In the matter of	an application by NZSki Limited to upgrade the Remarkables Ski Area and the Doolans Expansion [FTAA-2605-1236]
By	**NZSki Limited**
	Applicant

Statement of Evidence of Michael Dreaver (Treaty of Waitangi Negotiator) on behalf of Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou, Hokonui Rūnanga, Waihōpai Rūnanga, Te Rūnanga o Awarua, Te Rūnanga o Ōraka Aparima, Te Ao Marama Incorporated and Aukaha (1997) Limited

27 October 2026

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Introduction and experience

1 My name is Michael Peter John Dreaver.

2 I hold the qualifications of a Bachelor of Arts and a Bachelor of Laws (Hons).

3 I am the sole director of The Policy Shop, a negotiations, facilitation and policy consultancy. I established The Policy Shop in 2001, following twelve years in the public service in Aotearoa-New Zealand (Law Commission, Treasury, Office of Treaty Settlements, Ministry of Economic Development) and internationally (United Nations High Commissioner for Refugees).

4 For the last three decades the primary focus of my work in the public and private sectors has been the interaction between the Crown, Māori and, increasingly, the private sector.

5 I have participated in and frequently led the negotiation of more than 50 historical Treaty settlements, including in Muriwhenua, Mahurangi and Tāmaki Makaurau in the north, Ngāti Awa and Whakatōhea in the east, Taranaki and Manawatū in the west, and the entire South Island.

6 In most cases my role has involved working for and representing the Crown, including being Chief or Lead Crown Negotiator for several claims in the lower North Island. From 2009 to 2015 I was Chief Crown Negotiator for 27 concurrent negotiations across Tāmaki Makaurau, Hauraki/Coromandel and the Kaipara/Mahurangi regions.

7 I have also at times worked for iwi in negotiations, notably for the Kurahaupō iwi of Te Tau Ihu: Ngāti Apa ki te Rā Tō, Ngāti Kuia and Rangitāne o Wairau. I supported the National Hauora Coalition to present their contemporary Treaty of Waitangi claim relating to the health system and its impact on Māori.

8 One of my first forays into Treaty settlement negotiations was the Ngāi Tahu settlement negotiations between 1995 and 1997. At that time, I was an advisor at Treasury and was seconded to the Crown negotiating team responsible for the mahinga kai/mahika kai redress. That included developing and negotiating new redress instruments such as the statutory acknowledgements and deeds of recognition, tōpuni overlays, nohoanga/nohoaka entitlements and enforceable protocols between iwi and government departments. Our Crown team spent a lot of time with Ministers and with our Ngāi Tahu counterparts, so I developed a strong understanding of the intentions of the parties.

9 Over the last decade I have maintained a close interest (but have not directly participated) in the ongoing negotiation of historical Treaty

settlements and have regularly been asked to help iwi to ensure and enforce compliance by the Crown with its Treaty settlement obligations.

10 I was also invited by the Ministry of Justice to provide expert feedback on the Treaty Principles Bill developed by ACT's David Seymour and introduced by the National-led government.

11 Most of my work now involves advising the Crown and private sector on how to establish and maintain productive and mutually beneficial partnerships with iwi and other Māori groups. This largely occurs in the context of the design and delivery of infrastructure for transport, energy, housing and water.

12 I also provide support and advice to iwi who have settled their claims, in relation to issues arising from the implementation of their Treaty settlements.

Purpose and scope of evidence

13 This evidence concerns the application by NZSki Limited (**Applicant**) to upgrade the Remarkables Ski Area and the Doolans Expansion (**Application**). This evidence:

(a) provides an overview of the nature of Treaty settlements, explaining the four-distinct parts of a settlement and the redress in the Kāi Tahu Settlement;

(b) discusses the rights and interests of third parties in relation to Treaty settlements;

(c) explores the process dimensions of the concept of rakatirataka and assesses these in relation to the Application; and

(d) explores the substantive dimensions of rakatirataka and assesses these in relation to the Application.

14 I have read the expert evidence submitted by Kāi Tahu rakatira Edward Ellison and pukeka taiao Dr Gail Tipa, as well as by Dr Alayna Rā. I adopt their views on the importance of rakatirataka and the way it is interpreted by Kāi Tahu.

