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

Section 53 comment and legal submissions 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

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Applicant's solicitors:
Ben Williams | Rachel Robilliard
Anderson Lloyd
Floor 2, The Regent Building, 33 Cathedral Square, Christchurch 8011
PO Box 13831, Christchurch 8141
DX Box WX10009 Christchurch
p + 64 3 379 0037
[redacted] | [redacted]

anderson lloyd.

Tēnā koutou,

Introduction

1 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, we provide comments under section 53 of the Fast-track Approvals Act 2024 (**FTAA or Act**) in relation to the application made by NZSki Limited for the Remarkables Ski Area Upgrade and Doolans Expansion (the **Project**).

2 Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou, Hokonui Rūnanga, Waihōpai Rūnanga, Te Rūnanga o Awarua and Te Rūnanga o Ōraka-Aparima (collectively, **Kā Rūnaka**) represent mana whenua in the Tāhuna (Queenstown) area.

3 The Project is located within the Rastus Burn and Doolans Basin, within the wider Remarkables Ranges (Kawarau) (the **Project Site**). Kawarau is a recognised wāhi tīpuna landscape of profound significance to Kā Rūnaka and an integral component of the wider interconnected cultural landscape consisting of Whakatipu Waimāori – Lake Wakātipu, and Kawarau River.[1]

The position of Kā Rūnaka

4 Kā Rūnaka submit that the Panel should **decline** this application.

5 Many material effects are not known or have not been appropriately assessed by the Applicant. The effects that are known do not support the grant of consent.

6 If, contrary to the position of Kā Rūnaka, the Panel is minded to grant the application, at minimum, determination should be deferred pending further information, genuine engagement with Kā Rūnaka, an assessment of alternatives and material redesign, and revised conditions as discussed in the evidence provided by Kā Rūnaka including:

(a) a materially shorter concession term;

(b) avoidance of specified culturally sensitive areas; and

[1] Kā Rūnaka Treaty Rights and Interests Statement *Remarkables Ski Area Upgrade and Expansion* (October 2026). These areas are all listed in the Schedule of Wāhi Tūpuna under the Queenstown Lakes Proposed District Plan (Schedule numbers 24, 33 and 36).

(c) Kā Rūnaka involvement in governance, monitoring, review, restoration and decommissioning.

7 This position is particularly informed by:

(a) Section 7 of the FTAA, which requires consistency with the obligations arising through the Kāi Tahu Settlement under the Ngāi Tahu Claims Settlement Act 1998 (**NTCSA**) and associated Deed of Settlement (together, **the Settlement**). The evidence for Kā Rūnaka establishes that the Project would affect the practical exercise of rights, relationships and responsibilities recognised through the Settlement.

(b) Section 4 of the Conservation Act 1987 (**Conservation Act**) obliging decision makers to give effect to the principles of the Treaty of Waitangi, which must not be displaced, overridden, or diminished by the FTAA conservation approval pathway. The Treaty Rights and Interests Statement prepared for this Application recognises that the principles that are relevant and engaged in this context include rakatirataka, partnership, reciprocity and mutual benefit, a duty to make an informed decision, and active protection.[2]

(c) The Treaty Rights and Interests Statement, which establishes that the proposal is situated within the culturally significant Wāhi Tīpuna and interconnected ancestral landscape of Kawarau and has the potential to adversely affect Kā Rūnaka cultural values, Treaty interests, and the ongoing exercise of rakatirataka and kaitiakitaka, including for future generations.

(d) The section 51 reports provided by the Department of Conservation, for the Application, which raise concerns regarding effects on the exceptionally high ecological values, inability to offset or compensate for residual ecological effects, effects on freshwater systems and geomorphological values, inconsistency with the Otago Conservation Management Strategy (**CMS**).

(e) The evidence for Kā Rūnaka, which identifies inadequacies in the Applicant's engagement with Kā Rūnaka as mana whenua, and subsequent inadequacies in the assessment of effects that have resulted, in particular, in evidential uncertainty and important

[2] Kā Rūnaka Treaty Rights and Interests Statement *Remarkables Ski Area Upgrade and Expansion* (October 2026).

questions around the regional or national benefits attributable to the Project.

8 Kā Rūnaka consider there is insufficient evidence to demonstrate that the benefits of the project outweigh the potential for significant adverse effects.

Evidence for Kā Rūnaka

9 The experts engaged by Kā Rūnaka have approached this section 53 comment by reviewing the assessments and information relied on by the Applicant and identifying material gaps and deficiencies in that material. Their evidence is not intended to constitute a comprehensive assessment of all potential effects of the Project.

10 This approach has been necessitated following the Applicant's general lack of support for Kā Rūnaka to meaningfully engage in the FTAA process. Although some more limited funds have belatedly been provided, the funds were in a practical sense too late and not sufficient to enable Kā Rūnaka to engage in the earlier and critical stages in the process. This has limited the ability of Kā Rūnaka to assess and mitigate effects on the wāhi tupuna.

11 Kā Rūnaka have provided evidence from the following experts:

(a) Dr Alayna Rā (Landscape and visual) who addresses the Application's landscape and natural character effects in accordance with *Te Tangi a te Manu Aotearoa New Zealand Landscape Assessment Guidelines* (NZILA, 2022) and assesses and reflects the relationship between Kā Rūnaka rights and interests and the lands, waters and skies affected by the Application. Dr Alayna Rā raises concerns that the current application's assessment contains significant methodological deficiencies and does not provide a reliable basis for assessing the landscape and natural character effects of the Application.

(b) Mr Matthew Dale (Ecology) who addresses hydrology and aquatic ecology, terrestrial ecology, avifauna, lizards, snowmaking and grooming, climate change and biodiversity compensation. Mr Dale raises concerns that the proposal would result in significant and irreversible effects on the natural alpine freshwater ecosystem. He recommends an explicit assessment of the residual flow and abstraction regime and consideration of the long-term effects of artificial snow and grooming on alpine ecosystems. He provides recommendations for the biodiversity compensation package.

(c) Dr Gail Tipa (Effects on Kāi Tahu whānau) who addresses the statutory and cultural framework relevant to the assessment of the proposal. Her evidence includes the recognition of hauora and manaakitaka in the purpose and Crown apology contained in the Ngāi Tahu Claims Settlement Act; the cultural and spiritual significance of the Kawarau within the wider Kāi Tahu ancestral landscape; and provides an assessment of the proposal on cultural and spiritual values through a whānau ora and manaakitaka lens. Dr Tipa raises concerns about the Proposal's permanent effects on the spiritual and cultural integrity of Kawarau as a wāhi tīpuna; adverse effects on wairua, mauri and kaitiakitaka; increased pressure on alpine ecosystems and water resources; the cumulative strain on regional infrastructure and housing; reduced opportunities for cultural connection and intergenerational knowledge transfer; and adverse effects on whānau ora, manaakitaka and rakatirataka within the wider Whakatipu basin.

