a rohe, and
- to whom Kāi Tahu rangers would report (e.g. rūnaka, co-management group, agencies).

4.2.2.2 Resourcing the role of Kāi Tahu rangers

The nature and extent of agency support to establish and maintain Kāi Tahu ranger roles needs further mahi and kōrero. What Kāi Tahu can contribute towards the ranger roles is also to be determined. Agencies have indicated new funding would likely be required for these roles. The source of this funding has not yet determined.

4.2.3 Outcome summary

The Rōpū agree that Kāi Tahu ranger mahi should occur across all sites of the proposed MPA network (Table 2) and CPAs.

Kōrero on the Kāi Tahu ranger role and the sample job description will continue during future Rōpū hui where partnership and implementation planning are the focus in preparation should any proposed MPAs be approved. Agencies and Kāi Tahu will also continue to discuss resourcing and support for these roles as Tiriti partners, including potential sources of funding. How best to formalise the details around Kāi Tahu rangers requires further kōrero.

4.3 Provision for continued enhancement of mātauraka Māori through wānaka

Over the course of engagement Kāi Tahu has outlined their view that marine reserves threaten the inter-generational connection they have traditionally held with their rohe moana. The prohibition of taking marine life within a marine reserve restricts some activities that are necessary for the maintenance of mātauraka Māori, and its transfer and enhancement through wānaka (schools of learning).

Kāi Tahu want the ability to strengthen mātauraka Māori and carry out wānaka within MPAs. Kāi Tahu seek to maintain the practice of wānaka for the purposes of exercising, transferring, enhancing, and developing mātauraka, and informing generational reviews of the proposed MPAs. Kāi Tahu has emphasised the importance of accessing a 'healthy fishery', and the ability to exercise and revive traditional fishing practices (including techniques and tools). This will help to build the next generation of tiaki and provide for restoration of the rohe moana.

²¹ Rōpū hui dates: 20 January 2021 (Appendix 4), 4 March 2021 (Appendix 5), 20 April 2021 (Appendix 6); 23 July 2021 (Appendix 7); and Kāi Tahu ranger sub-committee hui 27 May 2021 (Appendix 9).

Kāi Tahu propose that activities associated with wānaka and building mātauraka Māori be provided for in the Order in Council for each proposed marine reserve. This would make provision for these activities enduring and not subject to the judgement of the 'decision maker of the day'. Kāi Tahu also propose that the papatipu rūnaka with mana moana for each proposed marine reserve would have the decision-making power for which mātauraka activities are authorised. Kāi Tahu propose the co-management group and Kāi Tahu rangers would support and monitor this process.

Agencies' position for engagement has been:

- Agencies support in principle the maintenance and enhancement of mātauraka Māori through wānaka within the proposed MPAs, within the limits of the Marine Reserves Act. This would mean not allowing full customary take within the marine reserves.
- Site and/or species assessments may need to be carried out to determine whether proposed activities would fit within the purpose of the legislative provisions.
- This is primarily a matter relating to marine reserve management. Mātauraka Māori-based wānaka may be permitted by including conditions in the Order in Council, Minister-granted permits, or regulations where possible.

4.3.1 Rōpū progress on this proposed measure

Through Rōpū engagement agencies developed, presented, and refined 'intention statement' text²² on mātauraka Māori and wānaka. Draft intention statement text on this proposed measure was last presented to Kāi Tahu at the hui on 23 July 2021 (Appendix 10). Some minor amendments to the intention statement text were discussed and agreed at the hui (Appendix 7). The text below sets out the position reached.

Tini a Tangaroa supports Kāi Tahu's proposal and affirmed that Type 2 MPAs '... would not restrict mātauraka based wānaka or customary take in any way beyond existing constraints under the fisheries management system' (also see Table 2).

Te Papa Atawhai also supports Kāi Tahu's proposal. Te Papa Atawhai proposes a condition in the Order in Council, that would provide for members of Ngāi Tahu Whānui to continue undertaking activities within the marine reserves that would otherwise constitute an offence where:

- Those activities are undertaken as part of organised wānaka;
- The activities are for the purpose of enhancing mātauraka; and
- Te Papa Atawhai (or the rohe specific co-management group once established) is notified by the relevant papatipu rūnaka with mana moana of the proposed wānaka in advance, and provided detail of the activities (e.g. the period when wānaka activities would be undertaken and where, details of activities to be carried out and species affected).

It is proposed that there would be no 'approval' role for Te Papa Atawhai or the rohe specific co-management group (once established) in this process. The notification step would, however, allow for feedback or concerns to be raised in the spirit of partnership. The requirement that notification is made by the relevant papatipu rūnaka with mana moana is to ensure that the relevant rūnaka retains the oversight over which activities are notified. Mātauraka Māori/wānaka activities would be subject to any other legal requirements and must be consistent with the purpose of the Marine Reserves Act.

²² Intention statements outline how agencies intend to provide for proposed measures raised by Kāi Tahu and regarding the proposed MPAs.

For any approved marine reserves, Te Papa Atawhai would provide drafting instructions to the Parliamentary Counsel Office for an Order in Council condition. Drafting instructions would be along the following lines:

‘Activities related to the exercise, transfer, enhancement, and development of mātauraka Māori undertaken by Kāi Tahu (Ngāi Tahu Whānui) and notified by [xx] papatipu rūnaka as part of organised wānaka activities may be carried out subject to any other legal requirements.’²³

4.3.2 Unresolved matters or key points of difference

4.3.2.1 Understanding which mātauraka Māori-related activities would be excluded from marine reserves

The proposed process requires wānaka-based mātauraka Māori activities to be organised rather than occurring on an ad hoc basis. Kāi Tahu want clarity from Te Papa Atawhai on what this means, including whether any wānaka and/or mātauraka Māori activities should be specifically excluded in the Orders in Council for the proposed marine reserves.

4.3.2.2 Setting out how co-management groups will work

Each co-management group will need to work out how the process would be managed, particularly around notification. Further kōrero by the Rōpū on this matter should help set out the approach for future co-management groups.

4.3.3 Outcome summary

Agencies support Kāi Tahu papatipu rūnaka with mana moana undertaking wānaka for the purpose of developing and perpetuating mātauraka Māori within the proposed marine reserves (Table 2) in accordance with the process described above at 4.3.1.

Te Papa Atawhai proposes a high-trust model so that organised wānaka activities can occur within any approved marine reserve as long as the agreed notification process is followed and subject to any other legal requirements that may apply. If approved by Ministers, these activities could be provided for by a condition in the Orders in Council establishing the marine reserves.

4.4 Provision of periodic (5-year) review of marine protected areas and generational (25-year) review of marine protected areas and the Network

4.4.1 Periodic review

During engagement Kāi Tahu has raised concern that commercial and recreational fishing effort will be displaced from proposed MPAs into CPAs. Kāi Tahu believe this will undermine their management goals for these sites.

To understand and respond to this potential displacement impact, keep abreast of changes within the MPAs, and to produce data for a proposed 25-yearly generational review, Kāi Tahu propose 5-yearly periodic reviews of the MPAs.

4.4.2 Generational review

Throughout engagement, Kāi Tahu has indicated that the permanent nature of MPAs is a problematic concept for them. Kāi Tahu are concerned the proposed MPAs could remove the

²³ Subject to other legal requirements - this reflects that there might be restrictions by other regimes (for example biosecurity or RMA) that would mean the activity could not be carried out, irrespective of the fact that the activity would be permissible pursuant to the Order in Council.

opportunity for future generations to assert tino rakatirataka and exercise kaitiakitaka of marine resources in accordance with the rights guaranteed to them under te Tiriti.

To address this, Kāi Tahu propose that any approved MPAs (and the Network) be reviewed by co-management groups 25 years after MPA implementation (at the latest). Kāi Tahu want generational review to be provided for in the legislative instruments for each proposed MPA and the kelp protection area and believe a review provision would allow each generation to re-evaluate the MPAs and reflect on whether they are achieving their purpose. Kāi Tahu consider the reviews should focus on the effectiveness, performance, and future direction of the MPAs and consider their rights as tangata whenua and their ability to exercise kaitiakitaka. If research (e.g. periodic reviews) indicates changes to MPA(s) are necessary, Kāi Tahu want the option to initiate the generational review process so that it can be undertaken earlier than 25-years.

Kāi Tahu seek that generational reviews be completed within a stipulated timeframe and that the formal advice developed by these co-management groups during the generational review process be provided to the Minister of Conservation and/or the Minister for Oceans and Fisheries for final decisions.

Agencies' position for engagement has been:

- Agencies support in principle periodic review of MPA sites and the network but query the appropriate timeframe (5-10-years vs 10-15 -years).
- Agencies would support monitoring surveys to inform generational review.
- Agencies support in principle the proposal for generational (25-year) reviews.
- Decision-making sits with Ministers.
- Any review should be undertaken in the spirit of partnership, co-design and informed decision-making.

4.4.3 Rōpū progress on these proposed measures

4.4.3.1 Periodic review

Through the Rōpū hui it was agreed that 5 years was an appropriate timeframe for periodic reviews (Appendix 4). Agencies proposed that periodic reviews did not require a provision in Orders in Council. Rather, periodic reviews are '... an operational matter for the co-management committee [group] to consider' and that these groups should have the autonomy to develop the '...process for periodic review objective setting, timing and monitoring.' (Appendix 6). Kāi Tahu noted that no Order in Council provision would be required so long as '...periodic review will be provided for, not lost if not specifically referenced [in Orders in Council]'.

4.4.3.2 Generational review

Through Rōpū engagement agencies developed, presented, and refined the 'intention statement' text on generational review. Draft intention statement text on this proposed measure was last presented to Kāi Tahu at the hui on 23 July 2021 (Appendix 10). Some minor amendments to the intention statement text were discussed and agreed at the hui (Appendix 7). The text below sets out the position reached.

The intention statement text outlines that Tini a Tangaroa 'Supports Kāi Tahu's intention for a practical mechanism to be put in place to enable the review of SEMP marine protected areas to ensure that the rakatirataka of each generation of Kāi Tahu is appropriately recognised.'

Te Papa Atawhai also supports the concept of generational review and proposes:

- 'The Minister of Conservation would undertake the generational review. It would be mandatory for the Minister of Conservation to undertake the generational review within 25 years of the marine reserve being declared and at subsequent 25-year intervals.

- Prior to the Minister of Conservation undertaking the review, the co-management groups would determine and agree the scope and objectives of the generational review as well as who undertakes it and how this is done. We think it is important that those decisions are left to the co-management groups at the time rather than being determined in advance.
- Generational review of any marine reserve should be considered in the context of the Network because that was how they were developed by the Forum (i.e., the value of each site was balanced and considered against the total components of the Network).
- The condition in the Orders in Council would specifically refer to the requirement for the Minister of Conservation to consult with Ngāi Tahu Whānui.

Note that following the generational review, any recommended changes to the marine reserves would need to be progressed through the statutory processes. Under the current legislation, this would follow the same process as for establishing the reserve under the Marine Reserves Act. Changes to the marine reserves would likely be a Ministerial decision (as is the case under the current Marine Reserves Act) but would be subject to the legislation of the day.'

For any approved marine reserves, Te Papa Atawhai would provide drafting instructions to the Parliamentary Counsel Office for an Order in Council condition. Drafting instructions would reflect:

- 'The intention of this condition is to require the Minister of Conservation, at 25-year intervals (at the latest), to undertake a review of the marine reserve.
- Without limiting the scope of the review, the review should be undertaken in the context of the network.
- The condition in the Order in Council would specifically refer to the requirement for the Minister to consult with Kāi Tahu (Ngāi Tahu Whānui) prior to the initiation of the review.'

4.4.4 Unresolved matters or key points of difference

4.4.4.1 Shared decision-making with Ministers

Kāi Tahu and agencies largely agree on the proposed process for periodic and generational reviews. Kāi Tahu want to test, however, whether they can be co-decision-makers on the outcomes of generational reviews with the Minister responsible (see section 4.1). Agencies' position is that these statutory decisions cannot be shared outside of the Government.

4.4.4.2 Setting out how co-management groups will work

Each future co-management group will need to work to facilitate periodic and generational review as envisaged by the Rōpū. Further kōrero now by the Rōpū would help set out this approach for future co-management groups.

4.4.5 Outcome summary

The Rōpū agree that periodic and generational reviews should occur for all approved MPAs and in context of the Network as a whole (Table 2). Agencies intend to provide for generational review via provision in the relevant legislative instruments for any approved MPA. The relevant Minister will undertake generational reviews and is the decision-maker on the outcome of them.

The scope and timing of both types of review should be determined by the relevant co-management group of the day, with periodic review part of implementation planning.

Regarding unresolved matters:

Setting out how co-management groups will work will be worked through during future Rōpū hui where partnership and implementation are the focus in preparation should any proposed MPAs be approved.

Kāi Tahu will discuss shared decision-making directly with Ministers.

4.5 Retrieval of kōiwi tākata and archaeological artefacts, and access to cultural materials

During engagement Kāi Tahu has expressed the high cultural value of kōiwi tākata²⁴, archaeological artefacts²⁵ and other cultural materials.²⁶ Kāi Tahu want the retrieval of kōiwi tākata in line with the Ngāi Tahu Kōiwi Tāngata (human remains) Policy²⁷, and access to cultural materials in line with the Ngāi Tahu Cultural Materials Policy²⁸, to be unaffected by establishment of the proposed network of MPAs.

On a rohe-by-rohe basis, Kāi Tahu propose retrieval of kōiwi tākata from all proposed MPAs except for Papanui marine reserve and Kaimata Type 2 MPA (neither adjoin land), as well as access to cultural materials across all proposed MPAs.

Kāi Tahu suggest that the co-management structure and Kāi Tahu rangers proposed to be established (sections 4.1 and 4.2) would support, monitor and manage access to kōiwi tākata, archaeological artefacts and cultural materials.

Kāi Tahu propose this be captured in the Order in Council for each marine reserve, except the proposed Papanui marine reserve.

Agencies' position for engagement has been:

- Agencies support this proposal, subject to legal requirements.
- Special conditions may be placed in the Orders in Council for proposed marine reserves to allow for retrieval of kōiwi tākata and parts of dead marine mammals.

4.5.1 Rōpū progress on this proposed measure

Through Rōpū engagement agencies developed, presented, and refined 'intention statement' text on retrieval of kōiwi tākata and archaeological artefacts, and access to cultural materials. Draft intention statement text on these proposed measures was last presented to Kāi Tahu at the hui on 23 July 2021 (Appendix 10). Some minor amendments to the intention statement text were discussed and agreed at the hui (Appendix 7). The text below sets out the position reached.

The intention statement text states that Tini a Tangaroa supports the proposal of Kāi Tahu and affirms that Type 2 MPAs 'would not restrict collection of kōiwi tākata, archaeological artifacts or cultural materials in any way beyond existing constraints under the fisheries management system.' (also see Table 2).

²⁴ Kōiwi tākata are defined as 'unidentified human remains' in the Ngāi Tahu 'Koiwi Tangata (Human Remains) Policy, June 1993'. This policy addresses human rights and fundamental freedoms concerning the management of unidentified skeletal remains of Māori that have been eroded from burial sites. Such burial sites are commonly found within the coastal marine area within the takiwā of Kāi Tahu.

²⁵ Taoka or artefacts that are unearthed with kōiwi, or found separately within the coastal marine area, are subject to the jurisdiction of Heritage New Zealand, which administers the public process that determines ownership and custodianship.

²⁶ Cultural materials were traditionally sought by Kāi Tahu tupuna (many of which are still sought today) include dead marine mammals, waka, middens, taoka according to tikanga Māori (Appendix 3).

²⁷ Te Rūnanga o Ngāi Tahu, 1993 (amended 2019), Kōiwi Tangata, te Wawata a Ngāi Tahu e pa ana ki Ng'a Tāonga Kōiwi o Ngā Tūpuna, the Policy of Ngāi Tahu Concerning the Human Remains of our Ancestors, Te Rūnanga o Ngāi Tahu.

²⁸ Toitū Te Whenua, Te Rūnanga o Ngāi Tahu, the Department of Conservation and Southern Operations, 2007, Allocation of Cultural Materials Guideline for the Takiwā of the Ngāi Tahu Whānui, Department of Conservation and Te Rūnanga o Ngāi Tahu, Wellington. p. 1-18.

Te Papa Atawhai's position is set out below in respect of each of these matters.

4.5.1.1 Kōiwi tākata and archaeological artefacts

Te Papa Atawhai 'supports Kāi Tahu's retrieval of kōiwi tākata and archaeological artefacts from within any approved marine reserves, subject to any legal requirements.' Te Papa Atawhai recommends an Order in Council condition to provide for this, consistent with the Ngāi Tahu Kōiwi Tāngata (human remains) Policy.

For any approved marine reserves, Te Papa Atawhai would provide drafting instructions to the Parliamentary Counsel Office for an Order in Council condition. Drafting instructions would reflect: 'The intention is to allow for relevant papatipu rūnaka or anyone authorised by relevant papatipu rūnaka to undertake activities related to the retrieval of kōiwi tākata and archaeological artefacts within the marine reserves subject to compliance with all relevant legal requirements.'

4.5.1.2 Cultural materials—fossicking

Te Papa Atawhai proposes providing for most matters Kāi Tahu has raised in relation to accessing cultural materials through a general Order in Council condition for 'fossicking' in marine reserves. The fossicking condition was proposed in the Director-General's application for the marine reserves²⁹ and would apply to the general public as well as Kāi Tahu. Subject to any other legal requirements the condition would allow non-commercial gathering of: 'driftwood, beach stones (under 256 mm diameter including gravel and sand), and dead shells'. The conditions for fossicking would be:

- 'Must not use a method of collection that involves the use of machinery or cutting equipment; and
- must not, in any 1 day, remove a greater weight than they can carry on their own in 1 trip.'

The fossicking provision does not apply to accessing detached kelp within marine reserves (e.g. for poha), though the mātauraka Māori/wānaka condition could account for this (section 4.3). Kāi Tahu indicated that detached kelp might be collected right after a storm and that it is available to them in many other places outside of the proposed marine reserves. Kāi Tahu considered that a condition specifically providing for collection of detached kelp in the proposed marine reserves may not be required (Appendix 7).

4.5.1.3 Cultural materials—marine mammals

Te Papa Atawhai proposes to 'provide for Kāi Tahu (Ngāi Tahu Whānui) to be able to take all or part of dead marine mammals in accordance with the usual Marine Mammals Protection Act [1978³⁰] provisions: a permit will still be required to take all or part of a dead marine mammal, and detached parts such as teeth, bones and ambergris can be taken as long as DOC is notified (sections 4(1) and 4(5) of the MMPA)' (Appendix 10). To enable this, Te Papa Atawhai proposes incorporating Order in Council conditions similar to Schedule 3, section 2 of the Fiordland (Te Moana o Atawhenua) Marine Management Act 2005.³¹

Te Papa Atawhai suggests that rohe-specific co-management groups would have input into decisions on permits, which would 'ensure involvement of relevant rūnaka in decision making' (Appendix 7).

²⁹ <https://www.doc.govt.nz/globalassets/documents/getting-involved/consultations/2020/semp-consultation/semp-consultation-document.pdf>.

³⁰ <https://www.legislation.govt.nz/act/public/1978/0080/latest/DLM25111.html>.

³¹ <https://www.legislation.govt.nz/act/public/2005/0036/latest/DLM341282.html>.

4.5.1.4 Cultural materials – Wildlife Act

In terms of the Wildlife Act 1953³², Te Papa Atawhai outlines that ‘The status quo will continue for wildlife as defined under the Wildlife Act (most relevantly, birds). Kāi Tahu’s ability to possess dead wildlife as provided for in s296 of the Ngāi Tahu Claims Settlement Act still applies. The processes set out in the Ngāi Tahu Cultural Materials Guidelines (2007) in terms of the distribution to Kāi Tahu of dead wildlife in DOC’s possession will continue to apply.’ (Appendix 10).

In an addendum to the hui record from 23 July 2021, Te Papa Atawhai clarify that ‘the offence provisions under the Marine Reserves Act means that no person (including Kāi Tahu) will be able to take or remove wildlife dead or alive from a marine reserve without lawful authority or reasonable excuse (Section 181(3d)’ (Appendix 7). This means that Ngāi Tahu whānui’s ability to possess dead wildlife and transfer dead wildlife as provided for under sections 296 of the Ngāi Tahu Claims Settlement Act 1998 remains unaffected. However, such items would not be able to be taken or removed from the marine reserves (without lawful authority or reasonable excuse).

4.5.2 Unresolved matters or key points of difference

4.5.2.1 Managing public take of Moeraki boulders

The public are taking Moeraki boulders, which vary in size and are increasingly being exposed by erosion of the coastline. Kāi Tahu want this take to stop and recommend reducing the size of beach stones suggested in the proposed fossicking provision: currently this is 256 mm in diameter.

Te Papa Atawhai will investigate a ‘more fit for purpose size exclusion of stones’, and report back to Kāi Tahu. Te Papa Atawhai suggests that ‘the rest of the fossicking provision stands’ (Appendix 7).

4.5.2.2 Management of cultural materials

Kāi Tahu want to discuss how cultural materials are managed under the Ngāi Tahu Cultural Materials Guidelines. Specifically, in the spirit of co-management, Kāi Tahu suggest that Papatipu Rūnaka be holders of cultural material banks and that there is a role for the proposed Kāi Tahu rangers in management of these cultural materials (Appendix 6). Te Papa Atawhai is supportive of this suggestion (Appendix 7). Further kōrero is required.

4.5.2.3 Setting out how co-management groups will work

Each future co-management group will need to facilitate Kāi Tahu retrieval of kōiwi tākata and archaeological artefacts and access to cultural materials as envisaged by the Rōpū. Further kōrero now by the Rōpū would help set out this approach for future co-management groups.

4.5.3 Outcome summary

Tini a Tangaroa does not have a view on this, as the matters apply to the proposed marine reserves.

Te Papa Atawhai supports the position of Kāi Tahu on retrieval of kōiwi tākata and archaeological artefacts consistent with the Ngāi Tahu Kōiwi Tāngata (human remains) Policy and subject to any legal requirements. For the proposed marine reserves, Te Papa Atawhai recommends this be provided for by a condition in the Orders in Council for any approved marine reserves.

³² <https://www.legislation.govt.nz/act/public/1953/0031/latest/DLM276814.html>.