15 I will generally use Kāi Tahu spelling convention (i.e. 'k' rather than 'ng') except where I am directly quoting from or referring to a document or context (e.g. in the Deed of Settlement) that does not use Kāi Tahu mita.

Code of Conduct for Expert Witnesses

16 Although these proceedings are not before the Environment Court, I confirm that I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2023. I have complied with the Code of Conduct in preparing this evidence and will continue to comply with it if requested to give oral evidence before the Hearings Panel. This evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

17 My wife and daughter are of Kāi Tahu descent and are registered members. I have not discussed the contents of this evidence with either of them.

18 I am Pākehā. Where I give my views on the meaning and dimensions of cultural concepts in relation to this Application, I do so based on my own extensive experience working and living with Māori.

Nature of Treaty settlements

The four-distinct parts of a Treaty settlement

19 Each Treaty settlement is different, reflecting the history, circumstances and interests of the relevant claimant group, the priorities that group brings to the negotiating table, and the land and other resources owned by the Crown within the claim area.

20 Treaty settlement redress has also evolved over time, reflecting: greater confidence by the Crown in its ability to preserve the wider public interest in land transferred to Māori ownership, the need to accommodate multiple iwi interests in one area, and the development of more sophisticated models to facilitate iwi participation in the governance of natural resources such as rivers.

21 Changes in government have not had a marked effect on the content of Treaty settlements or forms of redress. This reflects a broad political consensus that seems unlikely to fundamentally fracture, even though recent years have seen the emergence of a sharper, more polarised, Treaty discourse from some quarters.

22 Notwithstanding these changes, each individual Treaty settlement still contains four distinct parts: an introduction and background which generally also describes the origins of the iwi or claimant group; a part that contains a historical account of Crown and claimant group interaction since 1840,

Crown acknowledgements of breaches of the Treaty and a Crown apology for those breaches; a cultural redress part; and a financial and commercial redress part.

23 These distinct parts interact to form a complete 'redress' package. If one of the four parts were missing, it would be difficult, probably impossible, to secure an agreed settlement – the Treaty settlement 'package' would be missing an essential component.

24 A Treaty settlement deed is a binding contract between the Crown and the iwi, some of which is of immediate effect, but most of which comes into force when the settlement legislation is enacted. For Kāi Tahu, their Treaty settlement was a response not just to Treaty breaches but to numerous breaches of contract. The integrity of the Treaty settlement is critically important to Kāi Tahu.

25 The four-part redress package does not 'codify' the Treaty rights or interests of the iwi. Treaty settlements are expressed to be 'full and final', not open to relitigating in the future. As a result, every word and every element of redress counts.

26 For instance, I am aware of iwi negotiators who state that the Crown Acknowledgements and Crown Apology are more important to them as redress than the payment of many millions of dollars of financial redress.

Kāi Tahu Settlement

27 That conclusion that a Crown Acknowledgement and a Crown Apology are just as important if not more important than financial redress is reflected in the text of the Ngāi Tahu Deed of Settlement. The Introduction concludes (p 18) with the following statement:

> "Accordingly, in a spirit of co-operation, compromise and good faith and in consideration of the respective obligations and agreements contained in this Deed, the Crown and Te Rūnanga agree to settle the Ngāi Tahu claims in consideration for the redress to be provided by the Crown as specified in the following sections 1 to 20, and otherwise on the terms and conditions set out in sections 1 to 20."

28 At section 2.1 of the Deed of Settlement, the Crown:

> "apologises to Ngāi Tahu for its past failures to acknowledge Ngāi Tahu rangatiratanga and mana over the South Island within its boundaries, and, in fulfilment of its Treaty obligations, the Crown recognises Ngāi Tahu as the tangata whenua of, and

> as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui."