(d) Edward Ellison (Cultural impact) who addresses Kāi Tahu tikaka principles; cultural association; the Kāi Tahu Settlement; the Department of Conservation framework and concessions; and the relationship of Kāi Tahu, and particularly Puketeraki and Ōtākou, with the land, waters and cultural landscape affected by the Proposal. Mr Ellison raises concerns about the Proposal's physical footprint and the fundamental inconsistencies of the Proposal with the Kāi Tahu tikaka principles that govern the relationship of mana whenua with the whenua, wai māori and wider ancestral landscape.

(e) Michael Dreaver (Treaty impact) who addresses the nature of Treaty settlements, redress in the Kāi Tahu Settlement, rights and interests of third parties, and the concept of rakatirataka. He raises concerns regarding rakatirataka key process features in relation to the Application including engagement with correct representatives, early and open provision of all relevant information, sufficient time, reasonable resourcing, openness to consider iwi perspectives, respect and protection of mātauraka Māori and cultural intellectual property, good faith, and respect for confidentiality.

(f) Dr Rowan James Dixon (Climate change) who addresses whether the Application has adequately assessed the climate-related matters that are material to the proposal, including future snow reliability, snowmaking water demand, water availability, freshwater effects, natural hazard exposure, infrastructure and operational resilience, and the robustness of economic assumptions over the proposed

concession term. Dr Dixon raises concerns that the Applicant's assessment has a number of key deficiencies and evidential gaps.

(g) Mr Shane Ellison (Infrastructure) who addresses transport and infrastructure implications of the Proposal, assessed through the lens of Kā Rūnaka values. Mr Ellison raises concerns about the traffic assessment and RFI response, the wastewater information provided, and the proposed electricity supply arrangements.

12 Dr Richard Meade (Economics) has prepared a series of questions identifying the further information required to properly test the economic impacts and benefits claimed in the Applicant's Economic Impact Assessment (*EIA*). Those questions address, among other matters, the appropriate Project counterfactual and additionality of the claimed benefits; the distinction between gross economic activity and net benefit; opportunity costs, displacement and regional capacity constraints; infrastructure, climate and resilience risks; and environmental, cultural and other non-market effects. Dr Meade also identifies the need to demonstrate the Project's incremental benefits at the Otago regional and New Zealand national scales, and to reconcile those benefits with resource and opportunity costs, adverse effects, distribution, timing and uncertainty.

13 This document summarises the overall position of Kā Rūnaka and addresses the following legal issues:

(a) The requirements of section 7 of the FTAA;

(b) Conservation Act obligations;

(c) Inconsistency with the Ngāi Tahu Settlement;

(d) Legal inadequacy of the footprint-based assessment;

(e) Flaws in the Applicant's assessment of effects; and

(f) Questions to be addressed in determining whether the Project would result in significant regional or national benefits.

14 Filed alongside this section 53 comment for Kā Rūnaka is the Treaty Rights and Interests Statement prepared for the Application.

FTAA – Section 7

15 Section 7 of the FTAA specifies obligations relating to Treaty settlements and recognised customary rights. It states that (<u>emphasis added</u>):

> **7 Obligation relating to Treaty settlements and recognised customary rights**
>
> (1) All persons performing and exercising functions, powers, and duties under this Act must act in a manner that is consistent with —
>
> (a) the obligations arising under existing Treaty settlements […]

Existing Treaty Settlement and the FTAA

16 Kā Rūnaka Treaty rights, interests and redress arrangements are reflected in the NTCSA and associated Deed of Settlement (**Settlement Framework**).

17 After many years of negotiations, Kāi Tahu signed the Deed of Settlement for its historic claims against the Crown at Kaikōura on 21 November 1997, and the Ngāi Tahu Claims Settlement Act was passed on 29 September 1998.

18 The Settlement was expressed on the basis that it was full and final with regard to the specified claims of Kāi Tahu whānui. The NTCSA recognises Kāi Tahu as tangata whenua of, and holding rakatirataka within, the Kāi Tahu takiwā.[3]

19 The Settlement framework provides a range of cultural redress mechanisms, including statutory acknowledgements, nohoaka entitlements, taoka species provisions and conservation-related arrangements.[4]

20 This is an existing Settlement for the purposes of section 7(1)(a) of the FTAA.

The phrase "must act"

21 Section 7 is the only provision in the FTAA that employs the phrase "must act". The use of this language signals a mandatory consideration in contrast to other language such as "may" or "shall" used elsewhere in the FTAA. The distinction between mandatory and permissive statutory language was considered by the Court in *New Zealand King Salmon*.[5] Although that case arose in the context of the RMA, the Court recognised that Parliament deliberately uses different wording to distinguish between obligations that

[3] Ngāi Tahu Claims Settlement Act 1998 at Preamble.

[4] The Statement of Evidence of Edward Ellison covers the Settlement in detail, drawing on his direct involvement in the Settlement process.

[5] *New Zealand King Salmon Company Ltd v Marlborough District Council* [2018] NZHC 1357.

are compulsory and those that confer discretion. The use of "must act" in section 7 therefore strongly indicates an intention to impose a binding requirement, rather than merely authorising or permitting a course of action.

The phrase "consistent with"

22 The requirement that a decision-maker act **"**consistent with" a specified matter is a substantive constraint on the exercise of power, not merely a consideration to be weighed alongside competing factors. Unlike formulations such as "have regard to" or "take into account" that appear in other areas of the FTAA, which permit evaluative balancing, a consistency requirement establishes a standard that the resulting decision must accord with and cannot materially depart from. It is unclear whether any inconsistency means that the Panel lacks power to grant approvals, or whether they must decline it as a matter of statutory discretion.

Kā Rūnaka evidence

23 The evidence establishes that the Project would affect the practical exercise of rights, relationships and responsibilities recognised through the Settlement. Edward Ellison explains that the conservation redress negotiated through the Ngāi Tahu Settlement was directed particularly to "mana", customary use and access/management influence over public conservation land, with those mechanisms predicated on Kāi Tahu retaining meaningful opportunities to exercise rakatirataka in the management of land that was not returned through the Settlement.