Te Papa Atawhai proposes that the matters Kāi Tahu have raised in relation to cultural materials can be provided for through conditions in the Orders of Council allowing for fossicking and retrieval of marine mammals as set out above.

Unresolved matters will be worked through during future Rōpū hui where partnership and implementation are the focus in preparation should any proposed MPAs be approved.

4.6 Boundary amendment: proposed Te Umu Koau marine reserve

During engagement Kāi Tahu has indicated the proposed Network of MPAs would potentially have significant impacts, particularly on their commercial fishing interests. The proposed Te Umu Koau marine reserve was identified as being of most concern and likely to have the largest impact on commercial fishing because it encompasses areas of deep reef of particular importance for the rock lobster fishery in the CRA7 quota management area.

Kāi Tahu are concerned that prohibiting commercial fishing on these grounds would impact on their people, particularly those members of the Moeraki, Ōtākou and Puketeraki rūnaka whose families are involved in rock lobster fishing, processing, and export. It may also impact the associated tribal quota asset.

Kāi Tahu want the boundary proposed in the application for Te Umu Koau marine reserve amended so that it reduces this impact. Kāi Tahu seek no other boundary amendments to the proposed MPAs (Table 2).

Agencies' position for engagement has been:

- Agencies are open to understanding Kāi Tahu views on the potential for boundary amendments to address MPA impacts on their rights and interests.
- Decisions on boundary amendments will rest with Ministers and cannot be made until the public consultation process has ended.
- Boundary adjustments must meet legislative requirements and should meet the objectives of the Marine Protected Areas Policy and Implementation Plan^{33, 34} in the context of the proposed Network.

4.6.1 Rōpū progress on this proposed measure

During engagement hui, Kāi Tahu proposed three amendments to the northern boundary proposed in the application for Te Umu Koau marine reserve.³⁵ All three proposed amendments avoid an area of deep reef (locally referred to as "The Church"), which is particularly important to commercial rock lobster fishing in CRA7. The three proposed amendments offer varying reductions of impact on the CRA7 fishery as well as on blue cod and pāua fisheries.

The first proposal (D1-A – Figure 4-1) was put forward by Kāi Tahu during the 29 July 2020 hui (Appendix 3) following kōrero with commercial fishers and was based on a GPS point provided by a Kāi Tahu cray fisher, **9(2)(a)**. At this time Kāi Tahu felt that the amendment addressed their concerns about the impacts of the proposed marine reserve on CRA7 fishers and that it was

³³ <https://www.doc.govt.nz/about-us/science-publications/conservation-publications/marine-and-coastal/marine-protected-areas/marine-protected-areas-policy-and-implementation-plan/>.

³⁴ The "legislative requirements" are those of the Marine Reserves Act 1971. The objectives of the MPA Policy are a relevant consideration for Ministers in making their decisions on the MPA proposals, but they are not a legislative requirement.

³⁵ Hui dates: 29 July 2020 (Appendix 3), 20 January 2021 (Appendix 4), 4 March 2021 (Appendix 5), 20 April 2021 (Appendix 6).

supported by those fishers. At a subsequent Rōpū hui on 4 March 2021 Kāi Tahu outlined that further kōrero was required to determine general support from Kāi Tahu fishers, that the CRA7 Association executives are not supportive of the D1-A boundary, and that there was still significant fishing effort within the area of D1-A (Appendix 5).

The other two proposals (D1-B and D1-C – Figure 4-1) were suggested at the hui on 20 April 2021 (Appendix 6) following a presentation by Tini a Tangaroa of fine-scale electronic reporting data of cumulative commercial fishing effort for rock lobster and blue cod within the proposed Te Umu Koau marine reserve. Acknowledging the short timeframe of the dataset presented at the hui (1 October 2019 – 24 March 2021), the data suggested that D1-A would reduce impact on CRA7 catch by 9.1% (~29 tonnes) compared to the boundary in the application, while D1-B and D1-C would reduce this further to a 1% impact (~1.27 tonnes).

Kāi Tahu has expressed that their preference, and the preference of commercial cray fishers with whom they spoke, is boundary amendment D1-B or D1-C. Kāi Tahu acknowledge that, compared to proposal D1-A, D1-B and D1-C would have a greater effect on the representation of deep reef habitat within the proposed network of MPAs.

Te Papa Atawhai supports kōrero on boundary amendments at Te Umu Koau and has worked to address the concerns of Kāi Tahu. Te Papa Atawhai acknowledges that all three amendments reduce the impact on fishers, particularly those operating in the CRA7 fishery. In determining its recommendation to the Minister of Conservation, Te Papa Atawhai must weigh any boundary amendment against the effect of that change on the habitats viably represented in the entire proposed Network. As currently proposed, the D1-A boundary would still include deep reef habitats with their encrusting fauna, while amendments D1-B and D1-C would remove almost all deep reef habitat from the proposed marine reserve and so a viable example of this habitat type would no longer be present in the Network.³⁶

4.6.2 Unresolved matters or key points of difference

4.6.2.1 Liaison with CRA7 fishers

Tini a Tangaroa intends to schedule hui with CRA7 fishers operating within the area proposed as Te Umu Koau marine reserve, especially those based out of Moeraki, to discuss the proposed boundary amendments and understand their views of what a reasonable outcome would be.

4.6.2.2 Alternative options for protection of area excluded by amended boundary

If Ministers approve an amended boundary for Te Umu Koau marine reserve, Kāi Tahu suggest that Tini a Tangaroa explore alternative forms of protection for the area excluded, especially The Church. Suggestions include mātaimai reserve, taiāpure or a Type 2 MPA. Tini a Tangaroa will explore this in advice to the Minister for Oceans and Fisheries after a final decision has been made on whether or not to establish one of the options for a marine reserve at site Te Umu Koau. It would require separate consultation.

4.6.3 Outcome summary

Kāi Tahu has proposed three boundary amendments for Te Umu Koau. All three reduce the impacts on commercial, recreational, and customary fishing in the area, most notably on the CRA7 commercial fishery. Kāi Tahu prefer amended boundaries D1-B and D1-C, which largely exclude deep reef habitat from the proposed marine reserve.

³⁶ Te Umu Koau is the only marine reserve in the proposed Network that includes representation of the deep reef habitat type. It was proposed by the South-East Marine Protection Forum as the next best option to represent deep reef after Long Point, the Nuggets and Tow Rock were specifically excluded during the Forum's consultation process due to concerns raised about impacts on fishing.

In its advice to the Minister of Conservation, Te Papa Atawhai will weigh the reduction of impacts on Kāi Tahu rights and interests against how the proposed amendments affect the representation of deep reef habitat in the proposed marine reserve and the entire Network and align with the Marine Protected Areas Policy and Implementation Plan.

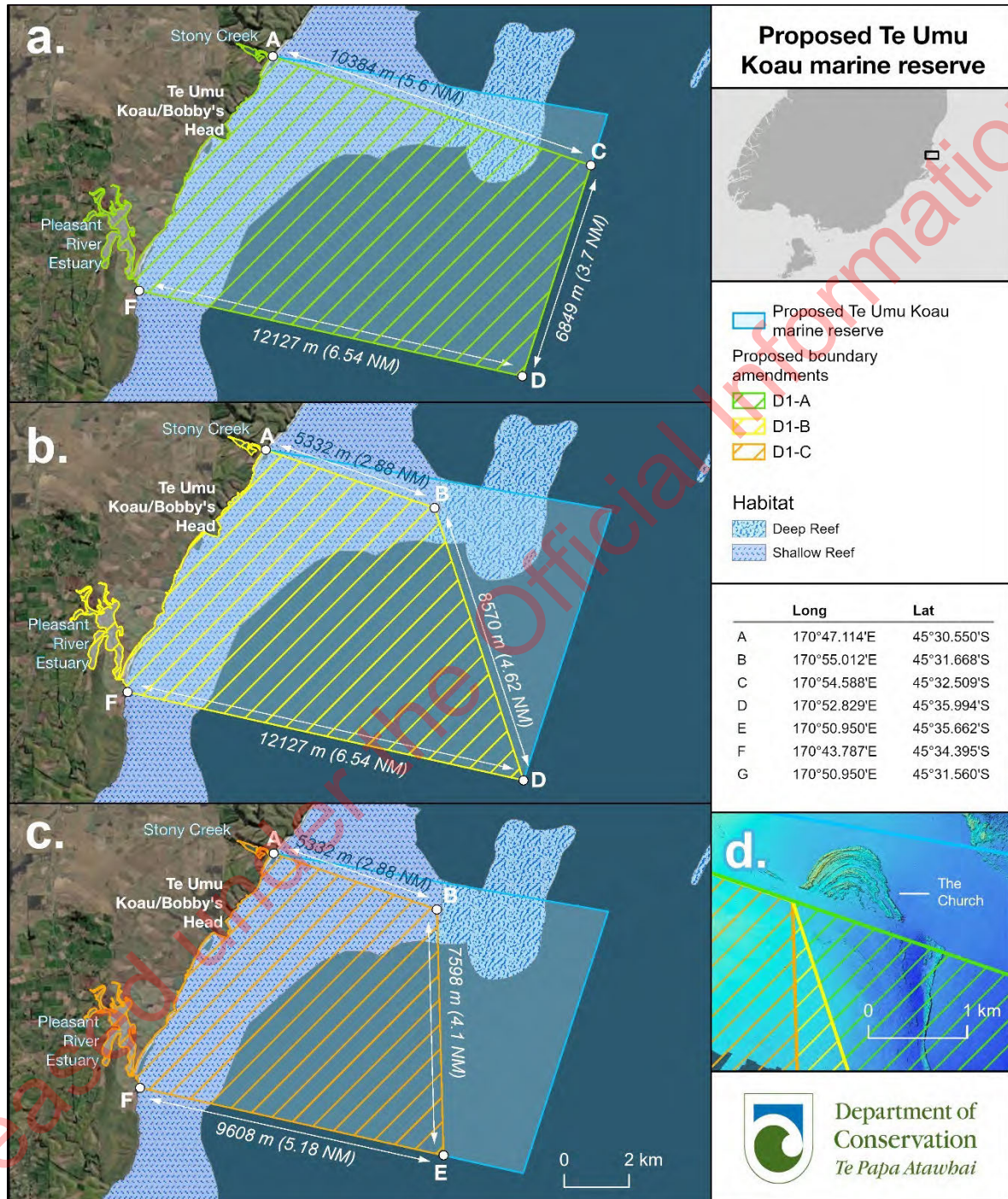


Figure 4-1 Alternate boundary proposals for the proposed Te Umu Koau marine reserve: a. D1-A proposed by Kāi Tahu July 2020, b. D1-B proposed by Kāi Tahu April 2021, c. D1-C proposed by Kāi Tahu April 2021, d. the three proposed boundary amendment lines in relation to 'The Church' reef structures.

4.7 9(2)(g)(i) access to permits issued for control of *Undaria pinnatifida* (to enable control costs to be recovered)

Undaria pinnatifida (hereafter *Undaria*) is an invasive exotic seaweed. Kāi Tahu has a permit to harvest *Undaria* within mātaihai reserves for the purpose of control and want 9(2)(g)(i) rights to harvest the seaweed over a wider coastal area, including all proposed MPAs except for the proposed Papanui marine reserve and Kaimata Type 2 MPA (which do not adjoin land). As Tiriti partner, Kāi Tahu expect processes and decisions consistent with the outcomes of the Ngāi Tai Ki Tāmaki Supreme Court case.

The permit holder for the *Undaria* harvest cannot make a profit from sale of the seaweed, rather any revenue generated would be reinvested into continued control efforts. The seaweed can be sold for a profit, however, by the entities purchasing it from the permit holder. Kāi Tahu believe this commercial aspect may add to regional economic development and have been working to establish an international market for *Undaria* products.

Kāi Tahu want *Undaria* harvest to be captured in the Orders in Council for each proposed marine reserve except Papanui, and propose to coordinate, manage and undertake the harvest with support and monitoring of the process by the proposed Kāi Tahu rangers (section 4.2).

Agencies' position for engagement has been:

- 9(2)(g)(i) access to commercial development opportunities may be able to be considered under relevant statutory processes (for concessions or permits).³⁷
- 9(2)(g)(i) access to commercial development opportunities generally is currently being considered by Te Papa Atawhai at a national level.

4.7.1 Rōpū progress on this proposed measure

Through Rōpū engagement agencies developed, presented, and refined 'intention statement' text on providing for harvest of *Undaria* within the proposed MPAs for the purpose of controlling its spread and impact on indigenous biodiversity. Draft intention statement text on this proposed measure was last presented to Kāi Tahu at the hui on 23 July 2021 (Appendix 10).

The intention statement text states that Tini a Tangaroa supports the proposal from Kāi Tahu subject to any legal requirements and affirms that Type 2 MPAs would not restrict removal of *Undaria* beyond existing constraints under the biosecurity permit granted to Kāi Tahu by Biosecurity New Zealand (also see Table 2).

Te Papa Atawhai also 'supports Kāi Tahu's activities in relation to the removal of *Undaria* within any approved marine reserves, subject to any other legal requirements.' For any approved marine reserves, Te Papa Atawhai would provide drafting instructions to the Parliamentary Counsel Office for an Order in Council condition. Drafting instructions would reflect: 'The removal of *Undaria pinnatifida* (unattached or attached) from marine reserves is provided for, as long as all other legal requirements relating to the removal are complied with (e.g. Biosecurity Act and Resource Management Act).' Te Papa Atawhai will require notice from Kāi Tahu of *Undaria* harvest activities to be made to the relevant DOC Operations team.

³⁷ The Rōpū agreed that preferential access for Kāi Tahu to commercial development opportunities relating to eco-tourism were Tranche 3 matters. These are discussed in section 3.4.

4.7.2 Unresolved matters or key points of difference

4.7.2.1 Setting out how co-management groups will support this mahi

Each future co-management group will need to facilitate the control of *Undaria* as envisaged by the Rōpū and coordinated, managed, and undertaken by Kāi Tahu. Further kōrero now by the Rōpū would help set out this approach for future co-management groups.

4.7.3 Outcome summary

Agencies support Kāi Tahu in removal of *Undaria* from the proposed MPAs (Table 2), subject to any legal requirements and adherence to the biodiversity permit granted to Kāi Tahu. No Order in Council provision is required for harvest of *Undaria* within Type 2 MPAs. Te Papa Atawhai intend to provide for *Undaria* harvest by a condition in Orders in Council for any approved marine reserves.

Unresolved matters will be worked through during future Rōpū hui where partnership and implementation are the focus in preparation should any proposed MPAs be approved.

4.8 Naming and pou for each new marine protected area

During their planning process, the South-East Marine Protection Forum decided to use Te Reo Māori names for the proposed new marine protected area sites, and papatipu rūnaka with mana moana provided 'placeholder' names for this purpose.

Agencies' position for engagement has been:

- Agencies support the use of Te Reo Māori to name new MPAs sites established from the southeast marine protection process.
- Once Ministers have made their decisions, agencies intend to reconfirm with Kāi Tahu the names of any approved MPAs. Any proposed names must be referred to the New Zealand Geographic Board for review and concurrence before any new marine protected area is gazetted.³⁸

4.8.1 Rōpū progress on this proposed measure

During Rōpū engagement³⁹, Kāi Tahu confirmed that all placeholder names provided by papatipu rūnaka to the South-East Marine Protection Forum are appropriate, except for Tuhawaiki Type 2 MPA. Te Rūnanga o Arowhenua determined that they did not want to propose an iwi name for this site and suggested that, if approved by Ministers, the site be called 'South Canterbury Type 2 MPA'. Following further kōrero at the Rōpū hui on 20 April 2021, it was decided that the name be changed to 'South Canterbury MPA' (Appendix 6).

At the hui on 29 July 2020, Kāi Tahu confirmed their preference that pou should be in place for each of the approved MPAs.

Agencies support the use of Te Reo Māori names for the proposed marine protected areas and the use of Pou at each approved MPA that adjoins land.

4.8.2 Unresolved matters or key points of difference

4.8.2.1 New Zealand Geographic Board process

Te Papa Atawhai will seek the input of Kāi Tahu for the New Zealand Geographic Board process to review the proposed names for any approved marine reserves.

³⁸ Clarification: Type 2 MPAs do not need to go through a New Zealand Geographic Board process.

³⁹ Rōpū hui dates: 20 January 2021 (Appendix 4), 4 March 2021 (Appendix 5), 20 April 2021 (Appendix 6).

4.8.2.2 Details of Pou

The location, commissioning and design and funding for pou has not been discussed by the Rōpū.

4.8.3 Outcome summary

Eleven of the twelve proposed MPAs have Te Reo Māori names that have been confirmed by the papatipu rūnaka with mana moana. Instead of Tuhawaiki, it is proposed that this Type 2 MPA be called the South Canterbury MPA.

Unresolved matters will be worked through during future Rōpū hui where partnership and implementation are the focus in preparation should any proposed MPAs be approved.

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5 Appendices

Released under the Official Information Act

4 subsequent pages are related to SEMP Hui Record 31 July 2018 and are withheld in full under section 9(2)(g)(i) of the OIA.

Appendix 1 SEMP hui record—31 July 2018

Meeting Notes – Hui to Discuss Co-Management with respect to the South East Marine Protection Forum Recommendations

**Tuesday 31 July 2018
Maungatua Room
Dunedin Airport**

9(2)(g)(i)

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Appendix 2 SEMP hui record - Agency record— 23 September 2019

AGENCY RECORD

Manaaki ki te Toka Hui

South-East Marine Protection Hui

Puketeraki Marae

Kāi Tahu, Te Papa Atawhai (DOC), Tini a Tangaroa (FNZ)

Āhea/When: Monday/Ahiahia 23 Mahuru/September 2019

Wā/Time: 12:00am – 4:00pm

9(2)(g)(i)

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Appendix 3 SEMP hui record—29 July 2020

Manaaki ki te Toka Hui
South-East Marine Protection Hui- Outcomes
Ōtākou Marae
Kāi Tahu, Te Papa Atawhai (DOC), Tini a Tangaroa (FNZ)

Āhea/When: Wednesday 29 Hōngongoi/July 2020
Wā/Time: 9:30am – 4:00pm
Wāhi hui/Venue: Ōtākou Marae, 25 Tamatea Road, Portobello, Ōtākou
9(2)(g)(i)

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Appendix 4 SEMP Rōpu hui record—20 January 2021

Manaaki ki te Toka Hui

Southeast Marine Protection Hui- Meeting Record

Āhea / When: Wednesday, 20 January 2021

Wā / Time: 9.00 – 4.15

Wāhi / Venue: Ōtākou Marae
9(2)(g)(i)

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Appendix 5 SEMP Rōpu hui record—4 March 2021

Manaaki ki te Toka Hui

Southeast Marine Protection (SEMP) Rebalancing Matters

Kāi Tahu, Te Papa Atawhai and Tini a Tangaroa

Meeting Record 4 March 2021

9(2)(g)(i)

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Manaaki ki te Toka Hui

Southeast Marine Protection

Hui Agenda

Āhea / When: 4 March 2021

Wā / Time: 10:00am – 12:00pm

Wāhi / Venue: Zoom

9(2)(g)(i)

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Appendix 6 SEMP Rōpu hui record—20 April 2021

Manaaki ki te Toka Hui

Southeast Marine Protection (SEMP) Rebalancing Matters

Kāi Tahu, Te Papa Atawhai and Tini a Tangaroa

Meeting Record 20 April 2021

9(2)(g)(i)

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Manaaki ki te Toka Hui

Southeast Marine Protection

Hui Agenda

Āhea / When: 20 April 2021

Wā / Time: 8.45m – 4.15pm

Wāhi / Venue: Ōtākou Marae
9(2)(g)(i)

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Appendix 7 SEMP Rōpu hui record—23 July 2021—
Unconfirmed

Manaaki ki te Toka Hui

Southeast Marine Protection (SEMP) Rebalancing and
Co-management Matters

Kāi Tahu, Te Papa Atawhai and Tini a Tangaroa

Meeting Record 23 July 2021

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Manaaki ki te Toka Hui
Southeast Marine Protection Hui

- Agenda -

Āhea / When: 23 July 2021

Wā / Time: 9am – 4:30pm

Wāhi / Venue: Puketeraki Marae

9(2)(g)(i)

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Appendix 8 Rōpū co-management sub-committee
draft report 21 June 2021 (presented at
23 July 2021 Rōpū hui)

Manaaki ki te Toka Hui

Southeast Marine Protection (SEMP) Rebalancing Matters

Kāi Tahu, Te Papa Atawhai and Tini a Tangaroa

Co-management Sub-committee update

Manaaki ki te Toka Hui

SEMP Co-Management sub-committee

21 June 2021

Subcommittee: 9(2)(a), Blake Abernethy, Rebecca Bird, Lesley Douglas, Elizabeth Farnham, Alice McCubbin-Howell, and Olivia Eaton

Purpose

The subcommittee's purpose was to further discuss the draft co-management structure and roles of the different tiers that would support the Marine Protected Areas (MPA) proposed as part of the Southeast Marine Protection (SEMP) network. *In response to 20 April hui Actions.*

Process

The subcommittee met on 21 June to review and clarify the framework diagram and discuss key roles and relationships in the co-management framework for feedback from the wider Rōpū participants.

- We used the original framework developed in the Rōpū hui 20 January and 20 April.
- We identified any gaps in this work and clarification around roles

The co-management framework diagram has been updated to indicate that Kāi Tahu and Crown agencies, at each level of the co-management structure, have parallel avenues on either side of the co-management groups. Updates represent:

- That the co-management groups will work together to the fullest extent possible to reach joint decisions and oversee the strategic direction and operational management for the protected areas (as set out in the co-management framework diagram), while
- Recognising the separate mandate and responsibilities of each Treaty partner; and
- Acknowledging that there are several statutory decisions and functions that sit with the Crown agencies under the relevant legislation (noting the statutory obligations in respect of Te Tiriti o Waitangi and Te Takutai Moana Act that apply to such decisions).

Defining the region

- The network is proposed across the former SEMP Forum region; however, the Forum no longer exists, and we need an enduring and practical area definition to help define the region KTR will operate. As a place holder we have used the term *CPA/MPA/region* to refer to this (yet undefined) area. We would like to understand how rūnaka prefer to define the region/space where each Rohe specific co-management group would preside over.

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DOC Delegations

Working under the Marine Reserves Act, DOC considers that the most value be gained in co-management discussions with Papatipu Rūnaka can be by focussing on the variety of operational, educational and advocacy activities that can be jointly undertaken, largely by the Rohe-Specific and Network Co-management groups.