29 The Crown then at section 2.2 of the Deed of Settlement acknowledges:

> "2.2.1 the legitimacy of the Ngai Tahu Historical Claims and the breaches of the Treaty of Waitangi by the Crown in relation to the Ngai Tahu Historical Claims;
>
> 2.2.2 that the Settlement does not diminish or in any way affect the Treaty of Waitangi or any of its articles or the ongoing relationship between the Crown and Ngai Tahu in terms of the Treaty of Waitangi or undermine any rights under the Treaty of Waitangi, including rangatiratanga rights"

30 The Deed of Settlement is therefore clear: the Crown Apology and Crown Acknowledgements are a key part of the overall fabric of 'redress', no less so than the cultural, financial and commercial redress commitments and obligations.

31 The Crown Acknowledgement of rangatiratanga within both the Crown Apology and Crown Acknowledgements equally forms part of the Ngāi Tahu Treaty settlement redress.

32 This is also confirmed by The Red Book published by Te Tari Whakatau, which states (p 87):

> Among the first and most important items in a Deed of Settlement are the historical account, Crown acknowledgements and apology, collectively known as the Crown Apology. They may be seen as the first step in reconciling and healing the relationship between the Crown and the claimant group.

33 As a result, in the Ngāi Tahu Deed of Settlement the Crown commits to ongoing recognition of the rangatiratanga/rakatirataka of Kāi Tahu. In other words, that recognition also imposes an obligation.

34 The Ngāi Tahu Deed of Settlement also includes statutory acknowledgements, nohoaka entitlements and taoka species recognition. These land- or species-specific forms of redress and their relevance to this application are well traversed in other statements of evidence on behalf of Kā Rūnaka. I make only passing reference to them.

Treaty settlements are binding on the Crown and iwi but they affect the rights and interests of third parties

35 The rights and interests of third parties who are not the Crown and not the relevant iwi/claimant group are also affected by Treaty settlements.

36 The Treaty of Waitangi was a compact between Māori leaders of iwi and hapū and the Crown. In a similar vein, Treaty settlements are a contract, given added force by legislation, between a claimant group and the Crown (on behalf of all New Zealanders).

37 Those words in parentheses – "on behalf of all New Zealanders" - are important. Treaty settlements provide rights and interests to, and impose obligations on, iwi. They are signed by the Crown and iwi. But they also affect the rights and interests of other New Zealanders in certain respects. They may require that decision makers take into account particular considerations or undertake functions in accordance with a particular process.

38 Much cultural redress in Treaty settlements involves the transfer or acknowledgement of rights and interests to iwi and hapū to enable them to exercise their traditional rights and roles – rangatiratanga/rakatirataka is a notable example.

39 The grant of rights to iwi or recognition of rights in iwi does not remove the existing lawful rights of third parties. It does not confiscate private property. It does not override or terminate existing contracts, permits or permissions.

40 But Treaty settlement redress still has an impact on third parties. Redress may constrain public access to some places. It may provide exclusive rights to iwi that are not available to non-members. For instance, the holders of a nohoaka entitlement have rights of enforceability of those entitlements against third parties as if they were landowners. Redress may provide preference to the claimant group in the granting of future permissions or concessions.

41 Treaty settlements also create or amend processes, criteria, principles and frameworks for decision makers to consider and comply with when undertaking certain functions.

42 In the minerals context, for example, when a mining company or individual successfully applies for an exploration licence, the Department of Conservation will generally impose requirements on the licence holder to engage regularly with named iwi and hapū; and to report on their

engagement with those iwi and hapū, the issues that have been raised and how the Applicant has responded to those issues.

43 Increasingly in recent years specific legislation has explicitly required the decision makers to act in a way consistent with Treaty settlements. The Fast-track Approvals Act 2024 (FTAA) is an example.

44 Section 7 of the FTAA states:

> "all persons performing and exercising functions, powers, and duties under this Act must act in a manner that is consistent with the obligations arising under existing Treaty settlements."

45 Section 85(1) of the FTAA states the panel must decline an approval if the panel considers that granting the approval would breach section 7.

Rakatirataka/rangatiratanga

Rakatirataka in the Kāi Tahu Settlement

46 The acknowledgments of Kāi Tahu rangatiratanga/rakatirataka in the Crown Apology and Crown Acknowledgement of the Ngāi Tahu Deed of Settlement do not define or codify rakatirataka or Treaty rights generally; nevertheless they give rise to obligations.

