
BEFORE THE QUEENSTOWN-LAKES DISTRICT COUNCIL

UNDER THE

RESOURCE MANAGEMENT ACT 1991

IN THE MATTER OF

**Priority Area Landscape Schedules Proposed
Variation to the Proposed Queenstown-
Lakes District Plan**

**OFFICE FOR MĀORI CROWN RELATIONS – TE
ARAWHITI**

Submitter

**BRIEF OF EVIDENCE OF MONIQUE AHI KING ON BEHALF OF OFFICE FOR MĀORI
CROWN RELATIONS – TE ARAWHITI**

8 September 2023

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Introduction

1. My full name is Monique Ahi King.
2. I am employed as a Senior Adviser, Implementation, in the Office for Māori Crown Relations—Te Arawhiti (**Te Arawhiti**). Te Arawhiti is responsible for advising the Ministers for Treaty of Waitangi Negotiations and for Māori Crown Relations, and for supporting the Crown to meet its Treaty of Waitangi settlement commitments (amongst other roles, to foster effective relationships with Māori across government).
3. The Land & Implementation Team within Te Arawhiti is responsible for the administration of the Hāwea/Wānaka Substitute Land commonly known as **Sticky Forest**. This land is located near Beacon Point and the Clutha River / Mata-Au outlet in Wānaka. The northern portion of the land is covered by the Dublin Bay Outstanding Natural Landscape (**ONL**) overlay. I have included a map below.
4. I report to the Manager - Land & Implementation within Te Arawhiti and am the lead advisor for Te Arawhiti responsibilities as to the implementation of Treaty redress under Section 15 of the Ngāi Tahu Deed of Settlement entered in 1997 (**the Ngāi Tahu Deed**). I refer to the Ngāi Tahu Deed and the Ngāi Tahu Claims Settlement Act 1998 together as the **Ngāi Tahu Settlement**.
5. I first started working for the Office of Treaty Settlements (whose roles are now subsumed within Te Arawhiti since its creation in 2018), in 2010. I have worked on Crown-iwi Treaty settlement negotiations and in the Policy team, before moving into the Implementation Team. In my work on settlement negotiations with Te Tau Ihu (top of the South Island) iwi (2010-2012), I first encountered the legacy of the South Island Landless Natives Act 1906 (**SILNA**). Various aspects of my work have, from time to time, involved issues associated with SILNA since then.
6. I am familiar with the Crown's legal obligations in relation to, and management of, the Sticky Forest land while it is held by the Crown until it can be transferred to its intended owners (as I discuss below). I have

been to the Sticky Forest land on a number of occasions, most recently in late March this year.

7. I am authorised to give this evidence on behalf of Te Arawhiti.

Scope of evidence

8. My evidence addresses:
 - 8.1 The Crown's interest in the Priority Areas Landscape Schedules Variation. Specifically, the Crown's interest in Schedule 21.22.22 regarding the Dublin Bay ONL.
 - 8.2 The Crown's obligations and the status of the Hāwea/Wānaka Substitute Land (Sticky Forest), the Ngāi Tahu Deed, the process required to effect transfer of the Sticky Forest land.
 - 8.3 Land use on the Hāwea/Wānaka Substitute Land (Sticky Forest).

Te Arawhiti

9. Te Arawhiti is the Crown agency dedicated to fostering strong, ongoing and effective relationships with Māori across Government. The name, Te Arawhiti, means 'the bridge', symbolising the bridge between Māori and the Crown, the past and the future, and the journey from grievance to partnership. Te Arawhiti works to make the Crown a better Treaty partner, able to engage effectively with Māori on a range of issues and striving to build true and practical partnerships with Māori which will benefit all New Zealanders.
10. A key strand within the purpose of Te Arawhiti is ensuring that the commitments made in Treaty settlements endure, and the promise of the Treaty of Waitangi is realised.
11. Te Arawhiti encourages Crown and local authority decision-making that ensures those decision-makers meet Treaty settlement commitments, and which allows for future opportunities associated with Treaty settlements. Te Arawhiti does not determine how and in what form the opportunities from Treaty settlements are realised, as this is determined by the beneficiaries of these settlements. However, Te Arawhiti has a role

in advocating for the protection of these opportunities.

Te Arawhiti interest in the Priority Area Landscape Schedules Variation

12. Te Arawhiti administers the 50.6742 hectares, more or less,¹ Hāwea/Wānaka Substitute land known commonly as Sticky Forest, on behalf of the Crown. As I explain in more detail below, the Crown holds this land pending the process under the Ngāi Tahu Settlement being implemented to effect transfer.
13. Accordingly, Te Arawhiti is interested in the Landscape Schedules Variation both as the current landowner and in light of its role administering this land on behalf of the intended owners pending its transfer to them.
14. The map below has been extracted from the Council's online Stage 1, 2 and 3 Decisions and Appeals PDP Map. It shows the Sticky Forest land (the block is distinctive because it is covered in forest and the boundary is clearly visible) on the southern side of the Clutha River / Mata-Au outlet. The ONL line is the brown dashed line. Property boundaries are shown in light grey. The ONL overlay covers the portion of the land north of the ONL line, extending towards the Clutha River / Mata-Au outlet. That is, the northern portion of Sticky Forest lies within the Dublin Bay ONL overlay (Schedule 21.22.22).