When we talk about “delegated functions” and “delegations” we mean the statutory powers and functions that are given to the Minister and Director-General in legislation and then delegated to lower tier DOC staff pursuant to sections 57 and 58 of the Conservation Act and section 41 State Sector Act (now Schedule 6 section 2 Public Service Act).

The attached delegations document set out lists of the statutory functions granted to the Director-General under the Marine Reserves Act and Marine Reserves Regulations that have been formally delegated to other roles within the Department (as described above). Such statutory functions cannot be delegated externally, however in the context of the 6 proposed marine reserves, decisions would be made with the input of Papatipu Rūnaka and Te Runanga o Ngai Tahu to ensure the Principles of the Treaty are given effect to.

None of the Minister of Conservation’s powers and functions under the Marine Reserves Act are delegated. They are:

- Section 5(9): Minister’s ability to recommend that the Governor-General declare a marine reserve
- Section 6: Minister’s role in approving general policy

A lot of the Director-General’s powers and functions under the Marine Reserves Act are delegated, as set out in the attached delegation document. Those that are NOT delegated are:

- Section 5: The Director-General’s role in all relevant parts of the procedure for declaring a marine reserve except s5(1)(d)
- Section 6: The Director-General’s role in consulting and considering comments from other public sector Chief Executives regarding general policy.
- Section 7: The Director-General’s role in consulting and considering comments from other public sector Chief Executives regarding conservation management strategies.
- Section 9: Control and Management of Marine Reserves – administer, manage, and control in accordance with general policies, conservation management strategies and conservation management plans.
- Section 10: Particular functions of Director-General in relation to marine reserves – report to the Minister and advise the Minister
- Section 11(a) and (c): Particular power of Director-General in relation to marine reserves – protection, management, and welfare of marine reserve.
- Section 17: Rangers: Provision of warrants and removal from office for honorary rangers. Note section 17(1) appointment of honorary rangers is delegated.
- Section 18GB: Disposal of seized property

Powers in the Marine Reserves Regulations are all granted to the Director-General. These functions are focussed on the details for granting scientific research permits and are all formally delegated to lower tier DOC staff as set out in the attachment.

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MARINE RESERVES ACT 1971
INSTRUMENT OF DELEGATION
SCHEDULE

Definitions:

- D means Director-General
 DDG means Deputy Director-General
 DDGO means Deputy Director-General, Operations
 DO means Director, Operations
 DPPL means Director, Planning, Permissions, and Land
 DAR means Director, Aquatic and Reporting
 NCM means National Compliance Manager
 OM means Operations Manager

SECTION	SUMMARY OF POWERS	LIMITATION OF POWERS	O	X	DELEGATION
5(1)(d)	To serve notice in writing on the persons and bodies mentioned in section 5(1)(d) when the DG is the applicant for a declaration that an area is a marine reserve.		133, 136	D	DDG, DO
8(2)	Notify draft CMP in accordance with s.17F(a) Conservation Act 1987 (with necessary amendments).		133	D	DDG, DO
	Give persons or organisations making submissions on draft CMP opportunity to appear and be heard in accordance with s.17F(f) Conservation Act		133	D	DDG, DO

SECTION	SUMMARY OF POWERS	LIMITATION OF POWERS	O	X	DELEGATION
	1987 (with necessary amendments).				
	Prepare a summary of submissions received on draft and public opinion made known about it in accordance with s.17F(h) Conservation Act 1987 (with necessary amendments).		133	D	DDG, DO, OM
	Revise draft CMP and send to Conservation Board(s) together with summary in accordance with s.17F(i) Conservation Act 1987 (with necessary amendments).		133	D	DDG, DO
11	Allow introduction of an organism or erection of structures (including mooring buoys and bolts for anchoring research equipment)		133	D	DDG, DO, OM, DPPL, DAR
11(b)	Authorise the taking for scientific purposes of any specimens of marine life or material in any reserve and prescribe conditions of such taking and retention or disposal of those specimens or for their return to any reserve.		133	D	DDG, DO, OM, DPPL, DAR
17	Appoint suitable persons to be honorary rangers and to issue permits.		133, 136	D	DDG, DO, OM, NCM
18B (1)	Release or refuse to release seized property under bond before information or charge laid and impose sureties and conditions (if any) on release.		133, 136	D	DDG, DO, OM, NCM
18B(2)(a)	Direct property to be resealed.		133, 136	D	DDG, DO, OM, NCM

SECTION	SUMMARY OF POWERS	LIMITATION OF POWERS	O	X	DELEGATION
18B(2)(c)	Apply to District Court judge for estreat of bond.		133, 136	D	DDG, DO, OM, NCM
18E (1)	Direct disposal of forfeited property.		133, 136	D	DDG, DO, OM, NCM
18E (2)	Apply to District Court for directions as to the holding and disposal of seized property.		133, 136	D	DDG, DO, OM, NCM
18G (5)	<ul style="list-style-type: none"> • Give owner notice of Crown's intention to dispose of property. • Dispose of property. • Dispose of perishable property and hold proceeds until expiry of 90-day period. 		133, 136	D	DDG, DO, OM, NCM
18H (2)	<ul style="list-style-type: none"> • Publicly notify details of forfeit property and rights of persons to apply under s.18H. 		133, 136	D	DDG, DO, OM, NCM
18H (13)	Appear before the Court and be heard.		133, 136	D	DDG, DO, OM, NCM
21C	Authorise a warranted officer, in writing, to issue infringement notices under this Act.		156	D	DDGO, NCM
22(1)	Decide whether to cause to be marked (and specify the means of marking) the boundaries of a marine reserve.	The Director-General shall act under this section only with the concurrence of the Secretary for Transport.	133, 136	D	DDG, DO, OM

MARINE RESERVES REGULATIONS 1993

INSTRUMENT OF DELEGATION

SCHEDULE

Definitions:

D	means Director-General
DDG	means Deputy Director-General
DO	means Director, Operations
DPPL	means Director, Planning, Permissions, and Land
DAR	means Director, Aquatic and Reporting
MST	means Manager, Marine Species and Threats
OM	means Operations Manager
PPLM	means any Permissions Planning and Land Manager

REGULATION	SUMMARY OF POWERS	LIMITATION OF POWERS	O	X	DELEGATION
9(2)	Require applicant to provide further details of the scientific study proposed and his/her ability to conduct the study.		133	D	DDG, DPPL, DO, DAR, MST, OM, PPLM
10(1)	Approve application for scientific study.		133	D	DDG, DAR, DO, OM, MST
10(2)	Advise applicant as to whether or not the application is approved.		133	D	DDG, DPPL, DO, DAR, MST, OM, PPLM
11(1)	Specify intervals at which progress reports shall be furnished by the applicant.		133	D	DDG, DPPL, DO, DAR, MST, OM, PPLM
12(1)	Restrict or close to public access or use any area within a reserve for the purposes of scientific study.		133	D	DDG, DPPL, DO, DAR, MST, OM, PPLM
12(2)	Direct person responsible for the study to advise the public by notice that access to the study area is restricted or not		133	D	DDG, DPPL, DO, DAR, MST, OM, PPLM

REGULATION	SUMMARY OF POWERS	LIMITATION OF POWERS	O	X	DELEGATION
	permitted (as the case may be).				
13(1)	Specify the form of identification to be carried by persons participating in an approved scientific study.		133	D	DDG, DPPL, DO, DAR, MST, OM, PPLM
14(1)	Withdraw any approval given under regulation 10.		133	D	DDG, DAR, DO, OM, MST
14(2)	Refuse to consider further applications for approval of scientific study within the reserve by or involving any person involved in the study for which approval was withdrawn.		133	D	DDG, DAR, DO, OM, MST
16(2)	Waive requirements and disregard requirements or matters.		133	D	DDG, DAR, DO, OM, MST
16(4)	Approve applications for unspecified scientific studies.		133	D	DDG, DAR, DO, OM, MST
16(5)	Renew approvals for unspecified scientific studies.		133	D	DDG, DAR, DO, OM, MST

FISHERIES ACT 1966

DELEGATION UNDER SECTION 297

TYPE II MPAs

In the case of the Type II marine reserves the Minister for Oceans and Fisheries may recommend the making of an order in council under section 297 of the Fisheries Act.

Any regulation under this section must not be contrary to the purposes of the Act.

Part 16 Miscellaneous provisions

297 General regulations

(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- i. regulating or controlling fishing and the possession, processing, and disposal of fish, aquatic life, or seaweed including any of the following:
- ii. regulating, authorising, or prohibiting the taking or possession of any fish, aquatic life, or seaweed of any stock or species:
- iii. regulating, authorising, or prohibiting the taking or possession of fish, aquatic life, or seaweed from any area:
- iv. regulating or prohibiting the taking or possession of fish, aquatic life, or seaweed at any time, or for any period:
- v. regulating or prohibiting the taking or possession of fish, aquatic life, or seaweed smaller, or larger, than a specified size:
- vi. regulating or prohibiting the taking, possession, or disposal of any fish, aquatic life, or seaweed that is in any specified condition or exhibits specified physical characteristics:
- vii. regulating or prohibiting the return of fish, aquatic life, or seaweed to any waters:
- viii. regulating or prohibiting any method of fishing:
- ix. regulating or prohibiting the possession or use of any kind of gear, equipment, or device used for, or related to, fishing:
- x. regulating or prohibiting the use of fishing vessels or fish carriers:
- xi. regulating the number or weight of any fish, aquatic life, or seaweed that may be taken or possessed, whether by reference to any period or on any other basis whatever; and prohibiting the taking or possession of any number or weight of fish, aquatic life, or seaweed that exceeds the specified maximum number or weight:
- xii. regulating the methods, equipment, and devices to be used for determining the size or weight of any fish, aquatic life, or seaweed:
- xiii. regulating the methods, equipment, and devices that may be used to process fish, aquatic life, or seaweed; and prohibiting the processing of fish, aquatic life, or seaweed otherwise than by that method or by use of such equipment or devices:

- xiv. regulating the methods by, or the circumstances under which, fish, aquatic life, or seaweed may be held, stored, conveyed, or identified, including the use of any containers, marks, or labels:

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Appendix 9 Rōpū Kāi Tahu ranger sub-committee draft job description 27 May 2021
(presented at 23 July 2021 Rōpū hui)

Manaaki ki te Toka Hui

Southeast Marine Protection (SEMP) Rebalancing Matters

Kāi Tahu, Te Papa Atawhai and Tini a Tangaroa

Progress update from the Kāi Tahu Ranger Rōpū Subcommittee
hui

KĀI TAHU RANGER RŌPŪ SUBCOMMITTEE HUI

27 May 2021

Subcommittee: 9(2)(a), Blake Abernethy, Rebecca Bird, Lesley Douglas

Purpose

The subcommittee's purpose is to prepare a sample job description for a Kāi Tahu Ranger (KTR) that would support the Marine Protected Areas (MPA) proposed as part of the Southeast Marine Protection (SEMP) network and Customary fishing Protection Areas (CPA). *In response to 20 April hui Actions- 20 Apr A1. Blake, Rebecca, and Nigel have first cut of job description + cost and scope of resourcing - by 31 May, and 20 Apr A2. Test developed job description with papatipu – by 30 June.*

Process

The subcommittee met on May 27 to review and clarify the key functions and intended role purpose of the KTR role for feedback from the wider Rōpū participants.

- We used 9(2)(a) (TRoNT-funded) 'ranger research' services role as the core part of the draft KTR role.
- We identified any gaps in this work required by DOC/FNZ and not already covered by KTR role.
- We focused on KTR as the core rangers for Customary Protected Area (CPA)/MPA/region (note, see questions below on how to best define this).

Defining the region

The network is proposed across the former SEMP Forum region; however, the Forum no longer exists, and we need an enduring and practical area definition within which KTR will operate. As a place holder we have used the term *CPA/MPA/region* to refer to this (as yet undefined) area. We would like to understand how rūnaka prefer to define the region/space where KTR would work.

Network-wide or rohe by rohe?

We discussed the scope of the roles and identified that there may be greater value in a 'southeast partnership' network ranger team who can work across the region rather than individual rohe-based ranger roles. An advantage of a network ranger team approach is that it may enable the 'spreading' of specific rangers' skills, experience, and expertise across the region. There may well be

challenges with this approach, so we would like to understand the views of the wider Rōpū on this. We will need to know this so we can develop scope and seniority of each role.

Reporting lines?

We discussed how and who the rangers might report to. Options include:

- i. KTR report to a rūnaka-based entity but with an 'all rūnaka' agreement to share resources; or
- ii. KTR employed by rūnaka but job description states they may be working outside rohe.
- iii. Other options may include reporting into DOC or FNZ or some other entity.

Note that, should rūnaka choose to extend the role of a KTR into compliance and enforcement work, the KTR would need to hold the appropriate warrants from either DOC and/or MPI and be accountable to the relevant agency. This could be done either on a contractual basis (for honorary rangers) or an employment relationship (for fully warranted officers).

Compliance – the VADE Model

FNZ operates the Voluntary > Assisted > Directed > Enforced (VADE) Regulatory Operating Model for compliance work. The 'V' and 'A' aspects of compliance are typically associated with roles like education and advocacy. It is envisaged these would be part of the KTR role. The 'D' and 'E' aspects of compliance are typically associated with warranted Fishery Officer or Warranted DOC Ranger roles (e.g., surveillance, issuing of infringement notices, testifying in court etc.). Would rūnaka want to see KTR take on 'Directed and Enforced' responsibilities? If there are specialists within the KTR team, then a certain percentage of them could have warrants and these could form part of the KTR network roles.

Kāi Tahu Ranger - draft role description

We have drafted a role description and would like to test this with the wider Rōpū. Table one presents the key functions, tasks and performance indicators we think would help us understand and define the roles of KTR.

Key questions for the wider Rōpū:

1. Do rūnaka see any value in the KTRs working as a 'network' group (rather than a set of rohe-based rangers) and do they perceive any pros or cons to such an approach?

2. How do rūnaka see KTR being recruited and to is it practical to have KTR reporting solely to Rohe-Specific Co-Management Groups?
3. Would rūnaka want to see KTR take on more than the Voluntary and Assisted aspects of the 'VADE roles? (i.e., the 'Directed > Enforced' responsibilities?)
4. As a place holder we've used the term *CPA/MPA/region*. How would rūnaka define the region/space where KTR would work? Perhaps a 'partnership network'? Other ideas?
5. Are we on the right track with the below draft role description for KTR? If not, what changes would you want to see?

Table 1: Draft - Kāi Tahu Ranger role description

9(2)(g)(i)

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- We estimate that 2-3 DOC marine reserve rangers (maximum) are likely required for the network if they are supported by the KTR role (there are overlaps in roles such as education/advocacy).
 - Recruitment – directly involve rūnaka so they have autonomy in recruitment. Support from DOC and FNZ is welcome but rūnaka have own staff/experience to manage the recruitment process. (Note that, should rūnaka choose to extend the role of a KTR into compliance and enforcement work the KTR would need to hold the appropriate warrants from either DOC and/or MPI and be accountable to the relevant agency. This could be done either on a contractual basis (for honorary rangers) or an employment relationship (for fully warranted officers).
 - OPEX/CAPEX - how do we efficiently use existing gear e.g. boats/vehicle/scuba equip. Is there opportunity for Kāi Tahu individuals with the right certifications (e.g., skipper/dive/vessel) to be involved in boat-based and other specialist work? This includes, for example, a Kāi Tahu vessel being hired for work relating to the management/monitoring of any CPA and SEMP MPAs.
- Capacity building:
 - FNZ – outcomes of the Deloitte review may increase the ability of KTR who are HFOs focus on 'D' and 'E' aspects of their compliance role within their particular rohe moana or CPA/MPA/region. More clarity coming. Could use review to facilitate cross warranting of KTRs.
 - DOC – valuable to have KTRs participate in aspects of marine reserve Ranger role e.g., monitoring work, divers qualified/DOC recognised.
 - TRoNT – *Undaria* programme – progressing qualifications through LINZ funding.
 - How do we ensure KTR role is engaged with research (e.g., NIWA)? Same with commissioning work/sub-contracting. How to build into research programme?

Context for the different roles under consideration to help inform a possible KTR role description

Provided by 9(2)(a):

- Ranger JDs for the Waitaki LINZ work. The Rangers are on approx. 9(2)(b)(ii) and the Senior Ranger (Project Manager) is on approx. 9(2)(b)(ii).
- The original 'ranger research' services for 9(2)(a) role that was TRoNT-funded were:

1.1 Specifically, the Contractor will:

- a Work with members of the Ngāi Tahu Monitoring Team to rollout the Monitoring Framework for Customary fishing Protection Areas (CPA) within the Kāti Huirapa ki Puketeraki takiwā including:
 - i. Abundance of cultural keystone species and the state of their habitat;
 - ii. Food safety testing (utilising the draft TRoNT/ESR Mahinga Kai Safety Testing Framework);
- b. Support the delivery of a programme of fieldwork (e.g. wānanga / training, ecological surveys) at CPA sites within the Kāti Huirapa ki Puketeraki takiwā. This may include:
 - i. Finfish tag recapture surveys;
 - ii. Benthic ecological surveys;
 - iii. Shellfish reseeding and translocations;
 - iv. Control harvesting of *Undaria pinnatifida*;
- c. Develop and implement a surveillance and education programme for customary fisheries management:

- i. Focusing on fisher compliance with CPA fishing rules;
 - ii. Issue identification around the Kāti Huirapa ki Puketeraki takiwā for reporting to Puketeraki, CPA Managers and OTRoNT as appropriate;
- d. Developing and implementing a customary fishing programme:
- i. Introducing rangatahi to customary fisheries management (monitoring, surveillance, fishing);
 - ii. To service a marae pātaka for tangihanga and significant hui;
- e. Compile written reports:

The DOC- and FNZ-funded Ranger roles could be similar. There is plenty of work too without having a compliance warrant.

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Other roles:

1. DOC Marine Reserve Ranger Role:

There are two key functions to DOC's work in marine reserves: compliance and law enforcement, and monitoring of marine biodiversity. Effectively reporting on changes to biodiversity in marine reserves requires an understanding of the current state and trend of marine reserve health, using a nationally consistent approach to monitoring. Effective compliance work requires an increased effort in compliance activity (including education/outreach), enforcement, and investigation of offences within the marine reserves.

2. FNZ Honorary Fisheries Officer (HFO) Role:

HFO's contribution to the goals of FNZ are in the following areas: Assisting to create an effective deterrent for non-compliance, detecting and apprehending amateur fisheries offenders and contributing to their successful prosecution, encouraging a high level of voluntary compliance with Fisheries laws through education, public relations and liaison, and gathering, recording and reporting information and intelligence on recreational and commercial fishing activities.

3. Te Runanga o Moeraki Ranger Role:

The role of the ranger is to deliver biodiversity work as described in relevant work plans. Tasks include but are not limited to; environmental management and restoration, coastal ecosystem restoration, taoka species monitoring, general weed control, mitigating impacts on species and ecosystems health, replanting native vegetation, pest control, water quality monitoring.

Table 2: Table of the different roles to inform subcommittee hui

Deliverable	DOC – Marine Reserves Ranger Marine Reserves Act 1971 Salary: C Band \$49,938 - \$67,563 per annum Salary D Band \$58,476 - \$79,115 per annum	FNZ – Honorary Fisheries Officer Fisheries Act 1996 Volunteer based, cost \$6-7k to train no salary New Fisheries officer: \$63,464 per annum	Te Runanga o Moeraki Inc. – Ranger
Deliver the Marine Reserves Work Plan	<ul style="list-style-type: none"> • Assist with planning, delivery, and reporting on the Compliance Plan. • Assist with planning, delivery, and reporting on the Marine Reserve Plan. • Ensure the successful delivery of the work plan by working with external stakeholders, National Advisors and Operations Managers. • Build and sustain strong partnerships with local Iwi, community, external enforcement agencies and other Marine Reserve Rangers within DOC. 	<ul style="list-style-type: none"> • To undertake duties and exercise Fisheries Act powers in a courteous and professional manner. 	<ul style="list-style-type: none"> • Carry out planned work to high standard, on time and within budget. • Ensure the successful delivery of projects by either supporting others to do the work or by doing it. • Provide technical advice and support to the team members in your area of speciality. • Monitor the delivery of the assigned work plan and report progress and issues.
Support Scientific Monitoring of Marine Reserves	<ul style="list-style-type: none"> • Assist with planning, monitoring, and coordinating the delivery of marine reserve scientific monitoring. 	<ul style="list-style-type: none"> • Maintain comprehensive education, monitoring, 	<ul style="list-style-type: none"> • Apply Mātauraka Maori to development of a tikanga-

Deliverable	DOC – Marine Reserves Ranger Marine Reserves Act 1971 Salary: C Band \$49,938 - \$67,563 per annum Salary D Band \$58,476 - \$79,115 per annum	FNZ – Honorary Fisheries Officer Fisheries Act 1996 Volunteer based, cost \$6-7k to train no salary New Fisheries officer: \$63,464 per annum	Te Runanga o Moeraki Inc. – Ranger
	<ul style="list-style-type: none"> • Assist Marine Technical Advisors with management of contracts to deliver scientific monitoring. 	surveillance, and inspection services. <ul style="list-style-type: none"> • Collect data around recreational fishing, commercial fishing within the sites. 	based monitoring and management strategies. <ul style="list-style-type: none"> • Plan and convene wānaka to foster the use of Mātauraka Maori and its transfer across the generations.
Safety and Wellbeing	<ul style="list-style-type: none"> • Contribute to DOC's Health and Safety systems and practices, including Job Safety Analysis. • Contribute to a strong safety culture and achieving DOC's goal of developing an injury free workplace. • Take all practical steps to ensure your own safety and the safety of others in the workplace. • Consider conditions that affect own and others' health and safety. 	<ul style="list-style-type: none"> • Must work in pairs, which is for your own safety and wellbeing. 	<ul style="list-style-type: none"> • Take all practical steps to ensure your own safety and the safety of others in the workplace. • Consider conditions that affect own and others' health and safety. • Take a proactive approach to managing your own and others' wellbeing.