47 The Deed of Settlement does provide some guidance as to the scope and breadth of rakatirataka:

(a) It does not acknowledge rakatirataka "to the extent that acknowledgement has no impact on other New Zealanders".

(b) It does not acknowledge rakatirataka only in respect of Crown owned land and activities in relation to that land.

48 The Deed of Settlement also sets out instances where the Crown acknowledges it breached its obligations to respect and protect the rakatirataka of Kāi Tahu whānui. Examples are the failure to provide promised reserves when land was bought, and the failure to ensure Kāi Tahu retained reasonable access to mahika kai, places where they produced or procured food.

49 In my view, the concept of rakatirataka is not immutable or fixed in time. Like many cultural concepts, like legal doctrine, and like natural law, it evolves. The exercise by Kāi Tahu of rakatirataka in 2026 is not identical to the exercise by Kāi Tahu of rakatirataka in 1866. For the present

application, it is therefore important to examine what rakatirataka means today.

50 Kāi Tahu (in this case, represented through Kā Rūnaka) will have the most clarity about what they consider to be appropriate recognition of their rakatirataka in each case, and so the views of iwi pukeka should be given a strong weighting. In the evidence of Gail Tipa, for instance, she states:

> "The assessment should consider whether whānau and rūnanga exercise genuine authority in the decisions that affect Kawarau, or whether their role is confined to consultation on decisions already effectively made. Arrangements such as benefit-sharing, cultural monitoring and kaitiaki roles, and support for rūnanga capacity and capability, are the practical means by which a development can uphold rather than undermine rakatirataka."

51 In my view the iwi do not necessarily have the sole or final decision on what amounts to rakatirataka in each situation or how it is to be respected - that is ultimately an exercise of judgment, a matter of discussion, even negotiation, taking into account all the circumstances of the issue – the place, the people and the project.

52 Rakatirataka is also not absolute; a test of reasonableness in the circumstances may be appropriate – the Ngāi Tahu Deed of Settlement acknowledged a failure to provide 'reasonable' access to mahika kai.

53 Rakatirataka has both process and outcome dimensions.

Rakatirataka Key Process Features

54 Respect for rakatirataka requires some key process features, including at the least:

(a) Engagement with the correct representatives of Kāi Tahu for the relevant project and place;

(b) Early and open provision of all relevant information;

(c) Sufficient time to consider and assess the information and its relevance;

(d) Reasonable resourcing for the representatives and their advisers;

(e) Openness to consider iwi perspectives;

(f) Respect for and protection of mātauraka Māori and cultural intellectual property;

(g) Good faith;

(h) Respect for confidentiality;

(i) Respect for the right to disagree; and

(j) Complying with agreements on the conduct of engagement.

55 From the submissions and the other evidence that I have reviewed in relation to this Application, I question whether the Applicant's engagement with Kāi Tahu interests has been conducted in a way that gives meaningful effect to these process dimensions of rakatirataka. I discuss my view in relation to the Application under each of the headings below.

Engagement with correct representatives for project and place

56 Generally, engagement with Kā Rūnaka was sporadic for a significant period prior to 2026.

57 The Applicant's apparent reluctance to resource the participation in the application by Kā Rūnaka as the authorised representatives of the relevant Rūnaka, as well as oversight by the Rangatira of Kā Rūnaka, suggests a failure to understand and respond to the recognised representative structure for mana whenua.

Early and open provision of relevant information

58 Sufficient time to consider and assess the information and its relevance is important.

59 Incomplete information appears to have been provided to Kā Rūnaka in terms of the Application. – Only four technical reports and a redacted copy of the Application itself was provided. This came with little time for Kā Rūnaka properly to consider and respond to it.

60 Rakatira of Kā Rūnaka in correspondence on 31 March 2026 expressly requested a full copy of the substantive Application before it was lodged – but it was only after the lodgement that a (redacted) version was provided.