¹ Being Section 2 of 5 Block XIV, Lower Wānaka Survey District (SO963). Balance certificate of title 367/52.



Map 1: Hāwea / Wānaka Substitute land (Sticky Forest) within ONL overlay

Te Arawhiti position

Recognition of history and status of Sticky Forest land in schedule 21.22.22

15. Te Arawhiti sought amendment to the discussion of the history of the Sticky Forest land as SILNA Substitute land in schedule 21.22.22. Te Arawhiti supports the amendments to paragraph [20] of the Dublin Bay ONL schedule now recommended by Mr Head (which adopt the wording sought by Te Arawhiti in its submission). It is important that this

significant history (and the values that the land holds because of it) is recognised in the landscape schedule. I have explained this history and context further below.

16. Te Arawhiti further supports the references to Mana Whenua values in the Dublin Bay ONL Schedule.

Contents in schedule 21.22.22 about plantation forest on Sticky Forest

17. Most of the Sticky Forest land within the Dublin Bay ONL overlay is covered in plantation forestry, the current planting/crop having been on the site for several decades. I explain the details and recent history of plantation forestry activities on the land further below. Te Arawhiti seeks that the Landscape Schedule acknowledge the presence of plantation forestry on this land and the fact that – as a plantation forest - it is going to require management, maintenance, and harvesting in the future. I understand that other landscape schedules explicitly acknowledge that plantation forest reduces naturalness and anticipate harvesting of plantation forests in the ONL. Te Arawhiti seeks that this same recognition is provided to the plantation forest on Sticky Forest in the Dublin Bay ONL.

Contents in schedule 21.22.22 about mountain biking on Sticky Forest

18. The Dublin Bay ONL schedule describes mountain biking on Sticky Forest in the “important recreation attributes and values” and “important land use patterns and features” passages. As I explain below, the mountain bike trails established on Sticky Forest are informal – there is no legal right for the public to use or access this land. The only reason there is currently public access to the land is because the Crown, as the interim owner, has not prohibited public use to date. It is incorrect to highlight the mountain bike trails on Sticky Forest as an important recreational attribute of the Dublin Bay ONL, as if this were an activity on public land that will continue indefinitely. Te Arawhiti is concerned that recognising mountain biking on Sticky Forest as an “important recreation attribute and value” will give plan users the impression that public access for mountain biking is feature of the landscape which must be retained,

protected or enhanced. Once this land is returned under the Ngāi Tahu Settlement it will for the future owners to decide how they want to use this land, and they will have all the usual rights of private landowners – including the right to decide whether to allow continued public access for mountain biking in future.

Crown obligations and process required by the Ngāi Tahu Settlement

19. Sticky Forest has a complex status as substitute SILNA land.

Background to SILNA

20. In the second half of the nineteenth century, Ngāi Tahu rangatira asserted that the Crown had failed to fulfil its promises of Māori reserves made during its Te Waipounamu (the South Island) land purchases in the 1840s and 1850s. Commissioners appointed in the 1880s and 1890s to investigate, reported that as a result of extensive land purchases in the 1840s and 1850s, and other factors associated with the settlement of Te Waipounamu by Europeans:²

20.1 Ngāi Tahu as a tribe and as individuals had been left without sufficient land to sustain themselves; and

20.2 Only 10% of the tribe had sufficient land to provide a living.

Setting aside and transfer of SILNA land

21. In 1892, the Native Minister met with Ngāi Tahu representatives and indicated that the Crown would make land available.

22. It was decided that Crown land at ‘the Neck’ between lakes Wānaka and Hāwea – the Hāwea/Wānaka SILNA land – was to be transferred to specified Māori individuals who were identified as being without “sufficient land to provide for their support and maintenance”.³

23. The SILNA was enacted to authorise transfer of the land blocks allocated. However, SILNA was repealed in 1909 without the Hāwea/Wānaka SILNA Land having been transferred.

² See Waitangi Tribunal ‘The Ngāi Tahu Report 1991’, Volume 3 Chapter 20, and ‘The Waimumu Trust (SILNA) Report’ 2005.

³ South Island Landless Natives Act 1906.

Acknowledgement of breach by the Crown in relation to Hāwea/Wānaka

24. In the Ngāi Tahu Deed the Crown accepted that the failure by the Crown to transfer the Hāwea/Wānaka SILNA Land to the intended beneficiaries after 1906 was a breach of the principles of the Treaty of Waitangi and that there is an obligation on the Crown to complete the transfer.