Deliverable	DOC – Marine Reserves Ranger Marine Reserves Act 1971 Salary: C Band \$49,938 - \$67,563 per annum Salary D Band \$58,476 - \$79,115 per annum	FNZ – Honorary Fisheries Officer Fisheries Act 1996 Volunteer based, cost \$6-7k to train no salary New Fisheries officer: \$63,464 per annum	Te Runanga o Moeraki Inc. – Ranger
	<ul style="list-style-type: none"> • Take a proactive approach to managing your own and others' wellbeing. 		
Work Management and Delivery	<ul style="list-style-type: none"> • Deliver on tasks as set out in work plans, annual expectations, task assignments and MORs. • Identify critical issues and risks and ensure they are constructively raised and addressed. • Manage knowledge and information to ensure it is secure, current, and appropriate access protocols are applied. 	<ul style="list-style-type: none"> • To submit reports as required by the Co-ordinator. 	<ul style="list-style-type: none"> • Your work plans are delivered and tracked, and managers are aware of obstacles to achievement of performance goals. • You report progress on deliverables, financial and non-financial indicators, risks and issues to your manager.
Stakeholder/Customer Engagement	<ul style="list-style-type: none"> • Build and maintain effective relationships with key individuals and groups from relevant sectors and organisations. 	<ul style="list-style-type: none"> • Develop and maintain effective communication and professional working relationships between the Regional Services Group and 	<ul style="list-style-type: none"> • Develop and maintain effective communication and professional working relationships with regional councils, hapū and local communities.

Deliverable	DOC – Marine Reserves Ranger Marine Reserves Act 1971 Salary: C Band \$49,938 - \$67,563 per annum Salary D Band \$58,476 - \$79,115 per annum	FNZ – Honorary Fisheries Officer Fisheries Act 1996 Volunteer based, cost \$6-7k to train no salary New Fisheries officer: \$63,464 per annum	Te Runanga o Moeraki Inc. – Ranger
	<ul style="list-style-type: none"> • Represent DOC and coordinate cross-agency initiatives within own area of responsibility. 	the wider Ministry and relevant external agencies.	
Deliver Compliance, Enforcement, and Investigations	<ul style="list-style-type: none"> • Conduct regular Compliance Patrols in the reserves as per the Work Plan. • Undertake compliance investigations and actions relating to serious breaches of the legislation to prosecution where relevant. • Compile and analyse evidence of breaches of concessions requirements, or the law. • Work with the national compliance team and Legal Services to investigate breaches of legislation administered by DOC, as well as breaches of existing concessions. 	<ul style="list-style-type: none"> • Assist in the detection, investigation, and prosecution of offending against Biosecurity and Fisheries legislation. 	<ul style="list-style-type: none"> • Report observed offences to DOC Rangers or Fisheries officers. Encourage a high level of voluntary compliance of MR and Fisheries laws through education, public relations and liaison.

Deliverable	DOC – Marine Reserves Ranger Marine Reserves Act 1971 Salary: C Band \$49,938 - \$67,563 per annum Salary D Band \$58,476 - \$79,115 per annum	FNZ – Honorary Fisheries Officer Fisheries Act 1996 Volunteer based, cost \$6-7k to train no salary New Fisheries officer: \$63,464 per annum	Te Runanga o Moeraki Inc. – Ranger
	<ul style="list-style-type: none"> • Help teach, coach, support and/or oversee community groups and volunteer Honorary Warranted Officers to do great conservation, advocacy, and compliance work, including providing access to relevant conservation resources, methods, and tools. 		

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Appendix 10 Agency draft intention statements on
particular measures raised by Kāi Tahu
(presented at 23 July 2021 Rōpū hui)

Manaaki ki te Toka Hui

Southeast Marine Protection (SEMP) Rebalancing Matters

Kāi Tahu, Te Papa Atawhai and Tini a Tangaroa

Draft intention statements

Outline

Intention statements outline how agencies intend to provide for particular matters raised by Kāi Tahu regarding the proposed SEMP MPAs.

This document includes intention statement tables for the following matters:

- Mātauraka Māori/wānaka – refer Table 1
- Kōiwi tākata & archaeological artefacts, and cultural materials – refer Table 2
- *Undaria pinnatifida* harvest – refer Table 3
- Generational review – refer Table 4

Each table outlines the positions of Kāi Tahu, DOC and FNZ for the network and each proposed MPA. These positions are draft and are based on the evolving korero during SEMP rōpū hui and reflect agencies' current understanding.

The intention statement text in this document has been updated by agencies from that developed during the rōpū hui on 20 April 2021. Key updates to the DOC position column of each table are listed below, along with questions for Kāi Tahu's consideration.

Matter	Key updates to DOC position text	Questions
Mātauraka Māori/wānaka (Table 1)	<ul style="list-style-type: none"> • wording more concise. • new proposed process for enabling mātauraka/wānaka within the proposed marine reserves. • revised drafting instructions to Parliamentary Counsel Office. 	<p><i>What is Kāi Tahu's view on the proposed process for enabling mātauraka/wānaka within the proposed marine reserves?</i></p>
Kōiwi tākata & archaeological artefacts (Table 2)	<ul style="list-style-type: none"> • wording more concise. • addition of archaeological artefacts. • Ngāi Tahu Whānui reference included. 	
Cultural materials (Table 2)	<ul style="list-style-type: none"> • wording more concise. • new proposed approach of using a general fossicking Order in Council provision for the gathering for cultural materials. • clarification required about Kai Tahu's desires around collection of detached kelp within proposed marine reserves. • proposed Order in Council provisions for take of marine mammals. • clarification around Wildlife Act. 	<p><i>What is Kāi Tahu's view on the proposed fossicking provision approach?</i></p> <p><i>What is Kāi Tahu's cultural connection to detached kelp?</i></p> <p><i>Can this cultural connection be realised from collection of detached kelp from outside of a marine reserve?</i></p> <p><i>What is Kāi Tahu's view on the proposed marine mammal provision approach?</i></p>
<i>Undaria</i> harvest (Table 3)	<ul style="list-style-type: none"> • wording more concise. 	
Generational review (Table 4)	<ul style="list-style-type: none"> • wording more concise. • more detail around proposed process for planning, initiating and participating generational reviews + decision-making following generational review. • updated drafting instructions to Parliamentary Counsel Office. 	<p><i>What is Kāi Tahu's view on the proposed generational review approach?</i></p>

Table 3: Providing for enhancement of mātauraka Māori / wānaka within the proposed SEMP MPAs

Site <i>rūnaka takiwā</i>	Kāi Tahu position	DOC Position	FNZ Position	Further mahi required
<p>SEMP Network-wide</p> <p><i>Takiwā o:</i></p> <p><i>Te Rūnaka o Arowhenua</i></p> <p><i>Te Rūnanga o Waihao</i></p> <p><i>Te Rūnaka o Moeraki</i></p> <p><i>Kāti Huirapa Rūnaka ki Puketeraki</i></p> <p><i>Te Rūnaka o Ōtākou</i></p> <p><i>Te Rūnaka o Awarua</i></p>	<p>Propose using mātauraka Māori via wānaka activities within all proposed SEMP marine protected areas to support the management of the SEMP network and as a means of building and perpetuating mātauraka Māori.</p> <p>Mātauraka to be determined on a rohe-by-rohe basis.</p> <p>Kāi Tahu do not want 'decision-maker of the day' to determine what mātauraka activities may be undertaken within the proposed marine protected areas.</p> <p>Kāi Tahu propose mātauraka for the purpose of wānaka to be captured in the Orders in Council for each marine reserve.</p> <p>Kāi Tahu propose rūnaka with mana moana to have decision making power for which mātauraka activities are approved/not approved.</p> <p>Propose the co-management entities support and monitor this process.</p>	<p>The intention is to provide for Kāi Tahu to undertake activities related to the exercise, transfer, enhancement, and development of mātauraka Māori within the marine reserves by condition in an Order in Council. This condition would recognise the distinction between mātauraka and scientific study (i.e., it would be a separate process to the approval process for scientific study through the Marine Reserves Regulations) and recognise the mana of Kāi Tahu.</p> <p>Activities would be subject to any other legal requirements and must still fit within the purpose of the Marine Reserves Act. Only activities that would otherwise be an offence under the Marine Reserves Act need to be covered by this condition.</p> <p>DOC proposes a condition in the Order in Council, that would provide for members of Ngāi Tahu Whānui to continue undertaking activities within the marine reserves that would otherwise constitute an offence where:</p> <ul style="list-style-type: none"> • Those activities are undertaken as part of organised wānaka; • The activities are for the purpose of enhancing mātauraka; and • DOC (or the rohe specific co-management group once established) is notified of the proposed wānaka in advance, and provided detail of the activities (e.g. the period when wānaka activities would be undertaken and where, details of activities to be carried out and species affected). <p>NOTE: DOC or the rohe specific co-management group would not have an 'approval' role. As long as notification occurs, the activity could be carried out. However, notification would provide for review of the proposed activities and provide an opportunity for feedback or concerns to be raised in the spirit of partnership.</p>	<p>FNZ supports Kāi Tahu's proposal and affirm that Type II MPAs would not restrict mātauraka, wānaka or customary take in any way beyond existing constraints under the fisheries management system.</p>	<p>The co-management entities will work together to foster and build capacity to exercise, transfer, enhance, and develop mātauraka Māori via wānaka, subject to any legal requirements.</p> <p>This could be outlined in a proposed MOU or revised TOR document.</p>

Site <i>rūnaka takiwā</i>	Kāi Tahu position	DOC Position	FNZ Position	Further mahi required
		<p>The process requirements set out above will not be in the Order in Council but may be reflected in an MOU or other document.</p> <p>DOC intends to provide drafting instructions to the Parliamentary Counsel Office for a condition along the following lines:</p> <p>Activities related to the exercise, transfer, enhancement, and development of mātauraka Māori undertaken by Kāi Tahu (Ngāi Tahu Whānui) and notified as part of organised wānaka activities may be carried out subject to any other legal requirements.</p>		
Marine Reserve - Waitaki (B1) <i>Te Rūnaka o Moeraki (Takiwā South of Waitaki river mouth)</i>	<p>Propose using mātauraka Māori via wānaka activities within this proposed site to support the management of it and as a means of building and perpetuating mātauraka Māori.</p> <p>Kāi Tahu propose rūnaka with mana moana to have decision making power for which mātauraka activities are approved/not approved.</p> <p>Propose the co-management entities support and monitor this process.</p>	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Marine Reserve - Te Umu Koau (D1) <i>Kāti Huirapa Rūnaka ki Puketeraki</i>	<p>Propose using mātauraka Māori via wānaka activities within this proposed site to support the management of it and as a means of building and perpetuating mātauraka Māori.</p> <p>Kāi Tahu propose rūnaka with mana moana to have decision making power for which mātauraka activities are approved/not approved.</p> <p>Propose the co-management entities support and monitor this process.</p>	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Marine Reserve - Papanui (H1) <i>Te Rūnaka o Ōtākou</i>	<p>Propose using mātauraka Māori via wānaka activities within this proposed site to support the management of it and as a means of building and perpetuating mātauraka Māori.</p> <p>Kāi Tahu propose rūnaka with mana moana to have decision making power for which mātauraka activities are approved/not approved.</p> <p>Propose the co-management entities support and monitor this process.</p>	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Marine Reserve - Ōrau (I1)	<p>Propose using mātauraka Māori via wānaka activities within this proposed site to support</p>	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.

Site <i>rūnaka takiwā</i>	Kāi Tahu position	DOC Position	FNZ Position	Further mahi required
<i>Te Rūnaka o Ōtākou</i>	the management of it and as a means of building and perpetuating mātauraka Māori. Kāi Tahu propose rūnaka with mana moana to have decision making power for which mātauraka activities are approved/not approved. Propose the co-management entities support and monitor this process.			
Marine Reserve - Okaihae (K1) <i>Te Rūnaka o Ōtākou</i>	Propose using mātauraka Māori via wānaka activities within this proposed site to support the management of it and as a means of building and perpetuating mātauraka Māori. Kāi Tahu propose rūnaka with mana moana to have decision making power for which mātauraka activities are approved/not approved. Propose the co-management entities support and monitor this process.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Marine Reserve - Hākinikini (M1) <i>Te Rūnaka o Ōtākou</i>	Propose using mātauraka Māori via wānaka activities within this proposed site to support the management of it and as a means of building and perpetuating mātauraka Māori. Kāi Tahu propose rūnaka with mana moana to have decision making power for which mātauraka activities are approved/not approved. Propose the co-management entities support and monitor this process.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Type 2 MPA - Tuhawaiki (A1) <i>Te Rūnanga o Arowhenua</i> <i>Te Rūnanga o Waihao</i>	Propose using mātauraka Māori via wānaka activities within this proposed site to support the management of it and as a means of building and perpetuating mātauraka Māori. Kāi Tahu propose rūnaka with mana moana to have decision making power for which mātauraka activities are approved/not approved. Propose the co-management entities support and monitor this process.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Type 2 MPA - Moko-tere-a-torehu (C1) <i>Te Rūnaka o Moeraki (Takiwā)</i>	Propose using mātauraka Māori via wānaka activities within this proposed site to support the management of it and as a means of building and perpetuating mātauraka Māori. Kāi Tahu propose rūnaka with mana moana to have decision making power for which	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.

Site	Kāi Tahu position	DOC Position	FNZ Position	Further mahi required
<i>rūnaka takiwā</i> <i>South of Waitaki River mouth</i> <i>Te Rūnaka o Waihao (North of Waitaki River mouth)</i>	mātauraka activities are approved/not approved. Propose the co-management entities support and monitor this process.			
Type 2 MPA - Kaimata (E1) <i>Te Rūnaka o Ōtākou</i>	Propose using mātauraka Māori via wānaka activities within this proposed site to support the management of it and as a means of building and perpetuating mātauraka Māori. Kāi Tahu propose rūnaka with mana moana to have decision making power for which mātauraka activities are approved/not approved. Propose the co-management entities support and monitor this process.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Type 2 MPA - Whakatorea (estuary) (L1) <i>Te Rūnaka o Ōtākou</i>	Propose using mātauraka Māori via wānaka activities within this proposed site to support the management of it and as a means of building and perpetuating mātauraka Māori. Kāi Tahu propose rūnaka with mana moana to have decision making power for which mātauraka activities are approved/not approved. Propose the co-management entities support and monitor this process.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Type 2 MPA - Tahakopa (Q1) <i>Te Rūnaka o Awarua</i>	Propose using mātauraka Māori via wānaka activities within this proposed site to support the management of it and as a means of building and perpetuating mātauraka Māori. Kāi Tahu propose rūnaka with mana moana to have decision making power for which mātauraka activities are approved/not approved. Propose the co-management entities support and monitor this process.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Kelp Protection Area - Arai Te Uru (T1) <i>Te Rūnaka o Arowhenua</i> <i>Te Rūnaka o Waihao</i>	Propose using mātauraka Māori via wānaka activities within this proposed site to support the management of it and as a means of building and perpetuating mātauraka Māori. Kāi Tahu propose rūnaka with mana moana to have decision making power for which mātauraka activities are approved/not approved.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.

Site <i>rūnaka takiwā</i>	Kāi Tahu position	DOC Position	FNZ Position	Further mahi required
<i>Te Rūnaka o Moeraki</i> <i>Kāti Huirapa Rūnaka ki Puketeraki</i> <i>Te Rūnaka o Ōtākou</i>	Propose the co-management entities support and monitor this process.			

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Table 4: Providing for retrieval of kōiwi tākata and archaeological artefacts, and the gathering of cultural materials within the proposed SEMP MPAs

Site	Kāi Tahu position	DOC Position	FNZ Position	Further mahi required
<p><i>rūnaka takiwā</i></p> <p>SEMP Network-wide</p> <p><i>Takiwā o:</i></p> <p><i>Te Rūnaka o Arowhenua</i></p> <p><i>Te Rūnanga o Waihao</i></p> <p><i>Te Rūnaka o Moeraki</i></p> <p><i>Kāti Huirapa Rūnaka ki Puketeraki</i></p> <p><i>Te Rūnaka o Ōtākou</i></p> <p><i>Te Rūnaka o Awarua</i></p>	<p>Retrieval of kōiwi tākata applies across all proposed marine protected areas except for Papanui marine reserve and Kaimata Type II MPA.</p> <p>Access to cultural materials applies across all the proposed MPAs and on a rohe-by-rohe basis.</p> <p>Kāi Tahu propose retrieval of kōiwi tākata in line with the Ngāi Tahu Kōiwi Tāngata (human remains) Policy, (June 1993) and access to cultural materials in line with the Ngāi Tahu Cultural Materials Guidelines (2007).</p> <p>Kāi Tahu propose the co-management entities support, monitor and manage access to kōiwi tākata and cultural materials.</p> <p>Kāi Tahu propose collection to be captured in the Orders in Council for each marine reserve.</p>	<p><u>KŌIWI TĀKATA AND ARCHAEOLOGICAL ARTEFACTS</u></p> <p>DOC supports Kai Tahu's retrieval of kōiwi tākata and archaeological artefacts from within any approved marine reserves, subject to any legal requirements.</p> <p>For the avoidance of doubt, an Order in Council condition is recommended to provide for the retrieval of Kōiwi Tākata (consistent with the Kāi Tahu Kōiwi Tākata Policy) and archaeological artefacts in each marine reserve.</p> <p>Drafting instructions to Parliamentary Counsel Office for a condition in the Order in Council will reflect:</p> <p>The intention is to allow for Kāi Tahu (Ngāi Tahu Whānui) [or anyone authorised by TRoNT] to undertake activities related to the retrieval of kōiwi tākata and archaeological artefacts within the marine reserves subject to compliance with all relevant legal requirements.</p> <p><u>CULTURAL MATERIALS</u></p> <p>DOC proposes to provide for the matters Kāi Tahu has raised in relation to cultural materials through the following:</p> <p>Fossicking</p> <p>As set out in the application for the marine reserves, DOC proposes a general Order in Council condition (i.e., one that applies to the general public as well as Kāi Tahu) for 'fossicking' in each marine reserve. Subject to any other legal requirements, this would allow for non-commercial gathering of:</p> <ul style="list-style-type: none"> • driftwood, • beach stones (under 256 mm diameter including gravel & sand), and 	<p>FNZ supports Kai Tahu's proposal and affirm that Type II MPAs would not restrict collection of kōiwi tākata, archaeological artifacts or cultural materials in any way beyond existing constraints under the fisheries management system.</p>	<p>The co-management entities will support, monitor and manage access to kōiwi tākata and cultural materials, subject to any legal requirements, via an operational plan for each site, which can also refer to relevant policies.</p> <p>This could be outlined in a proposed MOU or revised TOR document.</p>

Site <i>rūnaka takiwā</i>	Kāi Tahu position	DOC Position	FNZ Position	Further mahi required
		<ul style="list-style-type: none"> • dead shells. <p>The conditions for fossicking would be:</p> <ul style="list-style-type: none"> • Must not use a method of collection that involves the use of machinery or cutting equipment; and • must not, in any 1 day, remove a greater weight than they can carry on their own in 1 trip. <p>Detached kelp</p> <p>As currently proposed, the fossicking condition would not apply to detached kelp.</p> <p>Detached kelp creates localised ecosystems. DOC understands that most detached kelp is found above MHWS and so is available for general collection outside the boundaries of a marine reserve.</p> <p>We would like to determine, therefore, whether a specific Order in Council condition is required for Kāi Tahu to hand-gather detached kelp within a marine reserve for non-commercial purposes.</p> <p>To do this we need to understand Kāi Tahu's cultural connection to detached kelp and whether this can be realised by collection outside of a marine reserve.</p> <p>If Kāi Tahu desires collection from within the marine reserves, DOC needs to assess the ecological effects of this.</p> <p>Marine mammals</p> <p>We propose to provide for Kāi Tahu (Ngāi Tahu Whānui) to be able to take of all or part of dead marine mammals in accordance with the usual Marine Mammals Protection Act provisions: a permit will still be required to take all or part of a dead marine mammal, and detached parts such as teeth, bones and ambergris can be taken as long as DOC is notified (sections 4(1) and 4(5) MMPA).</p> <p>This can be done by incorporating Order in Council conditions similar to Schedule 3,</p>		

Site <i>rūnaka takiwā</i>	Kāi Tahu position	DOC Position	FNZ Position	Further mahi required
		<p>section 2 of the Fiordland (Te Moana o Atawhenua) Marine Management Act 2005⁴³.</p> <p>Wildlife Act</p> <p>The status quo will continue for wildlife as defined under the Wildlife Act (most relevantly, birds).</p> <p>Kāi Tahu's ability to possess dead wildlife as provided for in s296 of the Ngāi Tahu Claims Settlement Act still applies.</p> <p>The processes set out in the Ngāi Tahu Cultural Materials Guidelines (2007) in terms of the distribution to Kāi Tahu of dead wildlife in DOC's possession will continue to apply.</p>		
<p>Marine Reserve - Waitaki (B1)</p> <p><i>Te Rūnaka o Moeraki (Takiwā South of Waitaki river mouth)</i></p>	<p>Propose retrieval of kōiwi tākata and archaeological artefacts within this proposed site, in line with the Ngāi Tahu Kōiwi Tāngata (human remains) Policy, (June 1993) and access to cultural materials in line with the Ngāi Tahu Cultural Materials Policy (2007).</p> <p>Propose the co-management entities support, monitor and manage access to kōiwi tākata and cultural materials.</p>	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
<p>Marine Reserve - Te Umu Koau (D1)</p> <p><i>Kāti Huirapa Rūnaka ki Puketeraki</i></p>	<p>Propose retrieval of kōiwi tākata and archaeological artefacts within this proposed site, in line with the Ngāi Tahu Kōiwi Tāngata (human remains) Policy, (June 1993) and access to cultural materials in line with the Ngāi Tahu Cultural Materials Policy (2007).</p> <p>Propose the co-management entities support, monitor and manage access to kōiwi tākata and cultural materials.</p>	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
<p>Marine Reserve - Papanui (H1)</p> <p><i>Te Rūnaka o Ōtākou</i></p>	Not applicable	Not applicable	Not applicable	Not applicable
<p>Marine Reserve - Ōrau (I1)</p> <p><i>Te Rūnaka o Ōtākou</i></p>	<p>Propose retrieval of kōiwi tākata and archaeological artefacts within this proposed site, in line with the Ngāi Tahu Kōiwi Tāngata (human remains) Policy, (June 1993) and</p>	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.

