



12<sup>th</sup> October 2021

The Mayor and Councillors  
Marlborough District Council  
PO Box 443  
Blenheim 7240  
Attn. Mark Wheeler

Tēnā koe Mayor Leggett

## Proposed East Coast Beach Vehicle Bylaw

### Introduction

1. Te Rūnanga o Ngāi Tahu and Te Rūnanga o Kaikōura (as the administrative council of Ngāti Kurī) have recently read Te Rūnanga a Rangitāne o Wairau Trust's submission on the proposed East Coast Beach Vehicle Bylaw (the proposed Bylaw). The submission raises procedural concerns that Marlborough District Council (MDC) has considered Ngāti Kurī as having superior legal and other interests in relation to the proposed Bylaw area compared to Rangitāne o Wairau, which has led to different levels of engagement with each iwi.
2. Te Rūnanga o Ngāi Tahu and Te Rūnanga o Kaikōura **support** the recognition of the area subject to the proposed Bylaw as being within the statutorily recognised takiwā of Ngāi Tahu Whānui, the recognition of Te Rūnanga o Ngāi Tahu as the iwi authority within the statutorily recognised Ngāi Tahu Takiwā, and the consultation process that MDC has undertaken with Ngāti Kurī. Accordingly, Te Rūnanga o Ngāi Tahu and Te Rūnanga o Kaikōura did not submit on the proposed Bylaw.
3. This letter sets out the position of Te Rūnanga o Ngāi Tahu that Ngāti Kurī are tangata whenua and have iwi authority in the area covered by the proposed Bylaw, which can be distinguished from Rangitāne o Wairau connections to the area. Therefore, MDC has taken an appropriate approach in engaging with tangata whenua in developing the proposed Bylaw.

## Ngāi Tahu (Ngāti Kurī) Takiwā

4. The statutorily recognised takiwā of Ngāi Tahu Whānui is defined in section 5 of the Te Runanga o Ngai Tahu Act 1996, and the same boundaries were also adopted in the Ngāi Tahu Claims Settlement Act 1998. The definition refers to the boundaries established in a decision of the Māori Appellate Court. The Settlement Act 1998 (section 6) expressly recognises Ngāi Tahu "as *the* tāngata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui" (emphasis added).
5. The proposed Bylaw area, from Awatere River mouth in the north to Waima River mouth in the south, is completely within the statutorily recognised takiwā of Ngāi Tahu Whānui (see attached map).
6. We agree with the summary provided on page 6 of the East Coast Beach Vehicle Bylaw Technical Report (Version 5), which states:

*Ngāti Kurī are the tangata whenua who have manawhenua and manamoana in the area covered by the East Coast Beach Vehicle Bylaw. Manawhenua and manamoana are determined by whakapapa, and confer customary authority. The manawhenua and manamoana status of Ngāti Kurī comes from continuous land use and occupation. Te Rūnanga o Kaikōura is the modern assemblage and representative of the hapū, Ngāti Kurī, one of the 18 Papatipu Rūnanga of Ngāi Tahu who are statutorily acknowledged under the Te Rūnanga o Ngāi Tahu Act 1996. The takiwā of Te Rūnanga o Kaikōura is described as centering on "...Takahanga and extends from Te Parinui o Whiti/White Buffs, to the Hurunui river and inland to the Main Divide...". This takiwā extent is backed up by Kaikoura Whakatau takiwā definition conveyed to W.J.W Hamilton in 1857, and the ousting of northern iwi from the Ngāi Tahu takiwā after their defeat at Kapara te hau/Lake Grassmere in the 1830's.*

*Purakau korero/Historical narrative and written account, whakapapa knowledge alongside archaeological evidence indicate Ngāti Kurī enduring relationship, connection and stewardship to the whenua, awa and moana across their territory. Kaitiakitanga/Stewardship extends to ensure the mauri of each entity within the natural world whether it be an animate or inanimate object be, preserved, conserved and managed to enhance the mauri dynamic.*



### Rangitāne o Wairau interests

7. In its submission, Rangitāne o Wairau considers that the statutory recognition of the Ngāi Tahu Takiwā does not prevent any other tribe from asserting interests in that land. In support of its position, it relies on various comments made by Judges of the Court of Appeal in *Ngati Apa Ki Te Waipounamu Trust v R* [2000] 2 NZLR 659. However, those comments, which are taken from the judgments of the Chief Justice and Justice Keith, do not reflect the view of the majority of the Court. The key finding from the *Ngati Apa* decision is in fact that incorporation of the Māori Appellate Court's boundary determination is “an integral part” and “an essential element” of the Ngāi Tahu Claims Settlement Act (see Blanchard and Tipping JJ at [154], and also Gault J at [91]). Subsequent Court decisions have confirmed that:

[The Māori Appellate Court's] decision has been given legislative effect in the Rūnanga Act and the Settlement Act. The previous litigation makes it clear that that legislation must prevail.