24 He describes the Settlement as the starting point for a renewed and ongoing Treaty partnership, rather than an endpoint, and considers that substantive rakatirataka requires more than procedural consultation. In that context, the proposed 40-year commercial occupation of Doolans Basin is significant. In Mr Ellison's evidence, such a term would constrain nearly two generations from fully exercising kaitiakitaka and limit the ability of future generations to reassess the effects of occupation and exercise their mātauraka, authority and responsibilities in relation to the whenua.

25 Dr Tipa further identifies how the Project would affect the practical exercise of those rights and responsibilities.

26 She explains that the Settlement's purpose, apology and express recognition of rakatirataka encompass the social and cultural development and wellbeing of Kāi Tahu, and that its forward-looking mechanisms were intended to maintain Kāi Tahu relationships with and influence over ancestral places and resources.

27 Applied to Kawarau, those interests are expressed in the continuing ability of whānau to exercise kaitiakitaka, maintain access to and relationships with the mauka, transmit mātauraka and cultural identity to successive generations, and exercise genuine authority in decisions affecting the landscape. Her ultimate assessment is that the physical expansion and associated increase in visitor activity would adversely affect those practical relationships and responsibilities, including rakatirataka, kaitiakitaka, whānau ora and manaakitaka, and that some effects associated with modification of the wāhi tīpuna cannot adequately be remedied, mitigated or offset.

28 Together, the evidence supports the submission that consistency with the Settlement requires attention not only to whether formal Settlement mechanisms remain legally intact, but to whether the Project would materially constrain the relationships, authority, access and intergenerational responsibilities that those mechanisms were intended to recognise and support.

29 That conclusion is reinforced by Michael Dreaver's evidence concerning the nature and intended operation of the Settlement. Drawing on his involvement for the Crown in negotiating the Ngāi Tahu Settlement, including the mahika kai redress, he explains that the Settlement must be understood as an integrated package of redress. That package includes not only specific cultural, financial and commercial mechanisms, but also the Crown's acknowledgement of Ngāi Tahu rangatiratanga and its commitment to its ongoing recognition.

30 In that context, Mr Dreaver considers that rakatirataka has both procedural and substantive dimensions and requires more than consultation alone. Relevant considerations include whether Kā Rūnaka have meaningful influence and participation in decisions affecting their interests, and whether the arrangements appropriately respond to the significance and duration of the effects, uncertainty and risk, opportunities for future review, and mutuality or shared benefit. His evidence therefore provides a basis for assessing whether the Project and the arrangements proposed by the Applicant would substantively recognise and provide for the rakatirataka acknowledged through the Settlement, rather than merely leave particular redress mechanisms formally undisturbed.

31 If the Project cannot be reconciled with the obligations arising under the Settlement, the consequence under the FTAA is significant: the Panel cannot grant an approval that would be inconsistent with those obligations. Alternatively, and to the extent those effects fall to be weighed in the Panel's

broader assessment, they provide a substantial basis for declining the approvals sought.

Conservation Act obligations

32 The FTAA concession approval pathway does not displace, override, or diminish the obligations imposed by section 4 of the Conservation Act to give effect to the principles of the Treaty of Waitangi.

33 The Conservation Act states (emphasis added):[6]

> This Act shall so be interpreted and administered as to <u>give effect to the principles of the Treaty of Waitangi.</u>

34 Schedule 6 of the FTAA sets out the requirements for approvals relating to the Conservation Act, which includes requirements that the assessment of application for concession includes:

(a) Cl 3 (d) (ii) information about the extent to which the project is consistent with any conservation management strategies or conservation management plans that have been co-authored, authored, or approved by a Treaty settlement entity; and

(b) Cl 7 (1) (vii) (A) must take into account any conservation management strategies or conservation management plans that have been coauthored, authored, or approved by a Treaty settlement entity.

35 Section 51 of the FTAA provides for the Panel Convenor to obtain a report prepared by the Director-General of Conservation after receiving a substantive application.[7] The section 51 reports for this Application identify concerns regarding:

(a) the adequacy of the Applicant's identification and assessment of ecological values and effects, particularly within the largely unmodified Doolans Basin;

(b) the permanent loss and fragmentation of high-value freshwater, wetland and terrestrial ecosystems, including Tarn 3 and naturally uncommon ecosystems;

(c) effects on geomorphological, landscape and backcountry recreational values; and operational and cumulative effects

[6] Conservation Act 1987, s 4.

[7] Fast-track Approvals Act 2024, s 51.

associated with snowmaking, grooming, increased visitation and development of the Basin.

36 DOC considers that these deficiencies have resulted in adverse effects being understated, which in turn has been carried through to the proposed effects-management response - with opportunities for avoidance and mitigation not fully addressed and residual effects remaining significant.

37 In particular, DOC considers that biodiversity offsetting is not appropriate or feasible for a number of the affected values and that the proposed compensation package is not commensurate with the scale and significance of the residual effects.

38 Mr Dale's evidence for Kā Rūnaka supports these concerns and further demonstrates their relevance to the cultural effects identified by Kā Rūnaka. He describes Doolans Basin as an exceptionally intact and connected alpine environment whose ecological significance derives from the collective diversity, representativeness and connectivity of its freshwater and terrestrial systems, and identifies significant and irreversible effects including the permanent loss of Tarn 3. Importantly, his evidence recognises that the ecological effects are also culturally significant: several indigenous species affected by the Project are taoka species recognised under the Ngāi Tahu Claims Settlement Act 1998, and the cultural effects on those species are properly assessed by mana whenua.

39 Mr Dale's evidence therefore provides an ecological basis for understanding the cultural effects described by Edward Ellison and Gail Tipa, including the consequences of changes to the integrity and functioning of Doolans Basin for Kāi Tahu relationships with the landscape and the exercise of kaitiakitaka.

40 The section 51 reports also raise material concerns regarding climate change, including the adequacy of the assessment of the long-term viability of ski-field development in Doolans Basin, future water availability and low flows, and the interaction between climate change and the ecological effects of snowmaking and grooming. DOC's evidence emphasises the particular importance of maintaining the intactness, diversity and connectivity of Doolans Basin in enabling indigenous biodiversity to respond to a changing climate, and questions whether the proposal is consistent with the precautionary approach required by the Otago CMS.