⁴³ <https://www.legislation.govt.nz/act/public/2005/0036/latest/DLM341282.html>

Site <i>rūnaka takiwā</i>	Kāi Tahu position	DOC Position	FNZ Position	Further mahi required
	access to cultural materials in line with the Ngāi Tahu Cultural Materials Policy (2007). Propose the co-management entities support, monitor and manage access to kōiwi tākata and cultural materials.			
Marine Reserve - Okaihae (K1) <i>Te Rūnaka o Ōtākou</i>	Propose retrieval of kōiwi tākata and archaeological artefacts within this proposed site, in line with the Ngāi Tahu Kōiwi Tāngata (human remains) Policy, (June 1993) and access to cultural materials in line with the Ngāi Tahu Cultural Materials Policy (2007). Propose the co-management entities support, monitor and manage access to kōiwi tākata and cultural materials.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Marine Reserve - Hākinikini (M1) <i>Te Rūnaka o Ōtākou</i>	Propose retrieval of kōiwi tākata and archaeological artefacts within this proposed site, in line with the Ngāi Tahu Kōiwi Tāngata (human remains) Policy, (June 1993) and access to cultural materials in line with the Ngāi Tahu Cultural Materials Policy (2007). Propose the co-management entities support, monitor and manage access to kōiwi tākata and cultural materials.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Type 2 MPA - Tuhawaiki (A1) <i>Te Rūnanga o Arowhenua</i> <i>Te Rūnanga o Waihao</i>	Propose retrieval of kōiwi tākata and archaeological artefacts within this proposed site, in line with the Ngāi Tahu Kōiwi Tāngata (human remains) Policy, (June 1993) and access to cultural materials in line with the Ngāi Tahu Cultural Materials Policy (2007). Propose the co-management entities support, monitor and manage access to kōiwi tākata and cultural materials.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Type 2 MPA - Moko-tere-a-torehu (C1) <i>Te Rūnaka o Moeraki (Takiwā South of Waitaki River mouth)</i> <i>Te Rūnaka o Waihao (North of Waitaki River mouth)</i>	Propose retrieval of kōiwi tākata and archaeological artefacts within this proposed site, in line with the Ngāi Tahu Kōiwi Tāngata (human remains) Policy, (June 1993) and access to cultural materials in line with the Ngāi Tahu Cultural Materials Policy (2007). Propose the co-management entities support, monitor and manage access to kōiwi tākata and cultural materials.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.

Site <i>rūnaka takiwā</i>	Kāi Tahu position	DOC Position	FNZ Position	Further mahi required
Type 2 MPA - Kaimata (E1) <i>Te Rūnaka o Ōtākou</i>	Not applicable	Not applicable	Not applicable	Not applicable
Type 2 MPA - Whakatorea (estuary) (L1) <i>Te Rūnaka o Ōtākou</i>	Propose retrieval of kōiwi tākata and archaeological artefacts within this proposed site, in line with the Ngāi Tahu Kōiwi Tāngata (human remains) Policy, (June 1993) and access to cultural materials in line with the Ngāi Tahu Cultural Materials Policy (2007). Propose the co-management entities support, monitor and manage access to kōiwi tākata and cultural materials.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Type 2 MPA - Tahakopa (Q1) <i>Te Rūnaka o Awarua</i>	Propose retrieval of kōiwi tākata and archaeological artefacts within this proposed site, in line with the Ngāi Tahu Kōiwi Tāngata (human remains) Policy, (June 1993) and access to cultural materials in line with the Ngāi Tahu Cultural Materials Policy (2007). Propose the co-management entities support, monitor and manage access to kōiwi tākata and cultural materials.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Kelp Protection Area - Arai Te Uru (T1) <i>Te Rūnaka o Arowhenua</i> <i>Te Rūnaka o Waihao</i> <i>Te Rūnaka o Moeraki</i> <i>Kāti Huirapa Rūnaka ki Puketeraki</i> <i>Te Rūnaka o Ōtākou</i>	Propose retrieval of kōiwi tākata and archaeological artefacts within this proposed site, in line with the Ngāi Tahu Kōiwi Tāngata (human remains) Policy, (June 1993) and access to cultural materials in line with the Ngāi Tahu Cultural Materials Policy (2007). Propose the co-management entities support, monitor and manage access to kōiwi tākata and cultural materials.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.

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Table 5: Providing for harvest of *Undaria pinnatifida* for the purpose of control within the proposed SEMP MPAs

Site <i>rūnaka takiwā</i>	Kāi Tahu position	DOC Position	FNZ Position	Further mahi required
SEMP Network-wide <i>Takiwā o:</i> <i>Te Rūnaka o Arowhenua</i> <i>Te Rūnanga o Waihao</i> <i>Te Rūnaka o Moeraki</i> <i>Kāti Huirapa Rūnaka ki Puketeraki</i> <i>Te Rūnaka o Ōtākou</i> <i>Te Rūnaka o Awarua</i>	<p>Kāi Tahu have a permit to harvest <i>Undaria</i> for the purpose of control and want to do so within all proposed marine protected areas except for Papanui marine reserve and Kaimata Type 2 MPA.</p> <p>Kāi Tahu propose <i>Undaria</i> harvest to be captured in the Orders in Council for each marine reserve except Papanui.</p> <p>Propose the co-management entities be supportive of this harvest, which will be coordinated, managed and undertaken by Kāi Tahu.</p>	<p>DOC supports Kai Tahu's activities in relation to the removal of <i>Undaria</i> within any approved marine reserves, subject to any other legal requirements.</p> <p>Drafting instructions to Parliamentary Counsel Office would reflect:</p> <p>The removal of <i>Undaria pinnatifida</i> (unattached or attached) from marine reserves is provided for, as long as all other legal requirements relating to the removal are complied with (e.g. Biosecurity Act and Resource Management Act).</p> <p>We will require notice from Kāi Tahu to the relevant DOC Operations team of <i>Undaria</i> harvest.</p>	<p>FNZ supports Kāi Tahu's proposal subject to any legal requirements and affirm that Type II MPAs would not restrict removal of <i>Undaria</i> beyond existing constraints under the biosecurity permit granted to Kāi Tahu by the Ministry of Primary industries and Biosecurity New Zealand.</p>	<p>The co-management entities will be supportive of this harvest, which will be coordinated, managed and undertaken by Kāi Tahu.</p> <p>This could be outlined in a proposed MOU or revised TOR document.</p>
Marine Reserve - Waitaki (B1) <i>Te Rūnaka o Moeraki (Takiwā South of Waitaki river mouth)</i>	<p>Propose undertaking <i>Undaria</i> harvest within the proposed site.</p> <p>Propose the co-management entities be supportive of this harvest, which will be coordinated, managed and undertaken by Kāi Tahu.</p>	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Marine Reserve - Te Umu Koau (D1) <i>Kāti Huirapa Rūnaka ki Puketeraki</i>	<p>Propose undertaking <i>Undaria</i> harvest within the proposed site.</p> <p>Propose the co-management entities be supportive of this harvest, which will be coordinated, managed and undertaken by Kāi Tahu.</p>	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Marine Reserve - Papanui (H1) <i>Te Rūnaka o Ōtākou</i>	Not applicable here	Not applicable	Not applicable	Not applicable
Marine Reserve - Ōrau (I1) <i>Te Rūnaka o Ōtākou</i>	<p>Propose undertaking <i>Undaria</i> harvest within the proposed site.</p> <p>Propose the co-management entities be supportive of this harvest, which will be coordinated, managed and undertaken by Kāi Tahu.</p>	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.

Site <i>rūnaka takiwā</i>	Kāi Tahu position	DOC Position	FNZ Position	Further mahi required
Marine Reserve - Okaihae (K1) <i>Te Rūnaka o Ōtākou</i>	Propose undertaking <i>Undaria</i> harvest within the proposed site. Propose the co-management entities be supportive of this harvest, which will be coordinated, managed and undertaken by Kāi Tahu.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Marine Reserve - Hākinikini (M1) <i>Te Rūnaka o Ōtākou</i>	Propose undertaking <i>Undaria</i> harvest within the proposed site. Propose the co-management entities be supportive of this harvest, which will be coordinated, managed and undertaken by Kāi Tahu.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Type 2 MPA - Tuhawaiki (A1) <i>Te Rūnanga o Arowhenua</i> <i>Te Rūnanga o Waihao</i>	Propose undertaking <i>Undaria</i> harvest within the proposed site. Propose the co-management entities be supportive of this harvest, which will be coordinated, managed and undertaken by Kāi Tahu.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Type 2 MPA - Moko-tere-a-torehu (C1) <i>Te Rūnaka o Moeraki (Takiwā South of Waitaki River mouth)</i> <i>Te Rūnaka o Waihao (North of Waitaki River mouth)</i>	Propose undertaking <i>Undaria</i> harvest within the proposed site. Propose the co-management entities be supportive of this harvest, which will be coordinated, managed and undertaken by Kāi Tahu.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Type 2 MPA - Kaimata (E1) <i>Te Rūnaka o Ōtākou</i>	Not applicable here	Not applicable	Not applicable	Not applicable
Type 2 MPA - Whakatorea (estuary) (L1) <i>Te Rūnaka o Ōtākou</i>	Propose undertaking <i>Undaria</i> harvest within the proposed site. Propose the co-management entities be supportive of this harvest, which will be coordinated, managed and undertaken by Kāi Tahu.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Type 2 MPA - Tahakopa (Q1) <i>Te Rūnaka o Awarua</i>	Propose undertaking <i>Undaria</i> harvest within the proposed site. Propose the co-management entities be supportive of this harvest, which will be	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.

Site <i>rūnaka takiwā</i>	Kāi Tahu position	DOC Position	FNZ Position	Further mahi required
	coordinated, managed and undertaken by Kāi Tahu.			
Kelp Protection Area - Arai Te Uru (T1) <i>Te Rūnaka o Arowhenua</i> <i>Te Rūnaka o Waihao</i> <i>Te Rūnaka o Moeraki</i> <i>Kāti Huirapa Rūnaka ki Puketeraki</i> <i>Te Rūnaka o Ōtākou</i>	Propose undertaking <i>Undaria</i> harvest within the proposed site. Propose the co-management entities be supportive of this harvest, which will be coordinated, managed and undertaken by Kāi Tahu.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.

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Table 6: Providing for generational review of the proposed SEMP MPAs

Site <i>rūnaka takiwā</i>	Kāi Tahu position	DOC Position	FNZ Position	Further mahi required
<p>SEMP Network-wide</p> <p><i>Takiwā o:</i></p> <p><i>Te Rūnaka o Arowhenua</i></p> <p><i>Te Rūnanga o Waihao</i></p> <p><i>Te Rūnaka o Moeraki</i></p> <p><i>Kāti Huirapa Rūnaka ki Puketeraki</i></p> <p><i>Te Rūnaka o Ōtākou</i></p> <p><i>Te Rūnaka o Awarua</i></p>	<p>Kāi Tahu propose that any approved marine protected area (and the network) be reviewed 25 years after implementation (at the latest) and be completed within a stipulated timeframe.</p> <p>Using results of the 5-year periodic reviews, generational reviews would be undertaken by co-management groups. The formal advice developed by these groups during the generational review process would be provided to Ministers for final decisions.</p> <p>Kāi Tahu propose generational review be captured in the Orders in Council for each marine reserve.</p> <p>Kāi Tahu propose generational review be captured in the Orders in Council for each Type 2 MPA and the kelp protection area.</p>	<p>DOC supports the concept of generational review.</p> <p>We propose the following:</p> <ul style="list-style-type: none"> • The Minister would initiate the generational review. It would be mandatory for the Minister to initiate the generational review within 25 years of the marine reserve being declared and at subsequent 25-year intervals. • Prior to the initiation of the review, the co-management groups would determine and agree the scope and objectives of the generational review as well as who undertakes them and how this is done. We think it is important that those decisions are left to the co-management groups at the time rather than being determined in advance. • Generational review of any marine reserve should be considered in the context of the network because that was how they were developed by the Forum (i.e., the value of each site was balanced and considered against the total components of the network). • The condition in the Order in Council would specifically refer to the requirement for the Minister to consult with Kāi Tahu (Ngāi Tahu Whānui). [Note that this is in addition to the role of mana whenua as part of the co-management groups. The specific reference to Ngāi Tahu Whānui would be included for the avoidance of doubt and as an indication of the Crown's commitment to Kāi Tahu involvement in the generational reviews]. <p>Note that following the generational review, any recommended changes to the marine reserves would need to be progressed through the statutory processes. Under the current legislation, this would follow the same process as for establishing the reserve under</p>	<p>Supports Kāi Tahu's intention for a practical mechanism to be put in place to enable the review of SEMP marine protected areas to ensure that the rakatirataka of each generation of Kāi Tahu is appropriately recognised.</p> <p>Supports the proposal subject to any legal requirements.</p>	<p>The co-management entities will work together to enable generational review.</p> <p>This could be outlined in a proposed MOU or revised TOR document.</p>

Site <i>rūnaka takiwā</i>	Kāi Tahu position	DOC Position	FNZ Position	Further mahi required
		<p>the Marine Reserves Act. Changes to the marine reserves would likely be a Ministerial decision (as is the case under the current Act) but would be subject to the legislation of the day.</p> <p>Drafting instructions to Parliamentary Counsel Office for a condition in the Order in Council will reflect:</p> <ul style="list-style-type: none"> • The intention of this condition is to require the Minister of Conservation, at 25-year intervals (at the latest), to initiate a review of the marine reserve. • Without limiting the scope of the review, the review should be undertaken in the context of the network. • The condition in the Order in Council would specifically refer to the requirement for the Minister to consult with Kāi Tahu (Ngāi Tahu Whānui) prior to the initiation of the review. 		
Marine Reserve - Waitaki (B1) <i>Te Rūnaka o Moeraki (Takiwā South of Waitaki river mouth)</i>	<p>Propose co-management group uses data collected via 5-yearly periodic reviews to undertake a generational review of the site 25 years (at the latest) after implementation.</p> <p>Propose co-management group provides formal advice to Ministers for any final decisions.</p> <p>Propose the co-management entities support, monitor and manage this process.</p>	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Marine Reserve - Te Umu Koau (D1) <i>Kāti Huirapa Rūnaka ki Puketeraki</i>	<p>Propose co-management group uses data collected via 5-yearly periodic reviews to undertake a generational review of the site 25 years (at the latest) after implementation.</p> <p>Propose co-management group provides formal advice to Ministers for any final decisions.</p> <p>Propose the co-management entities support, monitor and manage this process.</p>	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Marine Reserve - Papanui (H1) <i>Te Rūnaka o Ōtākou</i>	<p>Propose co-management group uses data collected via 5-yearly periodic reviews to undertake a generational review of the site 25 years (at the latest) after implementation.</p>	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.

Site <i>rūnaka takiwā</i>	Kāi Tahu position	DOC Position	FNZ Position	Further mahi required
	Propose co-management group provides formal advice to Ministers for any final decisions. Propose the co-management entities support, monitor and manage this process.			
Marine Reserve - Ōrau (I1) <i>Te Rūnaka o Ōtākou</i>	Propose co-management group uses data collected via 5-yearly periodic reviews to undertake a generational review of the site 25 years (at the latest) after implementation. Propose co-management group provides formal advice to Ministers for any final decisions. Propose the co-management entities support, monitor and manage this process.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Marine Reserve - Okaihae (K1) <i>Te Rūnaka o Ōtākou</i>	Propose co-management group uses data collected via 5-yearly periodic reviews to undertake a generational review of the site 25 years (at the latest) after implementation. Propose co-management group provides formal advice to Ministers for any final decisions. Propose the co-management entities support, monitor and manage this process.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Marine Reserve - Hākinikini (M1) <i>Te Rūnaka o Ōtākou</i>	Propose co-management group uses data collected via 5-yearly periodic reviews to undertake a generational review of the site 25 years (at the latest) after implementation. Propose co-management group provides formal advice to Ministers for any final decisions. Propose the co-management entities support, monitor and manage this process.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Type 2 MPA - Tuhawaiki (A1) <i>Te Rūnanga o Arowhenua</i> <i>Te Rūnanga o Waihao</i>	Propose co-management group uses data collected via 5-yearly periodic reviews to undertake a generational review of the site 25 years (at the latest) after implementation. Propose co-management group provides formal advice to Ministers for any final decisions. Propose the co-management entities support, monitor and manage this process.	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.

Site <i>rūnaka takiwā</i>	Kāi Tahu position	DOC Position	FNZ Position	Further mahi required
Type 2 MPA - Moko-tere-a-torehu (C1) <i>Te Rūnaka o Moeraki (Takiwā South of Waitaki River mouth)</i> <i>Te Rūnaka o Waihao (North of Waitaki River mouth)</i>	<p>Propose co-management group uses data collected via 5-yearly periodic reviews to undertake a generational review of the site 25 years (at the latest) after implementation.</p> <p>Propose co-management group provides formal advice to Ministers for any final decisions.</p> <p>Propose the co-management entities support, monitor and manage this process.</p>	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Type 2 MPA - Kaimata (E1) <i>Te Rūnaka o Ōtākou</i>	<p>Propose co-management group uses data collected via 5-yearly periodic reviews to undertake a generational review of the site 25 years (at the latest) after implementation.</p> <p>Propose co-management group provides formal advice to Ministers for any final decisions.</p> <p>Propose the co-management entities support, monitor and manage this process.</p>	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Type 2 MPA - Whakatorea (estuary) (L1) <i>Te Rūnaka o Ōtākou</i>	<p>Propose co-management group uses data collected via 5-yearly periodic reviews to undertake a generational review of the site 25 years (at the latest) after implementation.</p> <p>Propose co-management group provides formal advice to Ministers for any final decisions.</p> <p>Propose the co-management entities support, monitor and manage this process.</p>	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Type 2 MPA - Tahakopa (Q1) <i>Te Rūnaka o Awarua</i>	<p>Propose co-management group uses data collected via 5-yearly periodic reviews to undertake a generational review of the site 25 years (at the latest) after implementation.</p> <p>Propose co-management group provides formal advice to Ministers for any final decisions.</p> <p>Propose the co-management entities support, monitor and manage this process.</p>	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.
Kelp Protection Area - Arai Te Uru (T1) <i>Te Rūnaka o Arowhenua</i>	<p>Propose co-management group uses data collected via 5-yearly periodic reviews to undertake a generational review of the site 25 years (at the latest) after implementation.</p>	As per SEMP Network-wide position.	As per SEMP Network-wide position.	As per SEMP Network-wide further mahi required statement.

Site <i>rūnaka takiwā</i>	Kāi Tahu position	DOC Position	FNZ Position	Further mahi required
<i>Te Rūnaka o Waihao</i> <i>Te Rūnaka o Moeraki</i> <i>Kāti Huirapa Rūnaka ki Puketeraki</i> <i>Te Rūnaka o Ōtākou</i>	Propose co-management group provides formal advice to Ministers for any final decisions. Propose the co-management entities support, monitor and manage this process.			

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Appendix 10

30 November 2021 – confirmed hui record, Kāi Tahu hui with Minister of Conservation and Minister for Oceans and Fisheries

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Manaaki ki te Toka Hui

Southeast Marine Protection (SEMP)

Kāi Tahu, Te Papa Atawhai and Tini a Tangaroa
with the Hon Minister Parker (Oceans and Fisheries), the
Hon Minister Allan (Conservation) and Rino Tirikatene
(Parliamentary Under-Secretary for Oceans and
Fisheries)

Meeting Record 30 November 2021

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Appendix 11

15 December 2021 letter from Kāi Tahu to
Minister of Conservation and Minister for
Oceans and Fisheries

Released under the Official Information Act



Te Rūnanga o NGĀI TAHU

15 December 2021

Hon. David Parker
Minister for Oceans & Fisheries
By email: d.parker@ministers.govt.nz

Hon. Kiritapu Allan
Minister of Conservation
By email: k.allan@ministers.govt.nz

E ngā Minita, tēnā kōrua

SOUTH EAST MARINE PROTECTION NETWORK PROPOSALS

Thank you for meeting with our representatives on 30 November to discuss the South East Marine Network Proposals ("Proposals"). It was a valuable opportunity to discuss these Proposals and present our views.

We remain committed to working in good faith with the Crown on this kaupapa. It has taken a lot of work on both sides to reach this point and good progress has been made. While there are still points of disagreement remaining, we want to find solutions which are acceptable for both Ngāi Tahu and the Crown.

As we stated in the meeting, we expect that these Proposals, and the resulting displacement, will impact on our commercial and customary non-commercial rights and interests. As a result, we are seeking a package of measures that addresses the displacement of recreational and commercial fishing effort (addressing the biological impacts of Marine Protected Area (MPA) establishment), provides opportunities for us to exercise our kaitiaki responsibilities and rangatiratanga, and to uphold our mana.

In the hui, we outlined the package of measures that we consider would achieve this (see attached). We are seeking that these measures are either agreed to as part of the decision making on the Proposals, or that we receive written commitment from Ministers that these matters will be addressed immediately afterwards.

Te Rūnanga o Ngāi Tahu
15 Show Place, Addington, Christchurch 8024
PO Box 13-046, Christchurch, New Zealand
Phone + 64 3 366 4344, 0800 KAI TAHU
Email: info@ngaitahu.iwi.nz
Website: www.ngaitahu.iwi.nz

. We look forward to hearing from you when you have considered this package further.

To maintain momentum, we propose that we meet again in April 2022 to discuss these Proposals and remaining issues. In the meantime, we have asked our kaimahi to continue to engage with your officials to identify solutions to the remaining issues, where possible.

Nāhaku noa, nā

9(2)(a)

Lisa Tumahai
Kaiwhakahaere

Cc: Rino Tirikatene, Parliamentary Under-Secretary for Oceans and Fisheries

9(2)(a), Deputy Kaiwhakahaere and Chair, Kati Huirapa Rūnaka Ki Puketeraki

9(2)(a), Upoko, Te Rūnanga o Moeraki

9(2)(a), Upoko, Te Rūnaka of Ōtākou

9(2)(a), Te Rūnanga o Ngāi Tahu representative of Awarua Rūnanga

9(2)(a), Chair, Te Rūnanga o Arowhenua

9(2)(a), Upoko, Te Rūnanga o Arowhenua

9(2)(a), East Otago Taiāpure Management Committee Chairman and Puketeraki

Tangata Tiaki

9(2)(a), East Otago Taiapure Management Committee member and Puketeraki Tangata

Tiaki

Mō tātou, ā, mō kā uri ā muri ake nei.

For us and our descendants after us.