Reasonable resources for representatives and their advisers

61 Reasonable resourcing is important to ensure adequate engagement and consultation with Kā Rūnaka.

62 The Applicant was unwilling to fund Kā Rūnaka to undertake the level of review and oversight that Kāi Tahu advised was necessary. My review of the correspondence in relation to resourcing schedule and my own experience working on numerous other infrastructure projects in which iwi have an interest suggests that Kā Rūnaka were not unreasonable in their estimate of what was required for meaningful engagement. In this context, it's also important to note that Kā Rūnaka and their advisers were being asked to prioritise their time and attention to this Application within a fast-track process, at the expense of other commitments they may have had. A less quibbling response from the Applicant may have led to a quite different outcome.

Openness to consider iwi perspectives

63 Parties must maintain openness in relation to different perspectives.

64 Kā Rūnaka provided some very early and high-level advice to the Applicant in February 2026 - essentially a blueprint for the matters which may be required for a comprehensive Treaty Impact Assessment – a report that includes what is frequently contained in a Cultural Impact Assessment. This advice does not appear to have been taken into account in the Application, and the failure to commission and consider a full Treaty Impact Assessment prior to lodging the Application suggests a reluctance to engage with the perspectives of the iwi as represented by Kā Rūnaka.

65 Instead, the Applicant seems to have relied for the iwi perspective on input from a consultant who was not a legitimate or acknowledged representative of Kāi Tahu interests - and whose advice was clear that they were not holding themselves out to be such and that they did not replace the need for direct communication and dialogue with Kāi Tahu. The consultant's report identified certain Treaty settlement redress instruments the author considered relevant to the Project but completely overlooked the relevance of rakatirataka as redress.

Respect for and protection of mātauraka Māori and cultural intellectual property

66 Mātauraka Māori and cultural intellectual property must be considered, respected and protected. This knowledge is not simply information that is freely available for use by others - it carries significance to mana whenua.

67 I see no evidence that the Applicant took time to consider the Kāi Tahu mātauraka in relation to the project, and in fact they appear to have submitted the application through a process that effectively prevented Kāi Tahu mātauraka from being expressed at all.

Good faith

68 Rakatirataka can only be meaningfully exercised if good faith is exercised between parties.

69 The decision by the Applicant to submit the Application in the face of explicit requests by senior leaders of each of the rūnaka not to do so, will likely have raised legitimate questions in the minds of those leaders as to the general *bona fides* of the Applicant as well as compliance with principles of good faith.

Respect for confidentiality, respect for the right to disagree and complying with agreements on the conduct of engagement

70 Engagement did not reach the stage of maturity to test compliance by the Applicant with the last three of the process tests I posit – respect for confidentiality; respect for the right to disagree; and complying with agreements on the conduct of engagement.

Rakatirataka/rangatiratanga and outcomes

71 It is harder to define what rakatirataka might mean in terms of outcome in any given situation. Good process helps. However, the parties could have tested the potential outcome – the project itself as well as any specific conditions proposed - against a series of criteria, such as the following:

(a) **Does it respect and protect rights and interests specifically identified in any relevant Treaty settlement, and, in particular, specific redress?**

(i) The Application fails expressly to consider rakatirataka rights and interests. There is no evidence that the Project has been amended in scope or scale to accommodate, for instance, Kā Rūnaka concerns over changes to the physical character of the mauka, what Gail Tipa in her evidence describes as its 'visual and spiritual presence'.

(ii) Also, the set of draft conditions does not appear to acknowledge or implement rakatirataka. The draft conditions on ecology, design and landscape omit or fail to accommodate mana whenua interests, and do not acknowledge relevant specific Treaty redress instruments such as taoka species recognition and statutory acknowledgements.

(iii) The proposed mana whenua advisory group is a purely consultative body. Its Terms of Reference are focused on a

limited range of ‘cultural’ matters such as signage and accidental discovery, and input into (rather than co-creating) management plans. It has no involvement in key design processes and decisions. The mooted two meetings a year during construction of such a significant development falls significantly short of the expectations of a rakatira relationship, particularly in the absence of any apparent infrastructure to support the operation of the group.

(iv) The applicant’s failure to engage meaningfully with Kā Rūnaka to date does not inspire confidence as to how the proposed mana whenua advisory group could have any real mana or lead to meaningful exercise of rakatirataka.