41 These concerns are reinforced by Mr Dixon in his evidence for Kā Rūnaka. Mr Dixon considers that the Application lacks a current, site-specific and integrated assessment of the Project's resilience to climate change over the proposed 40-year concession. In particular, his evidence identifies material

uncertainty as to future snow reliability, snowmaking demand and water availability, the ecological effects of abstraction under future low-flow conditions, and the potential for maladaptation, infrastructure lock-in and stranded assets. He concludes that, absent an integrated climate assessment, the Panel cannot safely place substantial weight on the Project's claimed long-term operational viability, environmental sustainability or economic benefits.

42 The DOC section 51 reports conclude that aspects of the Doolans expansion are inconsistent with relevant provisions of the Otago Conservation Management Strategy.

43 In addition to the project-specific provisions addressed in the section 51 report, the Otago CMS contains provisions specifically directed to the Treaty partnership with Ngāi Tahu. Section 1.4 recognises that partnership as part of the framework for conservation management in Otago, including through maintaining and strengthening relationships with tangata whenua, implementing Treaty settlement obligations and considering relevant iwi environmental planning documents. In our submission, those provisions provide an important context for the application of the more specific policies governing development of The Remarkables ski field and activities on public conservation land.

44 Of direct relevance, Policies 2.3.21 and 2.3.22 require particular regard to, and the management of, effects on the natural ecosystems, landscape and natural character, water, natural quiet and recreational values of the Western Lakes and Mountains / Ngā Puna Wai Karikari a Rākaihautū Place. Policy 3.25.2 further requires a precautionary approach to ski-field development, including consideration of water use for snowmaking, the likely longevity of the ski field in the face of climate change, and eventual remediation and facility removal. These matters directly engage Kā Rūnaka evidence concerning the integrity of Kawarau as an interconnected ancestral landscape and the ability of present and future generations to exercise rakatirataka and kaitiakitaka in relation to that landscape.

45 Those provisions sit within the broader conservation management framework established by the Conservation General Policy 2005, a statement of general policy under the Conservation Act 1987. Of particular relevance, the General Policy requires relationships with tangata whenua to be sought and maintained to enhance conservation, based on mutual good faith, cooperation and respect, and requires consultation with tangata whenua on specific proposals involving places or resources of spiritual, historical or cultural significance to them

46 The concession application must therefore be considered within this wider statutory, settlement and conservation management context. That context is particularly significant here. As Edward Ellison explains, section 4 of the Conservation Act was the *cornerstone* to the Settlement negotiations, and the conservation redress ultimately agreed was negotiated on the basis that the Crown's obligations under section 4 and the Settlement mechanisms would operate together in supporting the ongoing exercise of Kāi Tahu rakatirataka in relation to public conservation land

47 Against that background, Kā Rūnaka submits that it would be artificial to treat the concession power as divorced from section 4 merely because the approvals are sought through the FTAA. In the absence of clear statutory language displacing those substantive protections, the concession power **must** be exercised consistently with section 4, the Settlement and the applicable conservation management instruments. To conclude otherwise would be contrary to the very statutory context in which the Settlement's conservation redress was negotiated and within which it was intended to operate.

Proposed concession is inconsistent with the Ngāi Tahu Settlement framework

48 Section 17Z of the Conservation Act applies to the duration of concession under the FTAA.[8] Under this section, a term for a lease or licence may be granted for a term not exceeding 30 years, although it may be granted for a term not exceeding 60 years in exceptional circumstances.[9]

49 The Applicant seeks a number of approvals under the Conservation Act including concessions and a variation to an existing concession over Rastus Burn Recreation Reserve and Kawarau/Remarkables Conservation Area, administered by the Department of Conservation. The Applicant has sought a concession term of 40 years. The Applicant considers that this is an appropriate term because it reflects the significant investment that NZSki will be undertaking by establishing ski activities in the Doolans Basin, providing the appropriate time to achieve a safe return on investment, and because the technical assessments supporting the application demonstrate that the effects of the Project can be appropriately managed.[10]

[8] Fast-track Approvals Act 2024, sch 6(13).

[9] Conservation Act 1987, s 17Z.

[10] Remarkables Ski Area Upgrade and Doolans Expansion Fast-track Approvals Substantive Application – Section 10: Approvals relating to the Conservation Act.

50 The Settlement framework:

(a) includes a Crown Apology which speaks directly to whānau ora (within which hauora sits) and maanakitaka;[11]

(b) recognises rakatirataka and the fulfilment of Treaty obligations; and

(c) provides mechanisms and opportunities for Kāi Tahu and the Department to form a renewed and ongoing partnership in relation to conservation land, including through the right of first refusal regime.[12]

51 Kā Rūnaka submits that a concession term of 40 years is inconsistent with rakatirataka and is therefore inconsistent with the Settlement framework. Long-term commercial occupation can negatively affect the ability for mana whenua to retain a meaningful ability to exercise rakatirataka.[13] Kā Rūnaka is deeply concerned about whether whānau and rūnaka will be able to exercise meaningful authority over decisions affecting the Kawarau should this application be granted.

52 A long-term concession is also inconsistent with the broader principles of whānau ora and manaakitaka provided through the Settlement framework. Whānau ora is explicitly generational, and a longer-term concession effectively commits future generations to the consequences of the concession while constraining their ability to protect, use and relate to the mauka.[14] Manaakitaka is an obligation to care for manuhiri, for one another and for a place itself. Degradation of the alpine environment, its waters and its taoka is assessed as a collective failure of manaakitaka toward the place that sustains the relationship between everyone who values it. Further, an exchange in which value is drawn from the takiwā without return is a failure of manaakitaka regardless of how it appears on economic measures.[15]

53 A significant proportion of land within the Kāi Tahu takiwā is administered by DOC on behalf of the Crown. As outlined in the evidence, the Settlement was designed to facilitate a renewed and ongoing partnership between Kāi Tahu and the Department in the management and stewardship of conservation land through a range of mechanisms and opportunities, including the RFR system.[16] Part 9 of the NTCSA provides RFR over

[11] Statement of Evidence of Gail Tewaru Tipa.

[12] Statement of Evidence of Edward Ellison; and Ngāi Tahu Claims Settlement Act 1998, Pt 9.

[13] Statement of Evidence of Edward Ellison.

[14] Statement of Evidence of Gail Tewaru Tipa.

[15] Statement of Evidence of Gail Tewaru Tipa.

[16] Statement of Evidence of Edward Ellison.