South East Marine - Summary of Package Sought on 30 November 2021

Papatipu Rūnanga are seeking written Ministerial commitments that the following matters will be addressed (either before or immediately after the establishment of the marine protected areas):

D1 Boundary

- Boundary amended to yellow or orange areas (see attached map)

Rebalancing the environmental impacts/displacement

- [REDACTED] 9(2)(g)(i) [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
○ Recreational reporting or tagging system to identify harvest levels

Rebalancing the economic impacts

- Nothing further required, if the D1 boundary change and recreational allowance for PAU5 is agreed to.

Addressing the customary impacts

- Co-governance and co-management, including joint decision-making
- [REDACTED] Kaitiaki Rangers including funding and operational support
- Ability to take from MPAs for wānanga purposes
- Proposed legislative change to mātaimai and taiāpure passed
- Continued exclusive access for Undaria control harvesting under the existing MPI permit

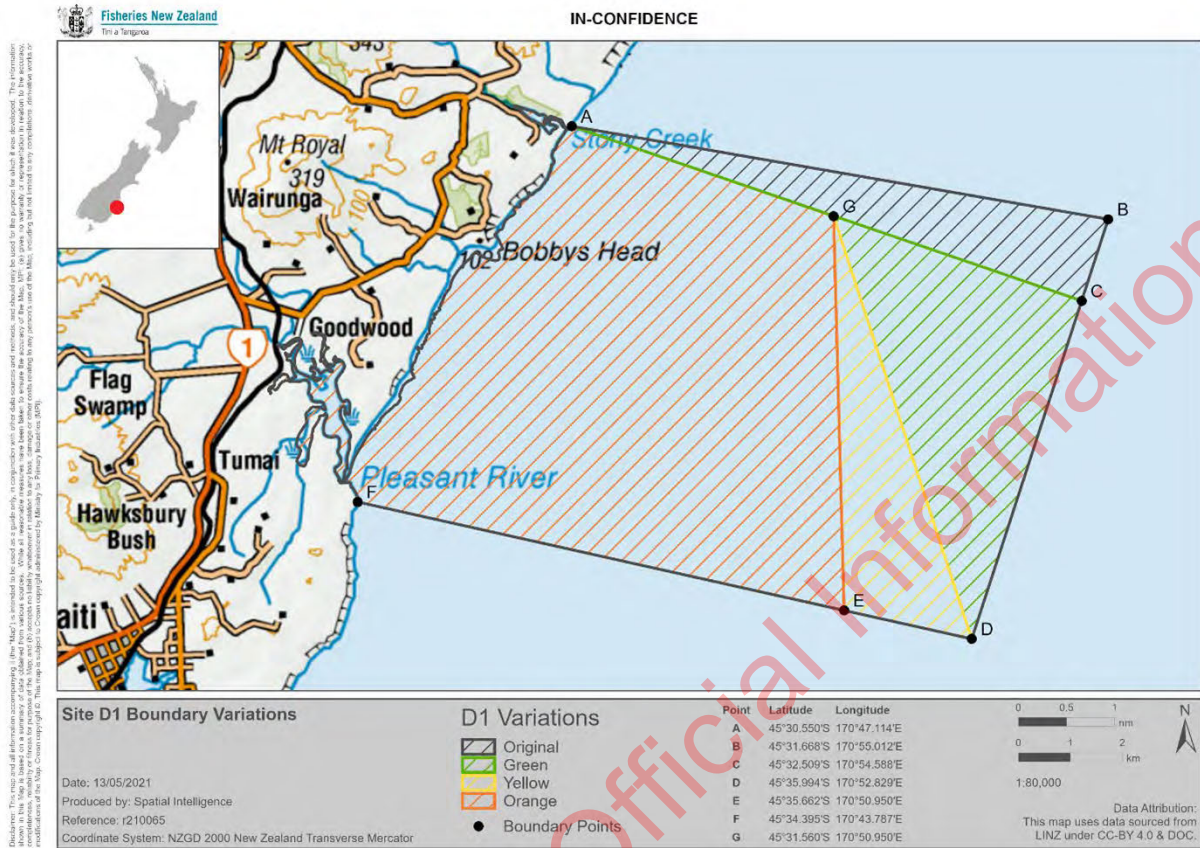
Periodic and generational review

- Periodic (5 yearly) reviews using science and wānanga
- Full generational review initiated no later than 25 years after establishment
- Generational review undertaken earlier if periodic reviews suggest it is necessary.

Interaction with the Marine and Coastal Area (Takutai Moana) Act 2011

- Ensuring that the Proposals do not preempt or negatively impact on our application for customary marine title.

D1 Boundary Variations



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Appendix 12

Conservation General Policy and Otago
Conservation Management Strategy
provisions alignment with SEMP

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Appendix 12: Assessment of provisions in the Conservation General Policy 2005 and Otago Conservation Management Strategy 2016 and their relevance to decision-making on the proposed marine reserves

Table A12.1 and A12.2 list the provisions from the Conservation General Policy 2005 and Otago Conservation Management Strategy 2016 (Otago CMS) Te Papa Atawhai considers relevant to the assessment of the Application for the proposed marine reserves under section 5(9) of the Marine Reserves Act 1971.

In assessing the two statutory planning documents, Te Papa Atawhai has considered whether a decision to declare each of the proposed marine reserves, with the recommendations made, would be consistent with their provisions.

Table A12.1: List of provisions from the Conservation General Policy 2005 Te Papa Atawhai has assessed as relevant to decision-making on the proposed marine reserves, and whether a decision to declare each of the proposed marine reserves with the recommendations of Te Papa Atawhai would be consistent with each policy provision.

Conservation General Policy 2005	Would a decision to declare each of the proposed marine reserves be consistent with this policy?	
	✓ or ✗	Reasoning
Policies		
2 Treaty of Waitangi Responsibilities		
2 (a) Relationships will be sought and maintained with tangata whenua to enhance conservation. These relationships should be based on mutual good faith, cooperation and respect.	✓	<p>Significant engagement with Kāi Tahu has occurred both during the development of the statutory consultation process for the Application, and subsequently, particularly in relation to understanding the concerns Kāi Tahu have with the proposed marine reserves and the measures they proposed to mitigate the impacts they see may occur.</p> <p>The recommendations arising from the Kāi Tahu engagement for the implementation of formal co-management arrangements with Kāi Tahu,</p>

Conservation General Policy 2005	Would a decision to declare each of the proposed marine reserves be consistent with this policy?	
	✓ or ✖	Reasoning
		for provision for Kāi Tahu rangers to be established and for periodic and generational reviews to be carried out, would enable the relationship between the Crown and Kāi Tahu to continue for the management of any marine reserves approved under this process.
2 (b) Partnerships to enhance conservation and to recognise mana should be encouraged and may be sought and maintained with tangata whenua whose rohe covers any place or resource administered by the Department. Such partnerships will be appropriate to local circumstances.	✓	<p>Significant engagement with Kāi Tahu has occurred both during the development of the statutory consultation process for the Application, and subsequently, particularly in relation to understanding the concerns Kāi Tahu have with the proposed marine reserves and the measures they proposed to mitigate the impacts they see may occur.</p> <p>The recommendations arising from the Kāi Tahu engagement for the implementation of formal co-management arrangements with Kāi Tahu and for provision for Kāi Tahu rangers to be established would support the recognition of mana.</p>
2 (c) Protocols and agreements may be negotiated and implemented to support relationships and partnerships, by mutual consent between tangata whenua and the Department.	✓	<p>Engagement with Kāi Tahu (via the Agency-Kāi Tahu Rōpū) was carried out under an agreed Terms of Reference which was regularly reviewed.</p> <p>The recommendation arising from the Kāi Tahu engagement for the implementation of formal co-management arrangements with Kāi Tahu is consistent with this Policy. The co-management arrangements would be implemented through a framework and protocol agreed between Kāi Tahu and the Crown.</p>
2 (e) Tangata whenua will be consulted on specific proposals that involve places or resources of spiritual or historical and cultural significance to them.	✓	<p>Consultation with tangata whenua was carried out both via the statutory consultation process (see chapter 4) and via direct engagement with Kai Tahu during the development of the Application, during the statutory consultation period and subsequently during the development of Departmental advice to the Minister of Conservation.</p>
2 (f) Tangata whenua involvement and participation in conservation on public conservation lands and waters will be encouraged and may be supported with information and technical advice	✓	<p>Kāi Tahu have been involved in both the development of the Forum's recommendations and the subsequent application for the propose marine reserves. These processes have been supported with information</p>

Conservation General Policy 2005	Would a decision to declare each of the proposed marine reserves be consistent with this policy?	
	✓ or ✗	Reasoning
		<p>and technical advice from Te Papa Atawhai, Tini a Tangaroa and other experts.</p> <p>The recommendations arising from the Kāi Tahu engagement for the implementation of formal co-management arrangements with Kāi Tahu and for provision for Kāi Tahu rangers to be established would support the involvement and participation of tangata whenua in any marine reserves approved in this process. Te Papa Atawhai and Tini a Tangaroa would provide technical and other information to support the co-management groups.</p>
<p>2 (g) Customary use of traditional materials and indigenous species may be authorised on a case by case basis where:</p> <ul style="list-style-type: none"> i. it is consistent with all relevant Acts and regulations (including fisheries legislation), conservation management strategies and plans; ii. it is consistent with the purposes for which the land is held; iii. there is an established tradition of such customary use at the place; and iv. the preservation of the indigenous species at the place is not affected. <p>The views of tangata whenua should be sought and had regard to.</p>	✓	<p>The recommendations for continued enhancement of mātauraka Māori through wānaka, for fossicking of beach materials and for the retrieval of dead marine mammals and marine mammal parts, would enable the continued customary use of some traditional materials and indigenous species by Kāi Tahu.</p> <p>These recommendations are made on the basis that the activities would be consistent with the purpose of the Marine Reserves Act (see 6.3.6.5 and 6.3.6.6).</p> <p>The recommendations are made following thorough engagement with Kāi Tahu to understand their concerns in relation to potential impacts of the proposed marine reserves on their customary rights and interests.</p>
<p>2 (h) Public information and interpretation, where it refers to places or resources of significance to tangata whenua, should be developed with them, and should include Māori place and species names, make appropriate use of te reo Māori, and draw attention to tangata whenua values.</p>	✓	<p>The recommendation to use Te Reo Māori names, as confirmed by papatipu rūnanga during engagement with Kāi Tahu, for any marine reserves approved in this process, is consistent with this policy provision (noting that the ultimate decision sits with the New Zealand Geographic Board).</p>
<p>2 (i) The Department will seek to avoid actions which would be a breach of the Treaty of Waitangi.</p>	✓	<p>Te Papa Atawhai considers a decision to declare the proposed marine reserves on the basis of the recommendations made would fulfil the Crown's obligations in relation to the Treaty of Waitangi. Specifically, that:</p>

Conservation General Policy 2005	Would a decision to declare each of the proposed marine reserves be consistent with this policy?	
	✓ or ✖	Reasoning
		<ul style="list-style-type: none"> ○ Te Papa Atawhai has given effect to Treaty of Waitangi principles throughout its engagement process in progressing the Application, in terms of the statutory process, parallel Treaty partner engagement and development of advice - as set out in 4.13. ○ The recommendations made by Te Papa Atawhai in respect of the measures proposed by Kāi Tahu to address their concerns regarding the impact of the proposals on their rights and interests would fulfil the Crown's obligations in relation to the Treaty of Waitangi - as set out in 6.3.9. ○ A decision to declare the proposed marine reserves, including consideration of objections under section 5(6) and consideration of matters in section 5(9) of the Marine Reserves Act, would fulfil the Crown's Treaty of Waitangi obligations - as set out in chapters 6-12 for the Network and each proposed marine reserve.
2 (j) The Department will participate in and implement relevant Treaty claims settlements consistent with its statutory functions.	✓	<p>Te Papa Atawhai's process of developing and notifying the Application is consistent with the requirements of the Ngāi Tahu Claims Settlement Act 1998, as set out in 4.12.</p> <p>The advice and recommendations of Te Papa Atawhai on the proposed measures to address Kāi Tahu concerns about impacts on their rights and interests fulfils the requirements of the Ngāi Tahu Claims Settlement Act 1998, as set out in 6.3.9.3.</p>
Policies 3 Public Participation in Conservation Management		
3 (e) People and organisations interested in public conservation lands and waters should be consulted on specific proposals that have significance for them	✓	As required by the Marine Reserves Act, a 2-month statutory consultation was carried out to seek the views of the public on the six proposed marine reserves. This followed the Forum process which ran from 2014 to 2018 and involved seeking the views of the public to inform the Forum's recommendations for a network of marine protected areas.

Conservation General Policy 2005	Would a decision to declare each of the proposed marine reserves be consistent with this policy?	
	✓ or ✘	Reasoning
		Also refer to response for Policy 2 (e) within this table for how Kāi Tahu have been consulted throughout this process.
Policies		
4.2 Biosecurity and management of threats to indigenous species, habitats and ecosystems		
4.2 (d) Biosecurity and pest management programmes may include control of indigenous species, sports fish and game birds, where necessary to protect or restore threatened populations of indigenous species or habitats and ecosystems with unique or distinctive values.	✓	The recommendation to provide for some continued bird hunting in the estuaries of the proposed Te Umu Koau marine reserve (via an Order in Council condition to allow the discharge of a firearm, the removal of hunted birds and associated disturbance to other wildlife) is made on the basis that it would be beneficial for the public, for the ecological values of the area and for nearby agricultural land-use by ensuring the number of birds was appropriately managed (see 8.6.6.4).
Policies		
4.4 Marine species, habitats and ecosystems		
4.4 (b) Tangata whenua and other interested persons and organisations will be invited to participate in the planning, establishment and management of marine reserves.	✓	<p>Significant engagement with Kāi Tahu has occurred both during the development of the statutory consultation process for the Application, and subsequently, particularly in relation to understanding the concerns Kāi Tahu have with the proposed marine reserves and the measures they proposed to mitigate the impacts they see may occur. This engagement has also included discussions relevant to the implementation and management of the proposed marine reserves.</p> <p>The recommendations arising from the Kāi Tahu engagement for the implementation of formal co-management arrangements with Kāi Tahu and for provision for Kāi Tahu rangers to be established would support the involvement and participation of tangata whenua in the management of any marine reserves approved in this process.</p> <p>Also refer to response for Policies 3 (e) and 4.4 (e) within this table for how 'other interested persons' have been involved in the planning and statutory process for establishing the proposed marine reserves.</p>

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Conservation General Policy 2005	Would a decision to declare each of the proposed marine reserves be consistent with this policy?	
	✓ or ✖	Reasoning
4.4 (c) The establishment of marine reserves adjacent to public conservation lands and waters will be considered where it is beneficial for conservation management.	✓	The Forum's recommendation for a marine reserve adjacent to Green Island Nature Reserve highlighted the opportunity for contiguous protection from the land through to subtidal habitats (as set out in 11.1.2). Te Papa Atawhai's assessment is that this contiguous protection would be valuable for scientific study purposes and for biodiversity, and would be the only marine reserve in the proposed Network that is adjacent to public conservation land (as set out in 11.2).
4.4 (d) Marine reserves will be managed to be maintained or restored to a natural state as far as possible	✓	A decision to declare the proposed marine reserves with the recommendations made will support the areas to be managed consistent with this policy and a 'natural state'. The recommendations relating to providing for activities to continue in the proposed marine reserves (e.g. those activities operating under existing resource consents) are made on the basis that the activities would not be contrary to this purpose.
4.4 (e) The Department should work with other agencies and interests to promote and develop a marine protected areas network, including marine reserves, wildlife reserves, sanctuaries and other protective mechanisms.	✓	The Application for six proposed marine reserves is part of a wider project to establish a network of marine protection measures in the region, including areas proposed as Type 2 marine protected areas and a kelp protection area under the Fisheries Act 1996. Since the establishment of the Forum in 2014, the process has been a collaborative effort by community, stakeholders, Kāi Tahu, Te Papa Atawhai and Tini a Tangaroa.
4.4 (h) Tangata whenua, as kaitiaki, will be: <ul style="list-style-type: none"> i. invited to participate in the protection of marine species of cultural importance to them. ii. provided with access to the remains of dead marine protected species for customary use, including those incidentally caught in commercial fishing, consistent with relevant legislation and agreed protocols; 	✓	Kāi Tahu have been involved in the process to establish the proposed marine reserves (which have some bearing on the cultural species of importance to them), from their involvement on the Forum, through development of the Application, and throughout the statutory consultation process and continue to be involved. The recommendations arising from the Kāi Tahu engagement for the implementation of formal co-management arrangements with Kāi Tahu and for provision for Kāi Tahu rangers to be established would support

Conservation General Policy 2005	Would a decision to declare each of the proposed marine reserves be consistent with this policy?	
	✓ or ✖	Reasoning
iii. provided with immediate notification of strandings where possible; and iv. involved in the management of stranded marine mammals, in accordance with agreed protocols.		their involvement in the protection of marine species of cultural importance to them. The recommendation arising from the Kāi Tahu engagement for an Order in Council condition to allow the retrieval of dead marine mammals and marine mammal parts, in accordance with the standard Marine Mammals Protection Act 1978 provisions, would mean the declaration of the proposed marine reserve would not affect the existing access of Kāi Tahu to these materials. All other existing arrangements for Kāi Tahu notification and involvement in marine mammal strandings would remain the same.
4.4 (l) The Department should work with other agencies and interests to protect marine species.	✓	Refer to response for Policy 4.4 (e) within this table. In addition, Te Papa Atawhai have worked with the Ministry of Transport, Otago Regional Council and Dunedin City Council.
Policies		
4.5 Geological features, landforms and landscapes		
4.5 (b) Activities which reduce the intrinsic values of landscape, landform and geological features on public conservation lands and waters should be located and managed so that their adverse effects are avoided or otherwise minimised.	✓	Activities currently undertaken in the proposed marine reserves under resource consents have the potential to adversely affect intrinsic values. These activities have been assessed and the recommendations made in respect of each (either for their continuation or to restrict them) are such that any adverse effects on the values of the proposed marine reserves would be avoided or minimised (refer Appendix 13).
Policies		
4.6 Ecosystem services		
4.6 (a) Activities on public conservation lands and waters should be planned and managed in ways which avoid or otherwise minimise adverse effects on the quality of ecosystem services.	✓	Refer to response for Policy 4.5 (b) within this table.
Policies		

Conservation General Policy 2005	Would a decision to declare each of the proposed marine reserves be consistent with this policy?	
	✓ or ✖	Reasoning
5 Historic and Cultural Heritage		
5 (c) Tangata whenua, as kaitiaki of their historical and cultural heritage, will be invited to participate in the identification, preservation and management of heritage of significance to them on public conservation lands and waters.	✓	The recommendations arising from the Kāi Tahu engagement to provide for the retrieval of kōiwi tākata and access to cultural materials, for the implementation of formal co-management arrangements and for provision for Kāi Tahu rangers, would support the participation of Kāi Tahu in the preservation and management of heritage in any marine reserves approved in this process.
5 (g) Monuments, pou whenua, plaques or other memorials may be sited in places associated with people, traditions or events of exceptional importance in New Zealand or conservation history. They should be consistent with the character of the place and should not be attached to or engraved into natural features.	✓	The recommendation arising from the Kāi Tahu engagement to place pou whenua at any marine reserves approved in this process (that adjoin land) would recognise and respect the traditional relationship between Kāi Tahu and the areas proposed as marine reserves and acknowledge the mana and role of Kāi Tahu as kaitiaki of their takiwā.
Policies 7 Conservation Beyond Public Conservation Lands and Waters		
7 (a) The Department should work cooperatively to develop effective working relationships with people and organisations to protect natural resources, historical and cultural heritage, and public access	✓	Refer to response for Policy 4.4 (e) within this table.
Policies 9.5 The use of vehicles and other forms of transport		
9.5 (a) The use of vehicles and any other forms of transport should be compatible with the statutory purposes for which the place is held, or be necessary to enable the Department to perform its functions.	✓	The recommendations to allow vehicle access over the foreshore in limited circumstances, for the proposed Te Umu Koau and Ōrau, are made on the basis that these activities would not interfere with the purpose of the Marine Reserves Act being met.
Policies 12 Research and Information Needs		

Conservation General Policy 2005	Would a decision to declare each of the proposed marine reserves be consistent with this policy?	
	✓ or ✖	Reasoning
12 (c) Mātauranga Māori and tangata whenua interests in research and monitoring on public conservation lands and waters, species and resources should be recognised and may be supported by cooperative arrangements	✓	The recommendation to allow certain activities to provide for the continued enhancement of mātauraka Māori through wānaka provides this recognition. The recommendation for formal co-management arrangements with Kāi Tahu also supports this policy as it is anticipated that the co-management structure would have an oversight role in relation to these activities.
12 (h) Management actions should be monitored and evaluated at regular intervals to assess their effectiveness and inform future management decisions.	✓	The recommendations for periodic and generational reviews of any marine reserves approved would provide a mechanism for regular review of management actions and, if necessary, allow those management actions to be amended.
Policies		
14 International Agreements and Cooperation		
14 (a) The Department will implement international agreements relevant to conservation that have been ratified or have legal standing in New Zealand.	✓	A decision to declare each of the proposed marine reserves would contribute to New Zealand's international agreements, including the Convention on Biological Diversity and the goal to establish representative protection of marine and coastal areas ¹ .

Table A12.2: List of provisions from the Otago Conservation Management Strategy that Te Papa Atawhai has assessed as relevant to decision-making on the proposed marine reserves, and the degree to which the recommendations of Te Papa Atawhai are consistent with each provision.

Otago Conservation Management Strategy 2016 Objectives and Policies	Would a decision to declare each of the proposed marine reserves be consistent with this objective or policy?	
	✓ or ✖	Reasoning
1.4 Treaty Partnership with Ngāi Tahu		
1.4.1 Objectives		

¹ Aichi Target 11, Convention on Biological Diversity, <https://www.cbd.int/aichi-targets/target/11>.