Hāwea/Wānaka SILNA Substitute Land committed in substitution

25. The original land at 'the Neck' (the Hāwea/Wānaka SILNA Land) was not available at the time of the Ngāi Tahu negotiations (as it was subject to a pastoral lease) and the Crown agreed to provide the Sticky Forest land (the Hāwea/Wānaka SILNA Substitute Land) in substitution.
26. Sticky Forest was a reserve. Pursuant to the Settlement Act, the status of the land as a reserve was revoked (s 448) and the land vested in the Crown (s 20(9)), and the land is held pending implementation of the process in Section 15 of the Ngāi Tahu Deed to effect transfer to the intended owners. The intended owners are the successors to the individuals allocated the original Hāwea/Wānaka SILNA land.
27. The land is effectively held by the Crown on trust under the Ngāi Tahu settlement for the intended owners and the fulfilment of the Section 15 process under the Ngāi Tahu Deed. Te Arawhiti has approached its land management responsibilities on the basis that its decisions should not prejudice the intended owners relative to the condition of the land upon the signing of the Deed.
28. By way of the Treaty settlement, the Hāwea / Wānaka Substitute land was substituted for the land which was originally committed to the intended owners under SILNA and cannot be substituted again. The Crown must transfer the Sticky Forest land to the intended owners (the successors). Further, because the intended owners are being identified through a post-settlement Māori Land Court process (rather than being an existing large natural grouping, for example, an iwi), there is no automatic representative body to speak for the interests of the intended owners as a collective.

29. The work of the Māori Land Court to identify the intended owners/successors has been challenging. Research is now complete in relation to the 50 original beneficiaries assigned the Hāwea/Wānaka SILNA land and the Māori Land Court has made determinations in relation to 49 of the 50 original beneficiaries.
30. As at 4 September 2023, the Māori Land Court had identified 2,008 Hāwea/Wānaka SILNA successors.⁴ Te Arawhiti and Te Puni Kōkiri have arranged for a voting process for successors in 2023 so that they may appoint representatives. Representation is needed to explore the options available as to how to receive and hold the Substitute Land, and to make recommendations to the successors about how to receive the land and hold the Substitute Land, amongst other roles.

Plantation Forest

31. The Sticky Forest land (as its name suggests) is planted in plantation forest and was first gazetted for this purpose in 1892. The current crop on the land is approximately 42 hectares in size, and a large portion of the part of the land which is covered by the Dublin Bay ONL overlay contains plantation forest.
32. The forestry trees are exotic species: largely Douglas Fir (approximately 34.32 ha), some Radiata pine (approximately 6.88 ha), and a small area of larch (approximately 0.91 ha). It is estimated (based on aerial mapping over time) that most of the forest was planted circa 1987 (approximately 82%) or circa 2000 (approximately 18%).
33. PF Olsen Ltd has been engaged since 2008 to maintain the forest.
34. I am advised that Radiata pine has a limited life and that tree stability can start to reduce beyond 40 years of age. This can raise the risk of windthrow and become a health and safety risk for users of the land. Te Arawhiti has been advised by PF Olsen that the Radiata pine are now at a

⁴ I understand that if identified successors die before the land transfers, the Māori Land Court will continue to process incoming succession applications received, or to update the list of successors using existing owner records in relation to other land in the Court record.

size where they could be harvested, while the Douglas Fir is about 10 years off harvesting age.

35. Meanwhile, the forest requires periodic maintenance. For example, thinning took place in 2009 of 26.7 hectares of the Douglas Fir.

Recreational use

36. The land is used by the community as an area for mountain biking and walking, the tracks being among the trees. While the Crown has held the land pending the Section 15 process to effect transfer, the public have been able to access the land for recreation. There is no public right to access this land, and no public right to expect access in the future. The Crown has allowed the land to be used with the proviso that public access is revocable and that this use in the meantime does not bind the future owners. This has been conveyed in ministerial briefs and to members of the public upon inquiry. It is also made clear in signs that are erected on Sticky Forest trails, as shown in the picture below.



37. Sometimes inspections of the land have identified that members of the public have built unlawful structures on the land. PF Olsen or Te Arawhiti officials have had to notify Bike Wanaka that the structures are to be removed, and request that they notify their members.
38. It is up to the owners upon transfer to decide whether they wish to continue to allow this type of access to their land. When the land is transferred it will be private freehold land (either Māori freehold land or general land, depending on what the owners decide).

Te Rūnanga o Ngāi Tahu and Kai Tahu ki Otago

39. Te Arawhiti acknowledges the submissions and evidence provided by Te Rūnanga o Ngāi Tahu (**TRONT**) and Kai Tahu ki Otago (**KTKO**), some of which relates to the Hāwea/Wānaka Substitute land. Te Arawhiti, TRONT, and KTKO are aligned in our desire to ensure that the special context of the Hāwea/Wānaka Substitute land is appropriately recognised in these landscape schedules and that the planning regime which applies to this land allows the future owners to utilise their land once it is returned to them. Te Arawhiti is grateful for the additional historical content provided in the evidence of Ms Stevens and the planning evidence provided by Ms Pull on this issue.

Conclusion

40. It is important that the Dublin Bay ONL landscape schedule recognises the significant history and Treaty settlement context of the Hāwea/Wānaka Substitute land. It is also important to ensure that any specific discussion of this land within the schedule is accurate, clear, and does not prevent appropriate utilisation of the land by the future owners in the future.

Monique King
8 September 2023