Crown land. The purpose of the RFR is to give Kāi Tahu the first opportunity to purchase Crown properties if the Crown decides to dispose of them. Under the Act, disposing of land and is defined to include the act:[17]

> […] (iii) to grant a lease of relevant land if the term of the lease (including rights of renewal or extensions, whether in the lease or granted separately) is, or could be, for 50 years or longer; or […]

54 A "lease" under the Act includes a concession in the form of a lease, and any right that grants exclusive possession.[18]

55 The RFR regime was negotiated to provide Kāi Tahu with the first opportunity to reacquire certain Crown lands within its rohe if those lands are disposed of by the Crown. This is not about Kāi Tahu simply obtaining land by way of RFR *per se*. The provisions instead recognise the historical importance of restoring Kāi Tahu's relationship with ancestral lands and are intended to provide a meaningful and enduring property right to Kāi Tahu.

56 As discussed in the evidence, Kā Rūnaka is concerned that a 40-year term of concession far exceeds a nominal duration of a generation of its people, which would mean that generations are separated from exercising kaitiakitaka. Bypassing the RFR process and limiting the ability of future generations to reconsider, renew, and strengthen their connection with the area and exercise their mātauraka, is inconsistent with the principles underlying the Settlement framework.

57 Further, the circumstances are not "exceptional" for the purpose of concession term. The application is for an expansion of an existing commercial ski field operation and does not identify any unusual or extraordinary factors that distinguish it from other large-scale tourism or recreation concessions. If anything, with significant adverse effects arising the duration should be shorter. In the absence of exceptional circumstances, there is no apparent basis for departing from the ordinary maximum concession term.

58 The Panel should examine the substance and practical duration of the proposed concessions and variation, including their exclusivity, renewal or extension rights, interaction with existing rights and cumulative term. If the statutory threshold is met, the right of first refusal process is engaged. Even if it is not, the practical effect of long-term occupation remains relevant to section 7 consistency and the integrity of the Settlement framework.

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[17] Ngāi Tahu Claims Settlement Act 1998, s 48.

[18] Ngāi Tahu Claims Settlement Act 1998, s 48.

Footprint-based assessment is legally inadequate

59 A footprint-based assessment is both culturally and legally inadequate for this Application because it treats effects as though they are confined to the land directly occupied or physically modified by the Project. That approach does not capture effects on the wider wāhi tīpuna landscape, or on the relationships, values and responsibilities associated with that landscape that are recognised through the Settlement and Kāi Tahu tikaka.

60 The relevant receiving environment must instead be understood at the scale identified by Kā Rūnaka evidence. Kawarau, Doolans Basin, Whakatipu Waimāori and the Kawarau River are not discrete geographic features or isolated mapped sites, but form part of an interconnected ancestral and wāhi tīpuna landscape. As Edward Ellison explains, that landscape is connected through whakapapa and enduring cultural practices, and the exercise of rakatirataka and kaitiakitaka depends upon its integrity and the ongoing health and mauri of its waters and ecosystems.

61 The significance of adopting that wider scale of assessment is substantive. The Kā Rūnaka evidence identifies effects extending beyond the immediate development footprint, including effects on the integrity and experience of the ancestral landscape, access and customary relationships, taoka species, kaitiakitaka, and the ability to transmit mātauraka and cultural identity between generations. Dr Rā's landscape evidence provides further support for that approach.

62 Dr Rā considers that the Applicant's assessment fails to recognise the inherent ecological and cultural interconnectedness of the wider landscape and catchment, and that cumulative effects should be assessed at the scale of te riu hopuwai o Kawarau as a culturally cohesive landscape unit. Matthew Dale's ecological evidence similarly describes Doolans Basin as an unusually intact and connected alpine environment whose significance derives not only from individual habitats and species, but from the diversity, representativeness and connectivity of the wider landscape (with similar themes having also been identified by DOC).

63 That approach is consistent with the principles governing the identification of effects under the RMA. The statutory inquiry is not confined to effects occurring within the physical footprint of an activity. Consequential effects may be relevant where there is a sufficient nexus between the activity authorised and the resulting environmental effect, with questions of nexus and remoteness turning on matters of fact and degree. In *Beadle v Minister of Corrections*,[19] the Environment Court recognised a general approach of

[19] Unreported, A74/02, 8 April 2002.

having regard to consequential environmental effects, subject to those limits. The assessment must also account for cumulative effects where they arise.

64 Those principles are particularly important where the effects relied upon are cultural. In *Cloud Ocean Water Ltd v Aotearoa Water Action Inc*,[20] the Supreme Court addressed the failure adequately to consider effects on Ngāi Tahu cultural values and tikanga and accepted there was validity in the criticisms made of that assessment. The assessment of cultural effects must therefore occur at the scale at which the affected relationships and values exist, rather than being artificially confined to the Project's physical footprint.

65 There is a clear nexus between the Project and the wider cultural effects identified by Kā Rūnaka. Those effects are not geographically or causally remote consequences dependent on an independent third-party activity. They arise from the modification and intensified use of Kawarau and Doolans Basin themselves, and from consequential changes to ecological, hydrological, landscape and cultural systems that the evidence establishes are interconnected.

66 Dr Alayna Rā considers that cumulative effects should be assessed at the scale of te riu hopuwai o Kawarau as a culturally cohesive landscape unit, while Matthew Dale identifies the ecological importance of the connectivity of the Doolans environment.

67 The fact that particular effects extend beyond the development footprint does not provide a principled basis for excluding them from the Panel's assessment. It follows that neither the assessment of effects nor the measures proposed to address them can properly be confined to the Project footprint. Conditions directed only at avoiding, mitigating or restoring areas of direct physical disturbance would leave the wider, cumulative and intergenerational cultural effects identified by Kā Rūnaka unaddressed.

68 The Panel's assessment must therefore consider the effects of the Project at the scale at which the affected cultural relationships and values exist, rather than solely at the scale at which physical disturbance occurs.

Flaws in the Applicant's assessment of effects

69 The Project is located within a culturally significant and environmentally sensitive wāhi tīpuna landscape, as described in the evidence for Kā

[20] *Cloud Ocean Water Limited v Aotearoa Water Action Incorporated* [2023] NZSC 153.

Rūnaka. Its effects are therefore not confined to the physical modification of Doolans Basin. The Project would alter the character, integrity and functioning of the wider landscape and, in turn, affect the ability of Kā Rūnaka to maintain relationships with that landscape and to exercise the rakatirataka, kaitiakitaka, rights and responsibilities recognised through the Ngāi Tahu Settlement framework.