Otago Conservation Management Strategy 2016 Objectives and Policies	Would a decision to declare each of the proposed marine reserves be consistent with this objective or policy?	
	✓ or ✗	Reasoning
Objective 1.4.1.1 To maintain and strengthen the partnership between the Department of Conservation and Ngāi Tahu so as to enhance conservation of natural resources through the administrative processes of the Department and the exercise of traditional tino rangatiratanga and kaitiakitanga practices of the iwi. This partnership is to be based on mutual good faith, and active engagement and transparency in decision-making processes.	✓	Significant engagement with Kāi Tahu has occurred both during the development of the statutory consultation process for the Application, and subsequently, particularly in relation to understanding the concerns Kāi Tahu have with the proposed marine reserves and the measures they proposed to mitigate the impacts they see may occur. The recommendations arising from the Kāi Tahu engagement for the implementation of formal co-management arrangements, for provision for Kāi Tahu rangers to be established and for periodic and generational reviews to be carried out, would enable the relationship between the Crown and Kāi Tahu to be maintained and strengthened in the management of any marine reserves approved under this process.
Objective 1.4.1.2 To formalise and support, through agreement between the Department and Ngāi Tahu, the enhancement of those relationships.	✓	Engagement with Kāi Tahu (via the Agency-Kāi Tahu Rōpū) was carried out under an agreed Terms of Reference. This Terms of Reference was regularly reviewed. The recommendation arising from the Kāi Tahu engagement for the implementation of formal co-management arrangements with Kāi Tahu is consistent with this policy. The co-management arrangements would be implemented through a framework and protocol agreed between Kāi Tahu and the Crown.
Objective 1.4.1.3 To ensure that the Department actively consults at all times with Ngāi Tahu in a timely, informed and effective way.	✓	Consultation with tangata whenua was carried out both via the statutory consultation process (see chapter 4) and via direct engagement with Kai Tahu during the development of the Application, during the statutory consultation period and subsequently during the development of Departmental advice to the Minister of Conservation.
Objective 1.4.1.4 To enable Ngāi Tahu to pursue their customary practices and the customary use of traditional materials and indigenous species, in a manner consistent with their kaitiakitanga obligations, the relevant legislation, regulations, general policies, and the purposes for which the land is held.	✓	This would be supported through the recommendations arising from the Kāi Tahu engagement for the implementation of formal co-management arrangements with Kāi Tahu, for provision for Kāi Tahu rangers, for activities to enable the continued enhancement of mātauraka Māori and undertaking wānaka and for providing for access to cultural materials.

Otago Conservation Management Strategy 2016 Objectives and Policies	Would a decision to declare each of the proposed marine reserves be consistent with this objective or policy?	
	✓ or ✘	Reasoning
Objective 1.4.1.5 To encourage increased Ngāi Tahu involvement and participation in the conservation management of public conservation lands and waters.	✓	Refer to response for Objective 1.4.1.1 within this table.
Objective 1.4.1.8 To work with Ngāi Tahu to establish and review formal protocols to: <ul style="list-style-type: none"> a) provide for the customary use of traditional materials and indigenous species; b) guide the management of marine mammal strandings; c) recognise the rangatira and kaitiaki role of Ngāi Tahu with regard to management of taonga species; and d) recognise the rangatira and kaitiaki responsibilities of Ngāi Tahu with regard to management of other indigenous species. 		Refer to response for Conservation General Policy 2005 Policy 4.4 (h) within Table A12.1.
Objective 1.4.1.10 Explore and develop opportunities for intergenerational Ngāi Tahu well-being	✓	The recommendations arising from the Kāi Tahu engagement for the implementation of formal co-management arrangements, for provision for Kāi Tahu rangers to be established and for periodic and generational reviews to be carried out, would help to ensure the intergenerational wellbeing of Kāi Tahu is maintained.
1.4.2 Policies		
Policy 1.4.2.3 Work with Ngāi Tahu to explore, identify and implement: <ul style="list-style-type: none"> a) opportunities for co-management of sites and species of significance to Ngāi Tahu; b) measures to improve Ngāi Tahu access to and customary use of mahinga kai and other cultural materials; and c) opportunities for shared decision-making consistent with legislation 	✓	In addition to the response for Objective 1.4.1.4, these recommendations are made following extensive engagement with Kāi Tahu on their aspirations relating to the matters listed in a), b) and c) of this policy.
Policy 1.4.2.16 Support the erection of mutually agreed to Ngāi Tahu cultural markers (pou whenua) on or beside public conservation lands and waters	✓	Refer to response for Conservation General Policy 2005 Policy 5 (g) within Table A12.1.

Otago Conservation Management Strategy 2016 Objectives and Policies	Would a decision to declare each of the proposed marine reserves be consistent with this objective or policy?	
	✓ or ✘	Reasoning
1.5.1 Natural Heritage		
Objectives		
Objective 1.5.1.3 Engage in collaborative processes to build a nationally representative network of marine reserves and other marine protected areas, taking into account the marine habitats and ecosystems listed in Appendix 8.	✓	Refer to response for Conservation General Policy 2005 Policy 4.4 (e) within Table A12.1.
Objective 1.5.1.9 Work with others to manage or avoid threats to marine and coastal habitats, particularly of seabirds and marine mammals, tohorā/southern right whales, tūpoupou/Hector's dolphins and terehu/bottlenose dolphins, to ensure their recovery and protection.	✓	Refer to response for Conservation General Policy 2005 Policy 4.4 (e) within Table A12.1.
2.9 Marine/Te Tai o Arai te Uru Place		
Policies		
Policy 2.9.1 Work with MPI, Ngāi Tahu and the community to implement the decisions, as ratified by the Ministers, of the South-East Marine Protection Forum/Roopu Manaaki ki te Toka.	✓	Refer to response for Conservation General Policy 2005 Policy 4.4 (e) within Table A12.1.

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Appendix 13

Assessment of consented activities
identified in the Application

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Appendix 13: Assessment of consented activities identified in the Application

The tables below list the resource consents that were included in the Application¹ as activities that are unlikely to be affected by the establishment of the proposed marine reserves. The list of resource consents included in the Application was compiled broadly based on those activities that occur within or adjacent to one of the proposed marine reserves.

For each site these resource consents are separated into those that we recommend making provision for in the Order in Council if the proposed marine reserve is established, and those that we do not recommend making provision for.

Proposed Waitaki marine reserve

Table A13.1: Consented activities listed in the Application and recommended to be allowed for in the proposed Waitaki marine reserve.

	Consented activity	Consent details	Reason for recommending allowing for activity in Order in Council
1	To discharge leachate and stormwater to land in a manner that may enter water for the purpose of operating a coal ash landfill.	<p><i>Consent number:</i> RM21.239.03</p> <p><i>Consenting authority:</i> Otago Regional Council</p> <p><i>Consent holder:</i> Alliance Group Limited</p> <p><i>Consent expiry:</i> 10/03/2038</p>	<p>The consented activity would otherwise constitute an offence under the Marine Reserves Act, as it results in the discharge of a contaminant (landfill leachate) that indirectly reaches the area of the proposed marine reserve.</p> <p>This consent replaces previous consent 2006.198 which expired in November 2021. The assessment of environmental effects submitted with the application (provided by Otago Regional Council) concluded that while existing pH and boron levels are elevated in the groundwater downgradient of the landfill, when mixed with seawater there would be no observable differences in concentrations (of boron and chloride) compared with those occurring naturally. It also states there is not expected to be any change to the properties or volume of leachate being discharged in the future.</p>

¹ Department of Conservation and Fisheries New Zealand 2020. Proposed southeast marine protected areas: Appendices to consultation document (including marine reserve applications) June 2020. 126p.

	Consented activity	Consent details	Reason for recommending allowing for activity in Order in Council
			<p>We consider this discharge would therefore not interfere with the proposed marine reserve achieving the purpose of the Marine Reserves Act.</p> <p><i>Proposed condition:</i> Provision for existing discharges of contaminants and associated monitoring</p>
2	To discharge treated wastewater to land for the purpose of discharge of treated meat processing, and fellmongery and tannery wastewater from the Alliance Pukeuri Meat Processing Plant	<p><i>Consent number:</i> 98521.V1</p> <p><i>Consenting authority:</i> Otago Regional Council</p> <p><i>Consent holder:</i> Alliance Group Limited</p> <p><i>Consent expiry:</i> 31/05/2034</p>	<p>The consented activity would otherwise constitute an offence under the Marine Reserves Act, as it results in the discharge of a contaminant (treated wastewater) that likely indirectly reaches the area of the proposed marine reserve.</p> <p>Information provided by Otago Regional Council shows that monitoring of the benthic environment in this area (as a requirement of this consent) found the communities present are typical of an extremely physically disturbed environment, and that variability in results over the study period appeared to be linked to the sea state prior to each sampling event. No differences in the abundance of animals or number of species were found in relation to the discharge. We consider this discharge would therefore not interfere with the proposed marine reserve achieving the purpose of the Marine Reserves Act.</p> <p><i>Proposed condition:</i> Provision for existing discharges of contaminants and associated monitoring</p>
3	To discharge stormwater to land for the purpose of disposal of stormwater from the Alliance Pukeuri Meat Processing Plant	<p><i>Consent number:</i> 98520</p> <p><i>Consenting authority:</i> Otago Regional Council</p> <p><i>Consent holder:</i> Alliance Group Limited</p> <p><i>Consent expiry:</i> 31/05/2034</p>	<p>The consented activity would otherwise constitute an offence under the Marine Reserves Act, as it results in the discharge of a contaminant (stormwater) that likely indirectly reaches the area of the proposed marine reserve.</p> <p>Information provided by Otago Regional Council shows that monitoring of the benthic environment in this area (as a requirement of another consent) found the communities present are typical of an extremely physically disturbed environment, and that variability in results over the study period appeared to be linked to the sea state prior to each sampling event, rather than to any proximity to a discharge point. We consider this discharge would therefore not interfere with the proposed marine reserve achieving the purpose of the Marine Reserves Act.</p> <p><i>Proposed condition:</i> Provision for existing discharges of contaminants and associated monitoring</p>

	Consented activity	Consent details	Reason for recommending allowing for activity in Order in Council
4	To discharge up to 7,500 cubic metres per day (annual average daily flow) of treated effluent from the Oamaru Wastewater Treatment Plant to Landon Creek for the purpose of the treatment and disposal of wastewater from the Oamaru Wastewater Treatment Plant	<p><i>Consent number:</i> 2002.655</p> <p><i>Consenting authority:</i> Otago Regional Council</p> <p><i>Consent holder:</i> Waitaki District Council</p> <p><i>Consent expiry:</i> 30/04/2028</p>	<p>The consented activity would otherwise constitute an offence under the Marine Reserves Act, as it results in the discharge of a contaminant (treated wastewater) that has some likelihood of indirectly reaching the area of the proposed marine reserve.</p> <p>Information provided by Otago Regional Council describes that monitoring of the coastal area adjacent to the discharge from Landon Creek showed no differences that could be attributable to proximity to the discharge. We consider this discharge would therefore not interfere with the proposed marine reserve achieving the purpose of the Marine Reserves Act.</p> <p><i>Proposed condition:</i> Provision for existing discharges of contaminants and associated monitoring</p>

Table A13.2: Consented activities listed in the Application but not recommended to be allowed for in the proposed Waitaki marine reserve.

Consent type and reference number	Reason for not recommending provision in the Order in Council
Bore construction consents: RM13.454.01, RM17.059.01, RM18.384.01	These activities occur some distance inland from the proposed marine reserve. On that basis, our assessment is that this activity would not constitute an offence under the Marine Reserves Act.
Compliance certificate (associated with a rock seawall): 2007.C16	The seawall is not in the proposed marine reserve nor close enough to cause any indirect effects on the proposed marine reserve.
Discharge to air permits ² : 2002.656, 2004.163, 2005.287, 2006.199 ³ , 2006.284, 2009.424, RM13.162.01, RM15.358.01, RM17.246.01, 2002.704, 2005.303, 2005.605, 2005.77, 2008.089, 2008.227, RM13.058.01, RM17.246.01	Discharges to air are not prohibited under the Marine Reserves Act, therefore the activities associated with these consents can continue if the proposed marine reserve is established.

² Note consent 2006.198 was misprinted in the Application as a Discharge to air permit and instead was a Discharge to land permit (see row 1, Table A13.1).

³ This consent has now been replaced by RM21.239.01.

Discharge to land permits: 2002.704, 2005.303, 2005.605, 2005.770 ⁴ , 2008.089, 2008.227, RM13.058.01, RM14.057.01, RM14.253.01, RM15.100.01, RM18.451.01, 98419, 98519	Our assessment of these activities is that due to their nature or location they would not constitute an offence under the Marine Reserves Act and therefore can continue if the proposed marine reserve is established.
Discharge to water permit: RM15.283.01 ⁵ , 98523 ⁶ , 2007.653 ⁷	Our assessment of these activities is that due to their nature or location they would not constitute an offence under the Marine Reserves Act and therefore can continue if the proposed marine reserve is established.
Divert water permit: 2374 ⁸	Our assessment of this activity is that due to its nature and location it would not constitute an offence under the Marine Reserves Act and therefore can continue if the proposed marine reserve is established.
General/structure land use consent: RM15.283.02 ⁹	Our assessment of this activity is that due to its nature and location it would not constitute an offence under the Marine Reserves Act and therefore can continue if the proposed marine reserve is established.
Groundwater take permits: 2001.989, 2001.A06.V1, 2008.338.V1, 2010.221.V1, RM13.376.01.V1, RM14.038.01, RM15.076.01, RM18.064.01, RM18.119.01	Our assessment of this activity is that due to its nature and location it would not constitute an offence under the Marine Reserves Act and therefore can continue if the proposed marine reserve is established.

Proposed Te Umu Koau marine reserve

None of the resource consents listed in the Application are proposed to be provided for in the Order in Council, if the proposed marine reserve is established.

Table A13.3: Consented activities listed in the Application but not recommended to be allowed for in the proposed Te Umu Koau marine reserve.

⁴ This consent number was misprinted in the Application as 2005.77.

⁵ This consent was misprinted in the Application as a General/structure land use consent.

⁶ This consent was misprinted in the Application as a Groundwater take permit.

⁷ This consent was misprinted in the Application as a Divert Water permit.

⁸ This consent was misprinted in the Application as a Groundwater Take permit.

⁹ This consent was misprinted in the Application as a Groundwater Take permit.

Consent type and reference number	Reason for not recommending provision in the Order in Council
Dam water permits: 2008.007, 2008.009, 2008.011	All of these consents are for activities associated with a dam that is located just outside the boundary of the estuarine part of the proposed marine reserve.
Discharge to water permits: 2008.571, 2008.575, 2008.579	Our assessment is that due to the nature and location of these activities they would not constitute an offence under the Marine Reserves Act and therefore can continue if the proposed marine reserve is established.
Surface water take permit: 2008.008.V1	

Proposed Papanui marine reserve

There were no resource consents listed in the Application for this proposed marine reserve.

Proposed Ōrau marine reserve

Table A13.4: Consented activities listed in the Application and recommended to be allowed for in the proposed Ōrau marine reserve.

	Consented activity	Consent details	Reason for recommending allowing for activity in Order in Council
Saint Clair Saltwater Pool			
1	To discharge seawater or seawater containing contaminants to the Coastal Marine Area at St Clair Salt Water Pool, Second Beach Road, St Clair, Dunedin for the purpose of disposal of swimming pool water at the end of the season and during storm events	<p><i>Consent number:</i> 2001.084</p> <p><i>Consenting authority:</i> Otago Regional Council</p> <p><i>Consent holder:</i> Dunedin City Council</p> <p><i>Consent expiry:</i> 31/03/2036</p>	<p>The consented activity would otherwise constitute an offence under the Marine Reserves Act, as it results in the discharge of a contaminant (contaminated seawater) that reaches the area of the proposed marine reserve.</p> <p>Due to this discharge being infrequent, minor in volume, and having to meet certain chemical composition requirements, we consider this discharge would not interfere with the proposed marine reserve achieving the purpose of the Marine Reserves Act, noting that compliance with the RMA would be required, including compliance with all consent conditions.</p> <p><i>Proposed condition:</i> Provision for existing discharge of contaminants and associated monitoring, subject to compliance with the RMA and any other legal requirements.</p>

	Consented activity	Consent details	Reason for recommending allowing for activity in Order in Council
2	To erect, place, alter and maintain the existing seawall structures within the Coastal Marine Area at St Clair Hot Water Pool, Second Beach Road, St Clair, Dunedin for the purpose of redevelopment of St Clair Hot Water Pool.	<p><i>Consent number:</i> 2001.085</p> <p><i>Consenting authority:</i> Otago Regional Council</p> <p><i>Consent holder:</i> Dunedin City Council</p> <p><i>Consent expiry:</i> 31/03/2036</p>	<p>The Marine Reserves Act prohibits <i>new</i> structures, not existing structures. Technically, therefore, occupation by an existing structure wouldn't constitute an offence and wouldn't need to be provided for by way of condition in the Order in Council. However:</p> <ul style="list-style-type: none"> • maintenance may involve disturbance to the foreshore/seabed which would otherwise constitute an offence; and • DCC have requested that the condition providing for existing structures includes provision for replacement by a 'like for like' structure. This would otherwise constitute an offence. <p>It is therefore appropriate to make provision for existing structures and any associated maintenance. Note that this is consistent with the approach taken in other marine reserves (for example, Taputeranga Marine Reserve).</p> <p>Due to the seawall structures already being in place, we consider any future disturbance to the foreshore or seabed would arise only from the maintenance, alteration or replacement, which is likely to be relatively minor in nature. Any replacement structure would have to be 'like for like'. We consider this activity therefore would not interfere with the proposed marine reserve achieving the purpose of the Marine Reserves Act, noting that compliance with the RMA would be required, including compliance with all consent conditions.</p> <p><i>Proposed condition:</i> Provision for existing structures including maintenance and replacement by a 'like for like' structure subject to compliance with the RMA and any other legal requirements.</p>
St Clair seawall			
3	To occupy the coastal marine area with a concrete wall and steps for the purpose of erosion protection, defence	<p><i>Consent number:</i> 2002.478</p> <p><i>Consenting authority:</i> Otago Regional Council</p>	<p>The Marine Reserves Act prohibits <i>new</i> structures, not existing structures. Technically, therefore, occupation by an existing structure wouldn't constitute an offence and wouldn't need to be provided for by way of condition in the Order in Council. However:</p> <ul style="list-style-type: none"> • maintenance may involve disturbance to the foreshore/seabed which would otherwise constitute an offence; and

	Consented activity	Consent details	Reason for recommending allowing for activity in Order in Council
	against the sea and amenity enhancement	<p><i>Consent holder:</i> Dunedin City Council</p> <p><i>Consent expiry:</i> 1/01/2038</p>	<ul style="list-style-type: none"> DCC have requested that the condition providing for existing structures includes provision for replacement by a 'like for like' structure. This would otherwise constitute an offence. <p>It is therefore appropriate to make provision for existing structures and any associated maintenance. Note that this is consistent with the approach taken in other marine reserves (for example, Taputeranga Marine Reserve).</p> <p>Due to the concrete structures already being in place at St Clair Beach, we consider any future disturbance to the foreshore or seabed would arise only from maintenance or replacement of the structure, which is likely to be relatively minor in nature. We consider this activity therefore would not interfere with the proposed marine reserve achieving the purpose of the Marine Reserves Act, noting that compliance with the RMA would be required, including compliance with all consent conditions.</p> <p><i>Proposed condition:</i> Provision for existing structures including maintenance and replacement by a 'like for like' structure subject to compliance with the RMA and any other legal requirements.</p>
4	To occupy the coastal marine area with rock riprap and a concrete retaining wall for the purpose of erosion protection, defence against the sea and amenity enhancement.	<p><i>Consent number:</i> 2002.482</p> <p><i>Consenting authority:</i> Otago Regional Council</p> <p><i>Consent holder:</i> Dunedin City Council</p> <p><i>Consent expiry:</i> 1/01/2038</p>	<p>As above for 3 (2002.478).</p> <p><i>Proposed condition:</i> Provision for existing structures including maintenance and replacement by a 'like for like structure', subject to compliance with the RMA and any other legal requirements.</p>
5	To occupy the coastal marine area with a bolted rock wave energy dissipation structure for	<p><i>Consent number:</i> 2002.573</p> <p><i>Consenting authority:</i> Otago Regional Council</p>	<p>As above for 3 (2002.478).</p> <p><i>Proposed condition:</i> Provision for existing structures including maintenance and replacement by a 'like for like' structure, subject to compliance with the RMA and any other legal requirements.</p>

	Consented activity	Consent details	Reason for recommending allowing for activity in Order in Council
	the purpose of defence against the sea.	<i>Consent holder:</i> Dunedin City Council <i>Consent expiry:</i> 1/01/2038	
6	To deposit rock material within the coastal marine area at St Clair Beach for the purpose of protecting an existing seawall	<i>Consent number:</i> RM14.309.07 <i>Consenting authority:</i> Otago Regional Council <i>Consent holder:</i> Dunedin City Council <i>Consent expiry:</i> 1/03/2035	<p>The consented activity would otherwise constitute an offence under the Marine Reserves Act, as it results in disturbance to the foreshore or seabed of the area of the proposed marine reserve.</p> <p>Due to this activity being associated with an existing structure which has already disturbed and caused modification to the foreshore, any additional disturbance from this activity is likely to be very localised in nature. We consider this activity therefore would not interfere with the proposed marine reserve achieving the purpose of the Marine Reserves Act, noting that compliance with the RMA would be required, including compliance with all consent conditions.</p> <p><i>Proposed condition:</i> Provision for existing structures including maintenance and replacement by a 'like for like structure', subject to compliance with the RMA and any other legal requirements.</p>
7	To disturb and temporarily occupy the coastal marine area at St Clair Beach for the purpose of placing rock material and altering an existing seawall	<i>Consent number:</i> RM14.309.08 <i>Consenting authority:</i> Otago Regional Council <i>Consent holder:</i> Dunedin City Council <i>Consent expiry:</i> 1/03/2035	<p>The consented activity would otherwise constitute an offence under the Marine Reserves Act, as it results in disturbance to the foreshore or seabed of the area of the proposed marine reserve.</p> <p>Due to this activity being associated with an existing structure which has already disturbed and caused modification to the foreshore, any additional disturbance from this activity is likely to be minor in nature. We consider this activity therefore would not interfere with the proposed marine reserve achieving the purpose of the Marine Reserves Act, noting that compliance with the RMA would be required, including compliance with all consent conditions.</p> <p><i>Proposed condition:</i> Provision for existing structures including maintenance and replacement by a 'like for like structure', subject to compliance with the RMA and any other legal requirements.</p>