(b) **Does it respond to all the interests and matters raised by the iwi, including in any cultural impact assessment?**

(i) The Applicant has not received, nor responded to, the interests of Kā Rūnaka as conveyed and foreshadowed in correspondence, meetings and in the February report on considerations for a Treaty Impact Assessment. A Treaty Impact Assessment was not commissioned, let alone considered. The Applicant does not even respond to the issues raised in the February Report, which outlined a selection rather than comprehensive overview of issues important to Kā Rūnaka, including modification of a wāhi tipuna, visual impacts and pressure on a fragile ecosystem.

(c) **Does it provide the iwi with meaningful influence and potentially participation in relation to the activity?**

(i) Iwi influence and participation is limited to the establishment of the mana whenua advisory group. The proposed purpose and scope of that group is narrow, with its involvement limited to constrained consultation rather than participation. It is proposed to be established just three months before construction starts and the proposed meeting frequency is once every six months. Although mana whenua are invited to have a say in its composition and frequency of meetings, this does not extend to its purpose or scope of responsibilities. Its specific functions are limited to ‘review’ and ‘feedback’ and there is a primary focus on implementation rather than co-creation of significant matters like management plans. Even its name – specifically the word ‘advisory’ – diminishes its role and

responsibility. One of the advice notes offers discussions on how to represent Kāi Tahu in the built environment and interpretation, as if the primary Kāi Tahu concern is on self-publicity and amending the landscape themselves, rather than the health and wellbeing of the tipuna mauka.

(ii) The proposed Biodiversity Fund is modest in size, narrow in scope, and makes no reference to addressing cultural interests apart from a vague statement about 'reasonable [sic] exercise of kaitiakitanga'. The Project Plan to be supported by this Fund involves superficial mana whenua input – just one member of the mana whenua advisory group is to be invited to participate in its development.

(iii) The proposed conditions in relation to management plans largely ignore mana whenua issues and interests (apart from a side reference to species in relation to vegetation clearance). The proposed avifauna and wetlands management processes provide detail on the involvement of ornithologists, ecologists and hydrologists, but make no mention of Kāi Tahu experts or mātauraka. There is no acknowledgement of the importance of mana whenua involvement in design, apart from the side reference to cultural interpretation.

(d) **Does it reflect the potential impact and the anticipated duration of the activity?**

(i) Based on the advice of Kā Rūnaka, the expected impact on Kawarau, a taoka hirahira for Kāi Tahu, and the associated catchment, are significant. The activity is of long duration, and many of the changes to the landscape are permanent. Kā Rūnaka are excluded from the design process, which might otherwise be an opportunity to avoid or mitigate the impact. Any assumption that a very modest biodiversity fund will respond to and mitigate cultural impacts would be naïve.

(e) **Does it reflect and accommodate any uncertainty or risk around the activity?**

(i) The Applicant has not established a process with Kā Rūnaka to address the risk to a highly sensitive landscape and ecology.

(f) **Does it build in a review process, particularly if the activity has a long duration?**

(i) No.

(g) **Where it might negatively affect iwi interests, does it build in an element of, mitigation, compensation, mutuality or shared benefits?**

(i) The Application does not recognise a negative effect on iwi interests. The proposed Biodiversity Fund is a very modest sum (so much so that I suspect the cost of its administration will exceed the value of any investment in real biodiversity outcomes) and makes no reference to cultural cost.

Conclusion

72 In my professional opinion, the redress in Kāi Tahu Treaty settlement includes specific Treaty instruments relevant to the Application, such as statutory acknowledgements, nohoaka entitlements and taoka species recognition, as well as an overarching redress commitment: the acknowledgement of rights and obligations regarding rakatirataka.

73 Those rights and obligations create expectations on the Applicant regarding its conduct in relation to this Application, and the substantive recognition of Kāi Tahu rakatirataka should the project proceed.

74 It is also my opinion, based on what I have seen, that these standards have not been met through the process undertaken by the Applicant to date and the proposed conduct of the project in light of the anticipated impact on Kawarau.

Michael Dreaver

27 October 2026