70 Those effects must be considered cumulatively. The Project would not occur in an environmental, cultural or infrastructure vacuum, and its individual effects cannot be compartmentalised and assessed as though each occurs independently. The relevant assessment must address both the interaction between the Project's ecological, landscape, cultural and climate-related effects and its contribution to existing and increasing pressures on the wider wāhi tīpuna landscape and the communities and infrastructure that support it.

71 The evidence for Kā Rūnaka demonstrates the interconnected nature of those effects. The cultural evidence identifies the relationships, values and responsibilities affected, including the exercise of rakatirataka and kaitiakitaka. The landscape and ecological evidence explains the consequences of the Project for the integrity, legibility, connectivity and functioning of the wāhi tīpuna landscape and its associated taoka species. The climate evidence identifies further uncertainty as to how those effects may develop over the life of the Project and whether its environmental and operational assumptions remain robust under changing climatic conditions.

72 The cumulative assessment must also extend beyond the alpine environment to the infrastructure pressures associated with the growth the Project is intended to facilitate. Shane Ellison explains that Tāhuna already experiences significant pressure on transport, water, energy, health and education infrastructure as a consequence of resident and visitor growth, and that infrastructure capacity is generally fixed in the short to medium term and can take significant time and funding to increase. His evidence is that the Applicant's assessments remain predominantly focused on localised infrastructure effects and do not provide sufficient information to understand the Project's regional effects. In particular, he identifies potential interaction between increased ski-field traffic and existing peak-period demands, as well as future residential development, that is not adequately addressed in the transport assessment.

73 Those infrastructure effects are also relevant to the cultural assessment. Mr Ellison explains that infrastructure inadequacy can affect Kā Rūnaka values including kaitiakitaka, manaakitaka, whānau ora and rakatirataka: wastewater failures may affect culturally significant water bodies,

congestion may impair whānau access to wāhi tīpuna, mahika kai and customary activities, and infrastructure failures may adversely affect communities in which Kāi Tahu whānau live. He accordingly concludes that further assessment is required of the Project's regional infrastructure effects, cumulative impacts, and the manner in which those effects may influence Kā Rūnaka cultural values.

74 The concern regarding cumulative effects is reinforced across the other technical evidence for Kā Rūnaka. Dr Alayna Rā considers that the Applicant has assessed cumulative effects at inappropriate spatial scales and has failed to assess cumulative natural character effects, cumulative effects on cultural landscape values, and the consequences of successive changes to an inherently interconnected landscape. Her evidence is that cumulative effects should be assessed at the scale of te riu hopuwai o Kawarau, as a culturally cohesive landscape unit, and that successive modification gives rise to increasing intergenerational effects on cultural identity, practice and continuity of relationship with whenua and atua.

75 Matthew Dale similarly identifies the importance of assessing effects across the Doolans habitat mosaic as a whole, including the interaction between permanent habitat loss and fragmentation, water abstraction, snowmaking and grooming, and future climate change, rather than treating each effect or affected feature in isolation.

76 The climate evidence adds a further dimension to the cumulative assessment. Rowan Dixon considers that the Application has not integrated future snow conditions, snowmaking demand, water availability, freshwater ecological effects, natural hazards, infrastructure resilience and economic performance across the proposed 40-year concession. He also identifies the potential for maladaptation and compounding long-term effects, including where artificial snowmaking and grooming interfere with the gradual adaptation of alpine ecosystems to climate change, and where increasing reliance on snowmaking, water storage and long-lived infrastructure creates risks of escalating operating requirements, infrastructure lock-in and stranded assets. These concerns reinforce the need for the Panel to consider not simply the magnitude of individual effects at the time approval is granted, but how those effects interact, accumulate and change over the life of the Project against an already modified and increasingly pressured cultural, ecological and infrastructure environment.

77 Taken together, the evidence identifies interacting, cumulative and potentially compounding effects across the cultural landscape, natural environment and regional infrastructure. Those effects need to be assessed collectively and over the life of the Project, including their consequences for

Kā Rūnaka relationships with the takiwā and the ongoing and intergenerational exercise of rakatirataka and kaitiakitaka, rather than reduced to a series of discrete effects assessed independently.

78 A related issue is whether the Applicant has fulfilled its engagement obligations under the FTAA in relation to iwi authorities, hapū and Treaty settlement entities.

79 The FTAA recognises iwi authorities and Treaty settlement entities as statutory participants in the fast-track process and requires applicants, Ministers, and expert panels to provide opportunities for their involvement and comment.

80 Kā Rūnaka records that engagement between the Applicant and Kā Rūnaka has been significantly constrained by what was essentially an initial refusal by the Applicant to meet the reasonable costs incurred by Kā Rūnaka in fulfilling their statutory role under the FTAA. This matter is addressed in further detail in the Memorandum of Counsel dated 3 August 2026.[21] Although a contribution has now been provided it is still not sufficient to enable full or appropriate engagement.

81 Further, the engagement process has not enabled Kā Rūnaka to participate effectively. Deficiencies in information, timing and resourcing have constrained the opportunity for early redesign, assessment of alternatives, completion of cultural evidence and development of agreed conditions. Later comments or consultation conditions cannot retrospectively cure that prejudice or resolve material gaps.

82 A summary of engagement is provided in the applicant's substantive application and in the Treaty Rights and Interests Statement (**TRIS**). Mr Michael Dreaver's evidence sets out that respect for rakatirataka requires a number of key procedural elements for engagement and questions whether the applicant's engagement gave meaningful effect to these.[22]

83 Kā Rūnaka are aware of the High Court's decision *in Ngāti Kuku Hapū Trust v Environmental Protection Agency* [2025] NZHC 2046 that confirms that the principles for adequate consultation in the *Land Air Water Association v Waikato Regional Council* case apply to applications under the FTAA, and

[21] Memorandum of Counsel 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 Ōtaka Aparima, Te Ao Marama Incorporated and Aukaha (1997) Limited regarding Minute 3 of the Panel Convener dated 3 August 2026.

[22] Statement of Evidence of Michael Dreaver.

that the consultation requirements in the FTAA are intended to be strictly applied.

84 Kā Rūnaka is of the view that the obligations under the FTAA have not been met by the Applicant to date. The inadequate engagement has caused real prejudice. The issue is not merely that the engagement was insufficient, but that the deficiencies in the process have prevented meaningful opportunities for Kā Rūnaka to influence the proposal, including through early identification of cultural concerns, exploration of alternatives, potential redesign of elements, preparation of cultural evidence, and the development of agreed conditions.