	Consented activity	Consent details	Reason for recommending allowing for activity in Order in Council
8	To alter and reinforce an existing seawall at St Clair Beach with sheet piling and concrete for the purpose of erosion protection.	<p><i>Consent number:</i> RM14.309.05</p> <p><i>Consenting authority:</i> Otago Regional Council</p> <p><i>Consent holder:</i> Dunedin City Council</p> <p><i>Consent expiry:</i> 1/03/2035</p>	<p>The consented activity would otherwise constitute an offence under the Marine Reserves Act, as it results in disturbance to the foreshore or seabed of the area of the proposed marine reserve.</p> <p>Due to this activity being associated with an existing structure which has already disturbed and caused modification to the foreshore, any additional disturbance from this activity is likely to be minor in nature. We consider this activity therefore would not interfere with the proposed marine reserve achieving the purpose of the Marine Reserves Act, noting that compliance with the RMA would be required, including compliance with all consent conditions.</p> <p><i>Proposed condition:</i> Provision for existing structures including maintenance and replacement by a 'like for like structure', subject to compliance with the RMA and any other legal requirements.</p>
9	To occupy the common marine and coastal area with an access ramp for the purpose of public and vehicle access	<p><i>Consent number:</i> RM18.381.01</p> <p><i>Consenting authority:</i> Otago Regional Council</p> <p><i>Consent holder:</i> Dunedin City Council</p> <p><i>Consent expiry:</i> 1/01/2024</p>	<p>The Marine Reserves Act prohibits <i>new</i> structures, not existing structures. Technically, therefore, occupation by an existing structure wouldn't constitute an offence and wouldn't need to be provided for by way of condition in the Order in Council. However:</p> <ul style="list-style-type: none"> • maintenance may involve disturbance to the foreshore/seabed which would otherwise constitute an offence; and • DCC have requested that the condition providing for existing structures includes provision for replacement by a 'like for like' structure. This would otherwise constitute an offence. <p>It is therefore appropriate to make provision for existing structures and any associated maintenance. Note that this is consistent with the approach taken in other marine reserves (for example, Taputeranga Marine Reserve).</p> <p>Due to the structure already being in place at St Clair Beach, we consider any future disturbance to the foreshore or seabed would arise only from the maintenance or replacement of this structure, which is likely to be relatively minor in nature. We consider this activity therefore would not interfere with the proposed marine reserve</p>

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	Consented activity	Consent details	Reason for recommending allowing for activity in Order in Council
			<p>achieving the purpose of the Marine Reserves Act, noting that compliance with the RMA would be required, including compliance with all consent conditions.</p> <p><i>Proposed condition:</i> Provision for existing structures including maintenance and replacement by a 'like for like' structure, subject to compliance with the RMA and any other legal requirements.</p>
Tahuna Wastewater Treatment Plant			
10	To occupy the coastal marine area with structures and facilities associated with an offshore outfall for the disposal of treated wastewater from the Tahuna Wastewater Treatment Plant for a term expiring 35 years from the date of issue of this permit	<p><i>Consent number:</i> 2002.621</p> <p><i>Consenting authority:</i> Otago Regional Council</p> <p><i>Consent holder:</i> Dunedin City Council</p> <p><i>Consent expiry:</i> 26/10/2039</p>	<p>The Marine Reserves Act prohibits <i>new</i> structures, not existing structures. Technically, therefore, occupation by an existing structure wouldn't constitute an offence and wouldn't need to be provided for by way of condition in the Order in Council. However:</p> <ul style="list-style-type: none"> • maintenance may involve disturbance to the foreshore/seabed which would otherwise constitute an offence; and • DCC have requested that the condition providing for existing structures includes provision for replacement by a 'like for like' structure. This would otherwise constitute an offence. <p>It is therefore appropriate to make provision for existing structures and any associated maintenance. Note that this is consistent with the approach taken in other marine reserves (for example, Taputeranga Marine Reserve).</p> <p>Due to the structures already being in place, we consider any future disturbance to the foreshore or seabed would arise only from the maintenance or replacement of these, which is likely to be relatively minor in nature. We consider this activity therefore would not interfere with the proposed marine reserve achieving the purpose of the Marine Reserves Act, noting that compliance with the RMA would be required, including compliance with all consent conditions.</p> <p><i>Proposed condition:</i> Provision for existing structures including maintenance and replacement by a 'like for like' structure, subject to compliance with the RMA and any other legal requirements.</p>

Released under the Official Information Act

	Consented activity	Consent details	Reason for recommending allowing for activity in Order in Council
11	To discharge up to 600 litres per second average dry weather flow and up to 4000 litres per second wet weather flow of treated wastewater to the Pacific Ocean from an outfall located approximately 1100 metres off shore.	<p><i>Consent number:</i> 2002.623</p> <p><i>Consenting authority:</i> Otago Regional Council</p> <p><i>Consent holder:</i> Dunedin City Council</p> <p><i>Consent expiry:</i> 30/06/2032</p>	<p>The consented activity would otherwise constitute an offence under the Marine Reserves Act, as it results in the discharge of a contaminant (treated wastewater) into the area of the proposed marine reserve.</p> <p>Information provided by Dunedin City Council states that ongoing monitoring of the effects of the discharges has not indicated any significant adverse environment impacts of the activity. We consider this discharge would therefore not interfere with the proposed marine reserve achieving the purpose of the Marine Reserves Act, noting that compliance with the RMA would be required, including compliance with all consent conditions.</p> <p><i>Proposed condition:</i> Provision for existing discharges of contaminants and associated monitoring subject to compliance with the RMA and any other legal requirements.</p>
12	To occupy the coastal marine area with two outfall structures for the purpose of disposing of treated wastewater from the Tahuna Wastewater Treatment Plant.	<p><i>Consent number:</i> 2006.534</p> <p><i>Consenting authority:</i> Otago Regional Council</p> <p><i>Consent holder:</i> Dunedin City Council</p> <p><i>Consent expiry:</i> 30/06/2032</p>	<p>The Marine Reserves Act prohibits <i>new</i> structures, not existing structures. Technically, therefore, occupation by an existing structure wouldn't constitute an offence and wouldn't need to be provided for by way of condition in the Order in Council. However:</p> <ul style="list-style-type: none"> • maintenance may involve disturbance to the foreshore/seabed which would otherwise constitute an offence; and • DCC have requested that the condition providing for existing structures includes provision for replacement by a 'like for like' structure. This would otherwise constitute an offence. <p>It is therefore appropriate to make provision for existing structures and any associated maintenance. Note that this is consistent with the approach taken in other marine reserves (for example, Taputeranga Marine Reserve).</p> <p>Due to the structures already being in place, we consider any future disturbance to the foreshore or seabed would arise only from the maintenance or replacement of these, which is likely to be relatively minor in nature. We consider this activity therefore would not interfere with the proposed marine reserve achieving the purpose of the Marine Reserves Act, noting that compliance with the RMA would be required, including compliance with all consent conditions.</p>

	Consented activity	Consent details	Reason for recommending allowing for activity in Order in Council
			<i>Proposed condition:</i> Provision for existing structures including maintenance and replacement by a 'like for like' structure, subject to compliance with the RMA and any other legal requirements.
13	To discharge up to 600 litres per second average dry weather flow and up to 4000 litres per second wet weather flow of treated wastewater to the Pacific Ocean from twin outfalls at Lawyers Head.	<p><i>Consent number:</i> 2002.624</p> <p><i>Consenting authority:</i> Otago Regional Council</p> <p><i>Consent holder:</i> Dunedin City Council</p> <p><i>Consent expiry:</i> 30/06/2032</p>	<p>The consented activity would otherwise constitute an offence under the Marine Reserves Act, as it results in the discharge of a contaminant (treated wastewater) into the area of the proposed marine reserve.</p> <p>Information provided by Dunedin City Council states that ongoing monitoring of the effects of the discharges has not indicated any significant adverse environment impacts of the activity. We consider this discharge would therefore not interfere with the proposed marine reserve achieving the purpose of the Marine Reserves Act, noting that compliance with the RMA would be required, including compliance with all consent conditions.</p> <p><i>Proposed condition:</i> Provision for existing discharges of contaminants and associated monitoring subject to compliance with the RMA and any other legal requirements.</p>
Stormwater discharges			
14	To discharge contaminants to the coastal marine area for the purpose of stormwater disposal	<p><i>Consent number:</i> RM11.313.10</p> <p><i>Consenting authority:</i> Otago Regional Council</p> <p><i>Consent holder:</i> Dunedin City Council</p> <p><i>Consent expiry:</i> 20/06/2048</p>	<p>The consented activity would otherwise constitute an offence under the Marine Reserves Act, as it results in the discharge of a contaminant (stormwater) into the area of the proposed marine reserve.</p> <p>Information provided by Dunedin City Council states that ongoing monitoring of the effects of the discharges has not indicated any significant adverse environment impacts of the activity. We consider this discharge would therefore not interfere with the proposed marine reserve achieving the purpose of the Marine Reserves Act, noting that compliance with the RMA would be required, including compliance with all consent conditions.</p> <p><i>Proposed condition:</i> Provision for existing discharges of contaminants and associated monitoring subject to compliance with the RMA and any other legal requirements.</p>

	Consented activity	Consent details	Reason for recommending allowing for activity in Order in Council
15	To occupy the coastal marine area with an outfall structure for the purpose of using the structure to discharge stormwater.	<p><i>Consent number:</i> 2006.509</p> <p><i>Consenting authority:</i> Otago Regional Council</p> <p><i>Consent holder:</i> Dunedin City Council</p> <p><i>Consent expiry:</i> 2/09/2041</p>	<p>The Marine Reserves Act prohibits <i>new</i> structures, not existing structures. Technically, therefore, occupation by an existing structure wouldn't constitute an offence and wouldn't need to be provided for by way of condition in the Order in Council. However:</p> <ul style="list-style-type: none"> • maintenance may involve disturbance to the foreshore/seabed which would otherwise constitute an offence; and • DCC have requested that the condition providing for existing structures includes provision for replacement by a 'like for like' structure. This would otherwise constitute an offence. <p>It is therefore appropriate to make provision for existing structures and any associated maintenance. Note that this is consistent with the approach taken in other marine reserves (for example, Taputeranga Marine Reserve).</p> <p>Due to the structure already being in place, we consider any future disturbance to the foreshore or seabed would arise only from the maintenance or replacement of this, which is likely to be relatively minor in nature. We consider this activity therefore would not interfere with the proposed marine reserve achieving the purpose of the Marine Reserves Act, noting that compliance with the RMA would be required, including compliance with all consent conditions.</p> <p><i>Proposed condition:</i> Provision for existing structures including maintenance and replacement by a 'like for like structure', subject to compliance with the RMA and any other legal requirements.</p>
<p>Erosion protection works – Ocean Beach</p> <p>NOTE: This suite of consents (16 – 20) relate to erosion protection measures at Oceans Beach covering 1.5 km, including in relation to the historic landfill site at Kettle Park. The activities must be carried out in accordance with an Environmental Management Plan.</p>			

	Consented activity	Consent details	Reason for recommending allowing for activity in Order in Council
16	To occupy the coastal marine area with sand sausages, reno mattresses and a rubble wall for the purpose of erosion protection	<p><i>Consent number:</i> RM13.428.01</p> <p><i>Consenting authority:</i> Otago Regional Council</p> <p><i>Consent holder:</i> Dunedin City Council</p> <p><i>Consent expiry:</i> 1/07/2034</p>	<p><i>Existing structures</i></p> <p>There are three existing structures already in place that are covered by this consent:</p> <ul style="list-style-type: none"> • Rubble wall originally located 50 m west of Moana Rua Road (noting that the wall has now largely broken down from the original structure) • Reno mattresses located adjacent to Moana Rua Road • Sand sausages extending west from the eastern end of the St Clair Sea wall. <p>The Marine Reserves Act prohibits <i>new</i> structures, not existing structures. Technically, therefore, occupation by an existing structure wouldn't constitute an offence and wouldn't need to be provided for by way of condition in the Order in Council. However:</p> <ul style="list-style-type: none"> • maintenance may involve disturbance to the foreshore/seabed which would otherwise constitute an offence • DCC have requested that the condition providing for existing structures includes provision for replacement by a 'like for like' structure. This would otherwise constitute an offence. <p>It is therefore appropriate to make provision for existing structures and any associated maintenance. Note that this is consistent with the approach taken in other marine reserves (for example, Taputeranga Marine Reserve).</p> <p>Due to the structures already being in place, we consider any future disturbance to the foreshore or seabed would arise only from maintenance or replacement of the structures, which is likely to be relatively minor in nature. We consider this activity therefore would not interfere with the proposed marine reserve achieving the purpose of the Marine Reserves Act, noting that compliance with the RMA would be required, including compliance with all consent conditions.</p> <p><i>Future structures</i></p> <p>This consent also authorizes occupation by future reno mattress or sand sausage structures, within the specified area of the consent. Installation of future structures is authorized by RM.13.428.04 (see below).</p>

	Consented activity	Consent details	Reason for recommending allowing for activity in Order in Council
			<p>The nature and potential adverse effects of installation and occupation of the foreshore by Reno mattress/sand sausage structures are known and identifiable with sufficient clarity to enable an assessment that if further structures were installed they would not interfere with the proposed marine reserve achieving the purpose of the Marine Reserves Act. Any installation work is likely to be short in nature and much would take place above MHWS, the ecological effects would be minor in a dynamic beach environment and protection of the dune system is of conservation value in itself and would also be of value to the proposed marine reserve. Compliance with the RMA would be required, including compliance with all consent conditions, as well as compliance with any other legal requirements.</p> <p><i>Proposed conditions:</i></p> <p>Provision for existing structures including maintenance and replacement by a 'like for like' structure, subject to compliance with the RMA and any other legal requirements.</p> <p>Provision for future structures at Oceans Beach, specifically sand sausages and Reno mattresses, including maintenance and replacement by a 'like for like' structure, subject to compliance with the RMA and any other legal requirements.</p>
17	To disturb and temporarily occupy the coastal marine area for the purpose of undertaking erosion protection works	<p><i>Consent number:</i> RM13.428.02</p> <p><i>Consenting authority:</i> Otago Regional Council</p> <p><i>Consent holder:</i> Dunedin City Council</p> <p><i>Consent expiry:</i> 1/07/2034</p>	<p>This consent relates to:</p> <ul style="list-style-type: none"> • The placement of sand sausages and reno mattresses (RM.13.428.04); and • The deposition of sand for the purpose of erosion protection (RM.13.428.05). <p>The consented activity would otherwise constitute an offence under the Marine Reserves Act, as it results in disturbance to the foreshore or seabed of the area of the proposed marine reserve.</p> <p>To the extent that this activity relates to disturbance associated with the existing sand sausage and reno mattress structures, any additional disturbance from this activity would be associated with maintenance or replacement and is likely to be minor in nature. Likewise with new sand sausage and/or reno mattress structures, for the reasons set out in relation to RM.13.428.02 we consider any disturbance would be minor.</p>

	Consented activity	Consent details	Reason for recommending allowing for activity in Order in Council
			<p>To the extent that this activity relates to the deposition of sand, while this activity is ongoing in nature, we consider that any disturbance is likely to be minor in nature and will predominantly be undertaken above mean high water springs (see below in relation to RM.13.428.05).</p> <p>We consider this activity therefore would not interfere with the proposed marine reserve achieving the purpose of the Marine Reserves Act, noting that compliance with the RMA would be required, including compliance with all consent conditions.</p> <p><i>Proposed condition:</i> Any disturbance will be covered by the proposed conditions for existing structures, future structures at Oceans Beach and existing deposition of sand at Oceans Beach.</p>
18	To place Reno mattresses and sand sausages within the coastal marine area for the purposes of erosion protection	<p><i>Consent number:</i> RM13.428.04</p> <p><i>Consenting authority:</i> Otago Regional Council</p> <p><i>Consent holder:</i> Dunedin City Council</p> <p><i>Consent expiry:</i> 1/07/2034</p>	<p>As above for 16 (RM13.428.01).</p> <p><i>Proposed conditions:</i></p> <p>Provision for existing structures including maintenance and replacement by a 'like for like' structure, subject to compliance with the RMA and any other legal requirements.</p> <p>Provision for future structures at Oceans Beach, specifically sand sausages and Reno mattresses, including maintenance and replacement by a 'like for like' structure, subject to compliance with the RMA and any other legal requirements.</p>
19	To disturb a contaminated site for the purpose of site remediation and erosion protection	<p><i>Consent number:</i> RM13.428.03</p> <p><i>Consenting authority:</i> Otago Regional Council</p> <p><i>Consent holder:</i> Dunedin City Council</p> <p><i>Consent expiry:</i> 1/07/2034</p>	<p>This consented activity relates to the ongoing remedial works associated with the historic landfill site at Kettle Park. The majority of the activity occurs above MHWS and therefore would not constitute an offence. However it is possible that some of the activities will occur within the proposed boundary, and would otherwise constitute an offence under the Marine Reserves Act, as it results in disturbance to the foreshore or seabed of the area of the proposed marine reserve.</p> <p>The activities are ongoing in nature. However, we consider the effects from any further disturbance from this activity are likely to be minor in nature. We consider this activity therefore would not interfere with the proposed marine reserve achieving the purpose of the Marine Reserves Act.</p>

	Consented activity	Consent details	Reason for recommending allowing for activity in Order in Council
			<i>Proposed condition:</i> Provision for existing remedial activities associated with the historic landfill at Kettle Park, including any associated monitoring, subject to compliance with the RMA and any other legal requirements.
20	To deposit sand within the coastal marine area for the purpose of erosion protection	<p><i>Consent number:</i> RM13.428.05</p> <p><i>Consenting authority:</i> Otago Regional Council</p> <p><i>Consent holder:</i> Dunedin City Council</p> <p><i>Consent expiry:</i> 1/07/2034</p>	<p>This consented activity relates to the ongoing works associated with remediation and maintenance of the dunes at Oceans Beach. The majority of the activity occurs above mean high water springs and therefore would not constitute an offence. However, it is possible that some of the activities associated with this consent would occur within the proposed marine reserve, and would otherwise constitute an offence under the Marine Reserves Act as it results in disturbance to the foreshore or seabed of the area of the proposed marine reserve. The activities are ongoing in nature. However, we consider the effects from any further disturbance from this activity are likely to be minor in nature. We consider this activity therefore would not interfere with the proposed marine reserve achieving the purpose of the Marine Reserves Act.</p> <p><i>Proposed condition:</i> Provision for existing deposition of sand at Oceans Beach, subject to compliance with the RMA and any other legal requirements.</p>
<i>Existing wooden pole and plank groynes at St Clair Beach</i>			
21	N/A	N/A	<p>Due to the date of construction (early 1900s), these structures do not have a current resource consent. As set out in 10.6.2.1, however, these structures will be accommodated under the recommended condition for existing structures. As noted in 10.6.2.1, these structures have been listed in this table at the request of DCC, for the avoidance of doubt.</p> <p><i>Proposed condition:</i> Provision for existing structures including maintenance and replacement by a 'like for like' structure, subject to compliance with the RMA and any other legal requirements.</p>
Sand extraction			

	Consented activity	Consent details	Reason for recommending allowing for activity in Order in Council
21	<p><i>Consented activity:</i> To extract sand and to disturb the coastal marine area for the purpose of flood protection and extracting sand for commercial use</p>	<p><i>Consent number:</i> 2010.256</p> <p><i>Consenting authority:</i> Otago Regional Council</p> <p><i>Consent holder:</i> Nash & Ross Limited</p> <p><i>Consent expiry:</i> 1/05/2032</p>	<p>The consented activity would otherwise constitute an offence under the Marine Reserves Act, as it results in disturbance to the foreshore or seabed of the area of the proposed marine reserve and the taking of sand or shingle.</p> <p>Based on the recommended amended boundary of the proposed marine reserve at the Tomahawk Creek river mouth, however, the majority of this activity would occur outside the boundary of the proposed marine reserve (see 10.8.2). Therefore, it would not constitute an offence. To the extent that this activity relates to disturbance associated with flood protection works within the area of the proposed marine reserve (on the basis of the recommended amended boundary), our assessment is that this work would be very localised and sporadic, and any impacts are likely to be minor and short term in nature.</p> <p>To the extent that activity undertaken under the consent relates to sand extraction (for commercial use), we do not consider this should be allowed to continue within the proposed marine reserve (as amended) and therefore this is not provided for in the proposed condition. Otago Regional Council has confirmed that extraction of the sand within the amended boundary is not required for flood protection purposes.</p> <p>We note that the recommendation for the following proposed condition has been discussed fully with the consent holder Nash & Ross and Otago Regional Council, and all parties are comfortable with this recommendation. The Dunedin City Council has also been informed.</p> <p><i>Proposed condition:</i> Condition for disturbance of the foreshore at the Tomahawk Creek river mouth for the purposes of flood protection, subject to compliance with the RMA and any other legal requirements.</p>
22	<p>To occupy the coastal marine area for the purpose of undertaking flood protection works and sand extraction</p>	<p><i>Consent number:</i> 2010.257</p> <p><i>Consenting authority:</i> Otago Regional Council</p> <p><i>Consent holder:</i> Nash & Ross Limited</p>	<p>As above for 21.</p>

	Consented activity	Consent details	Reason for recommending allowing for activity in Order in Council
		<i>Consent expiry:</i> 1/05/2032	

Table A13.5: Consented activities listed in the Application but not recommended to be allowed for in the proposed Ōrau marine reserve.

Consent type and reference number	Reason for not recommending provision in the Order in Council
Discharge to air permits: 2002.626, RM13.428.06, RM15.142.01 Compliance certificate (relating to a discharge to air): RM13.428.07	Discharges to air are not prohibited under the Marine Reserves Act, therefore the activities associated with these consents can continue if the proposed marine reserve is established.

Proposed Okaihae marine reserve

There were no resource consents listed in the Application for the proposed Okaihae marine reserve.

Proposed Hākinikini marine reserve

None of the resource consents listed in the Application are proposed to be provided for in the Order in Council, if the proposed marine reserve is established.

Table A13.6: Consented activities listed in the Application but not recommended to be allowed for in the proposed Hākinikini marine reserve.

Consent type and reference number	Reason for not recommending provision in the Order in Council
Discharge to land permit: 95426	This consent authorises the discharge of leachate from a closed landfill to land. Our assessment is that due to its distance inland from the proposed marine reserve it would not constitute an offence under the Marine Reserves Act and therefore can continue if the proposed marine reserve is established.

Discharge to air permit:
95427

Discharges to air are not prohibited under the Marine Reserves Act, therefore the activities associated with these consents can continue if the proposed marine reserve is established.

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