(Refer: *Te Rūnanga o Ngāi Tahu v Attorney-General* [2010] 1 NZLR 511 at [84].)

8. Ngāi Tahu does not dispute that Rangitāne o Wairau may have some interests within the statutorily recognised takiwā of Ngāi Tahu Whānui. However, it cannot simply be assumed that those interests are “equal to those of Ngāi Tahu and its hapū” (as Rangitāne o Wairau asserts). Further, any recognition of those interests by the Crown or local authorities needs to be consistent with the rangatiratanga of Ngāi Tahu and the terms of the Ngāi Tahu Settlement.

### No statutory recognition of Rangitāne o Wairau interests in the Ngāi Tahu Takiwā

9. The Rangitāne o Wairau submission refers extensively to its “Area of Interest” defined in its Deed of Settlement and the Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014. However, the submission overlooks the fact that, despite the area covered by the Rangitāne Area of Interest, the Crown and Parliament did not consider it appropriate to provide any redress to Rangitāne within the statutorily recognised takiwā of Ngāi Tahu Whānui. In fact, all of the redress provided to Rangitāne is limited to a smaller area that does not fall within the statutorily recognised Ngāi Tahu Takiwā.
10. In relation to the specific area at issue, it may be noted that:





- The Ngāi Tahu Claims Settlement Act includes (in Schedule 100) a statutory acknowledgement for Te Tai o Marokura (the Kaikōura Coastal Marine Area), which extends northwards to the boundary of the statutorily recognised Ngāi Tahu Takiwā.
  - The statutory acknowledgements in the Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act, by contrast, do not extend into the statutorily recognised Ngāi Tahu Takiwā, and none are within the proposed Bylaw area. Indeed, the coastal statutory acknowledgement in the Rangitāne o Wairau Settlement covers the whole Te Tau Ihu coastal marine area, but this stops at the boundary of the statutorily recognised Ngāi Tahu Takiwā.
11. Statutory acknowledgements provide legal recognition of the cultural, spiritual, historical and traditional association of an iwi with an identified statutory area and enhance the ability of iwi to participate in Resource Management Act 1991 processes. The Crown and Parliament have considered it appropriate to recognise Ngāi Tahu has having such an association with the coastal marine area south of Te Parinui o Whiti/White Bluffs, in light of its status as the tāngata whenua within the statutorily recognised Ngāi Tahu Takiwā. No equivalent statutory recognition has been provided to Rangitāne o Wairau. An “area of interest” does not have the same legal status as a statutory acknowledgement, and does not provide Rangitāne o Wairau with any legal rights within the area.
12. As further evidence of its iwi authority status over this area, Ngati Kurī have an iwi management plan which applies in this area (Te Pōhā o Tohu Raumati - Te Rūnanga o Kaikōura Iwi Management Plan (2007)).
13. Te Rūnanga o Ngāi Tahu considers it appropriate for MDC to have regard to the terms of the existing Tiriti o Waitangi settlements, as it appears to have done in this case. For it to do otherwise, and to fail to recognise the status of Ngāi Tahu as the tāngata whenua of, and as holding rangatiratanga within, the statutorily recognised Ngāi Tahu Takiwā, would be a significant source of grievance to Ngāi Tahu and Ngāti Kurī.

## Conclusion

14. “In conclusion Te Rūnanga o Ngāi Tahu and Te Rūnanga o Kaikōura support MDC’s recognition of the proposed Bylaw area as being within the statutorily recognised takiwā



of Ngāi Tahu whānui, and the status of Te Rūnanga o Ngāi Tahu as the iwi authority within the statutorily recognised Ngāi Tahu Takiwā. It would not be appropriate to treat other groups as being on the same footing as Ngāi Tahu and its hapū in relation to matters affecting the statutorily recognised Ngāi Tahu Takiwā. MDC appears to have recognised that.

15. Rangatiratanga is a very serious matter for Ngāi Tahu and something in respect of which it reserves all of its rights. While Te Rūnanga o Ngāi Tahu and Te Rūnanga o Kaikōura did not make a submission on the proposed Bylaw (for the reasons outlined above), under the special consultative procedures in the Local Government Act 2002 (s83(3)) a local authority can request or consider, before making a decision, comment or advice from “any other person in respect of the proposal”.
16. Therefore we ask MDC to retain its position and request the right to address MDC on this matter, if necessary.

Nāhaku noa nā

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke.

**Rakihia Tau**  
**Group Head Strategic Relations**  
**Te Rūnanga o Ngāi Tahu**

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