85 Kā Rūnaka has nevertheless engaged experts to review the Application. The evidence of Kā Rūnaka raises significant concerns regarding the adequacy of the Applicant's assessments and demonstrates that the scale of the effects remain insufficiently assessed and addressed.

86 In summary, the evidence of Kā Rūnaka shows:

(a) there are a number of transport, wastewater and electricity deficiencies in the assessments; [23]

(b) the current mitigation and engagement framework proposed by the Applicant is not capable of adequately addressing the scale and significance of effects;[24]

(c) there are significant gaps relating to cultural effects, cumulative effects on mauri, cultural health indicators, mātauraka Māori monitoring and mana whenua involvement in the proposed monitoring and management framework;[25]

(d) the Applicant has failed to provide sufficient information to understand regional effects or the adequacy of draft consent conditions;[26]

(e) there is no current, site-specific assessment of future snow conditions, snowmaking windows and snowmaking water demand and water sufficiency provided;[27]

[23] Statement of Evidence of Shane Ellison.

[24] Statement of Evidence of Gail Tewaru Tipa.

[25] Statement of Evidence of Shane Ellison.

[26] Statement of Evidence of Shane Ellison.

[27] Statement of Evidence of Rowan Dixon.

(f) climate change risk has not been assessed;[28]

(g) there has not been a site-specific assessment of future low flows, seasonal recharge, abstraction reliability or ecological stress during snowmaking periods;[29]

(h) there is uncertainty regarding whether the residual flow would remain protective, whether the reservoir could be replenished as assumed, and whether the proposed abstraction could support the anticipated ski-field operation throughout the 40-year concession term;[30]

(i) the economic assessment has not adequately established the additional, net regional or national benefits attributable to the Project acks a proper counterfactual and sufficient assessment of displacement, opportunity costs, regional capacity and infrastructure constraints, climate and resilience risks, and environmental, cultural and other non-market effects;[31]

(j) there has been an under-assessment of landscape and natural character effects and there are methodological assessment flaws in relation to the Te Tangi a te Manu Aotearoa New Zealand Landscape Assessment Guidelines, NZILA (2022);[32]

(k) rakatirataka requires a number of key procedural elements for engagement and it is questionable whether the applicant has given meaningful effect to these elements.[33]

87 The purpose of the FTAA is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.[34] Kā Rūnaka submits that the inadequacy of assessment and the insufficient assessment of effects undermine the ability of the Panel to confidently conclude that the Project's claimed benefits are of the scale required to advance the purpose of the FTAA.

[28] Statement of Evidence of Rowan Dixon.

[29] Statement of Evidence of Rowan Dixon.

[30] Statement of Evidence of Rowan Dixon.

[31] Dr Meade questions; statement of Evidence of Rowan Dixon.

[32] Statement of Evidence of Alayna Rā.

[33] Statement of Evidence of Michael Dreaver.

[34] Fast-track Approvals Act 2024, s 3.

Important questions to be addressed in determining significance of regional or national benefits

88 The purpose of the FTAA is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits. The existence and extent of those benefits is also relevant to the Panel's substantive assessment under the Act.

89 Dr Meade has reviewed the Applicant's EIA and prepared a list of questions that he considers are necessary in order to determine whether this test is met. Dr Meade's proposal for a full assessment that includes a with-Project and without-Project counterfactual is, in our submission, particularly appropriate because the economic benefits relied upon in support of the Project cannot sensibly be assessed separately from the potentially significant and long-term costs identified in the evidence.

90 Dr Meade's questions are directed to identifying which benefits are genuinely additional to the Project, while also accounting for displacement and opportunity costs, regional infrastructure and capacity constraints, climate and resilience risks, and environmental, cultural and other non-market effects. That broader assessment is important where the evidence identifies potentially permanent or irreversible effects on the Doolans environment, cumulative pressures on infrastructure and the wider Kawarau landscape, and adverse effects on Kā Rūnaka relationships, rakatirataka and kaitiakitaka that may not be capable of monetary valuation.

91 A robust counterfactual is necessary to assess:

(a) whether the claimed benefits are actually attributable to the Project, rather than wider growth or displaced activity; and

(b) whether those benefits are sufficiently significant at the regional or national level to warrant the adverse effects associated with achieving them.

92 That exercise is also necessary for the Panel's assessment under s 85 of the FTAA, which requires a sufficiently robust understanding of the Project's benefits and adverse impacts to determine whether the adverse impacts are sufficiently material as to be out of proportion to the Project's regional or national benefits.

93 The relevant inquiry is therefore not simply whether the Project will generate expenditure, employment or economic activity, but what benefits are genuinely attributable to the Project, whether they are additional, and whether they are significant at the regional or national level. The economic

evidence presently relied on by the Applicant does not provide a sufficient basis to answer those questions.

94 Dr Meade's questions identify a series of matters requiring further information before Kā Rūnaka, and the Panel, can properly test both the extent of the claimed regional or national benefits and the adverse impacts of the Project.

95 Those matters fall into five categories, referred to by Dr Meade as 'priorities':

(a) Priority 1: additionality and the appropriate counterfactual;

(b) Priority 2: net benefits and regional capacity constraints;

(c) Priority 3: climate and resilience;

(d) Priority 4: non-market environmental and cultural effects; and

(e) Priority 5: whether the claimed benefits are in fact significant at the regional or national scale.

96 We briefly address these, as context to Dr Meade's questions, below.

Priority 1 – Counterfactual demand, and additionality

97 The Applicant's EIA (referred to by Dr Meade as the **Patterson Assessment**) does not establish a without-Project counterfactual. Dr Meade considers a single, internally consistent comparison of the position in 2035 with and without the Project is required in order for the genuinely additional component to be separately identified. He also questions how much forecast demand could be accommodated by existing capacity, operational changes or other ski areas, and how much is uniquely dependent on the Doolans expansion. Absent that comparison, forecast increases in skier numbers, expenditure, GDP and employment cannot readily be distinguished from outcomes that may occur regardless of the Project.

98 Related questions address the attribution of visitor expenditure to the Project. Dr Meade considers that regional and national visitor-origin and expenditure results are required that account expressly for displacement and substitution, together with the evidence and methodology used to determine whether a visitor's wider trip, its duration and off-mountain expenditure are actually caused by the Project. These matters are important because expenditure occurring in association with the Project is not necessarily expenditure caused by the Project.

Priority 2 – Net benefits, resources, and capacity constraints

99 The Patterson Assessment figures require reconciliation into benefits, costs, transfers and displaced activity.

100 Dr Meade considers that annual and present-value results over a stated appraisal period are required, because gross activity measures do not themselves establish net benefits and may give rise to double counting. The Project should be compared with reasonable alternative means of achieving the relevant capacity or visitor outcomes, including alternatives involving lower resource costs. That distinction is material to the weight that can properly be placed on expenditure, GDP and employment figures when assessing the Project's contribution to the FTAA section 3 purpose.

101 This is particularly important in relation to construction and employment. Dr Meade considers information is required identifying the proportion of construction expenditure, inputs and labour sourced within Otago and New Zealand, imports and leakage, displaced projects or activity, and the opportunity cost of constrained resources.

102 For employment, Dr Meade considers that disaggregation by occupation, location, season, hours and duration, together with the likely sources of labour, displacement, housing demand and associated public-service requirements is appropriate. Those questions recognise that construction spending and jobs supported cannot simply be treated as additional regional or national benefits without considering where the resources come from and what alternative activity is displaced. This also links directly to Gail Tipa's evidence on whānau ora, because pressures on employment, housing and public services may affect the social, economic and cultural wellbeing of Kāi Tahu whānau and therefore form part of the wider consequences of the Project that must be recognised alongside its claimed employment benefits.

103 The benefits relied upon by the Applicant also need to be assessed against the regional capacity necessary to support them. This concern aligns with Shane Ellison's evidence regarding existing and cumulative infrastructure pressures in Tāhuna. Dr Meade considers this requires both an integrated transport appraisal and a consolidated assessment of the Project's demands on, dependencies upon and funding implications for transport, water, wastewater, energy, telecommunications and emergency-response infrastructure, including under peak or stressed conditions. This would determine whether the benefits claimed for the Project depend on uncommitted infrastructure capacity or public expenditure, and whether wider system costs or constraints reduce those benefits.

104 This illustrates the difficulty with treating increases in expenditure or GDP as *benefits* without further analysis. Additional demand for scarce labour, housing, transport capacity or public infrastructure may itself generate expenditure and measured economic activity, while simultaneously imposing costs through congestion, displacement and infrastructure investment. The questions posed by Dr Meade would enable those effects to be distinguished and incorporated into a net assessment rather than being treated indiscriminately as positive economic activity.

Priority 3 – Resilience climate and uncertainty

105 The claimed long-term benefits need to be tested against climate and resilience uncertainty. Dr Meade considers the climate, snow-reliability, snowmaking and water-availability assumptions underpinning the demand and capacity forecasts must be addressed, including their consequences for operating costs and benefits. He also seeks scenario and sensitivity testing for lower or delayed demand, earlier climate effects, constrained water or infrastructure, and increased operating or mitigation costs, together with testing against infrastructure disruption and natural hazards.

106 These matters correspond closely with Dr Rowan Dixon's evidence regarding the absence of an integrated assessment of the Project's resilience to climate change over its proposed life. They are relevant not only to the Project's adverse effects, but also to how much confidence the Panel can place on economic benefits forecast many years into the future. If those benefits depend upon assumptions concerning snow reliability, water availability, infrastructure capacity and operating costs that have not been adequately stress-tested, their magnitude and durability remain uncertain.

Priority 4 – Non-market environmental and cultural effects

107 Environmental and cultural costs cannot be treated as zero. Dr Meade identifies the need to bring market and non-market effects into a common and transparent assessment framework. This should include identification of material effects including transport, recreation, amenity, landscape, ecology, water and ecosystem services, using monetary valuation where credible and practicable and appropriate quantitative indicators or structured qualitative assessment otherwise. The absence of a market price does not justify excluding an effect from consideration when determining the *benefits* of the Project.

108 That issue has particular significance for Kā Rūnaka. Dr Meade considers an assessment grounded in the effects and values identified by Kā Rūnaka is required, including culturally inappropriate activities such as wastewater

generation and disposal, consequences arising from environmental contamination, and effects on cultural relationships extending from the mountains through waterways to the sea.

109 Dr Meade's questions also require identification of distributional and intergenerational consequences. Importantly, that economic assessment would not replace or reinterpret the cultural evidence. Rather, its purpose would be to ensure that consequences identified by Kā Rūnaka are transparently accounted for in considering the Project's overall benefits and costs instead of being implicitly attributed no weight merely because they cannot readily be monetised.

Priority 5 – Regional and national significance, and reconciliation

110 Finally, even if net benefits are established, the question remains whether they are significant at a regional or national level. Dr Meade specifically seeks separate demonstration of the Project's incremental benefits to Otago and New Zealand using regional and national denominators and benchmarks, rather than relying upon Queenstown Lakes district impacts as establishing regional significance. That distinction is important. The existence of a material effect within Queenstown does not establish that the benefit is significant when assessed against the Otago regional or national economy.

111 Meade therefore proposes a reconciliation, without double counting, of the Project's incremental market and non-market benefits, resource and opportunity costs, displacement, adverse effects, distribution, timing and uncertainty, separately at the Otago regional and national levels. The stated purpose is to enable the Panel to assess both the extent of significant regional or national benefits under s 81(4) and whether adverse impacts are sufficiently material as to be out of proportion to those benefits under s 85(3).

112 Kā Rūnaka therefore submits that the present evidence establishes projected economic activity, but does not yet establish the extent of net, additional and significant regional or national benefit attributable to the Project. Until the matters identified by Dr Meade are adequately addressed, caution is required in the weight given to the Patterson Assessment expenditure, GDP and employment figures, and consequently to the extent to which those figures are relied upon to demonstrate alignment with the purpose of the FTAA.

Conclusion

113 Kā Rūnaka seeks that the application is **declined**.

114 If the Panel is minded to grant the application, at minimum, determination should be deferred pending further information, genuine engagement, assessment of alternatives and material redesign, and revised conditions including:

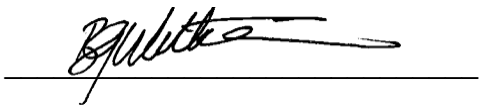
(a) a materially shorter concession term;

(b) exclusion of automatic renewal or extension rights;

(c) avoidance of specified culturally sensitive areas (and further consideration to avoidance and mitigation in the case of effects more generally); and

(d) Kā Rūnaka involvement in governance, monitoring, review, restoration and decommissioning.

27 October 2026



B Williams / R Robilliard
Counsel for 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