

# Supplementary Info for Public Notification of the proposal to vest part of the Morning Star Beach Recreation Reserve in Te Rūnanga o Ngāi Tahu

Te Rūnanga o Ngāi Tahu (Te Rūnanga) has requested that the Minister of Conservation vest part of the Morning Star Beach Recreation Reserve, near Queenstown, in them as an administering body.

They have also requested associated delegations, under the Reserves Act 1977 (Reserves Act) (the vesting and transfer of delegations are collectively referred to as “the Vesting Proposal”).

The area proposed for vesting (“the Proposed Vesting Area”) is approximately 0.8 hectares and is currently leased to Shotover Jet Ltd, which is owned by Ngāi Tahu Tourism Ltd.

The Minister of Conservation, Hon Kiri Allan has decided to publicly notify the proposal in accordance with section 119 of the Reserves Act 1977. This is additional information on the Vesting Proposal to provide context for public submissions.

## Morning Star Beach Recreation Reserve

### Location and Description

Morning Star Beach Recreation Reserve is located adjacent to the Shotover River at Arthur’s Point in Queenstown. The reserve is on the true left of the river running from the Edith Cavell Bridge upstream for approximately 1.5km. The reserve is outlined in light blue in **Figure 1** below.

The southern end of the reserve includes areas occupied by Shotover Jet Ltd, RealNZ Ltd (rafting operation and café), and DOC’s Wakatipu District’s Queenstown office and workshop. This is the area outlined in red on **Figure 1**, and further detailed in **Figure 2** below.

Shotover Jet Ltd currently occupy and hold a lease over the Proposed Vesting Area where they run a popular and well-known jet boat ride on the Shotover River. Shotover Jet Ltd is a Ngāi Tahu Tourism Ltd company.

The company has operated from this site, under a lease, since 1993 and Shotover Jet Ltd has been owned by Ngāi Tahu Tourism Ltd since 1999. The occupation of the Proposed Vesting Area includes a booking office/reception centre, storage area, workshops, and an access road to the beach.

The current lease was granted in 1993, pursuant to s54(1)(d) of the Reserves Act and expires in 2023. The lease allows Shotover Jet Ltd the option of a further 30-year lease at expiry.

## Land Status

The land was allocated to the Department of Conservation in 1987, gazetted as a recreation reserve in 1991 and described on survey plan as Section 1 SO 23397.

The land is held as a Recreation Reserve pursuant to section 17 of the Reserves Act 1977 and is currently administered by DOC.

The land has subsequently been subdivided several times, resulting in Section 4 SO 23901 (the Shotover Jet Ltd lease area) and Section 1 SO 23662 (the area surrounding DOC's Office/Cavel's Café building) being independently described.

Since the lease was granted, some parts of Shotover Jet have occupied land outside Section 4 SO 23901. The current footprint of Shotover Jet has been defined by survey. It is this footprint of occupation that Te Rūnanga wish to have vested in them, an area of approximately 0.8029 hectares.



Figure 1: General location of the Morning Star Beach Recreation Reserve, Queenstown



Figure 2: Details of occupation of southern end of reserve

**Key:**

- Area 1:** DOC's Queenstown office, Cavell's Café, and Real NZ Ltd rafting.
- Area 2:** DOC's workshop.
- Area 3:** Shotover Jet booking office, workshop, coach park and access to beach. (Note this is an approximate representation only)
- Solid red line:** approximate alignment of easement for conveying fuel
- Dashed red line:** approximate alignment of easement to convey water



## The Shotover Jet Ltd Lease

In 1993, a Reserves Act lease was granted allowing for the use of the land “...solely for the purpose of carrying on of a commercial jet boats operation including a facilities building containing a reception area, offices, garage and workshop, a store and shop, LPG tank and landscaping and decking, and such other purposes as from time to time approved by the Regional Conservator...”.

The lease was granted for a term of 30 years, with a clause allowing for a renewal of a further 30-year term if the lessee had met certain criteria.

The lease expires in 2023. At this time, if the lease area is still administered by DOC, a new lease will be issued under Part 3B of the Conservation Act, being a concession rather than a Reserves Act lease.

If the land is vested in Te Rūnanga prior to the expiry of the lease, Te Rūnanga as the administering body become the lessor, and the lease will remain valid for the remainder of its term.

Administering bodies can grant leases on recreation reserves, subject to Ministerial consent, for the granting and the setting of the rent for the lease. Te Rūnanga as the administering body can therefore grant a new lease which can include rights of renewal, but they require the Minister’s consent to do this.

The information provided by Te Rūnanga indicates an interest in physical developments within the area they seek to be vested. None of the aspirations described in the correspondence from Te Rūnanga, for the physical development of the area or its use, are necessarily precluded by the current lease for so long as they are connected in some way to undertaking a commercial jet boat operation.

The income from the jet boat operation contributes to Te Rūnanga’s ability to support charitable activities carried out for the benefit of Ngāi Tahu whānui.

If the Vesting Proposal was granted, income paid by Shotover Jet would not become part of Te Rūnanga’s general funds. Income paid by Shotover Jet could only be used for the purposes of the Reserve.

## The Vesting Proposal

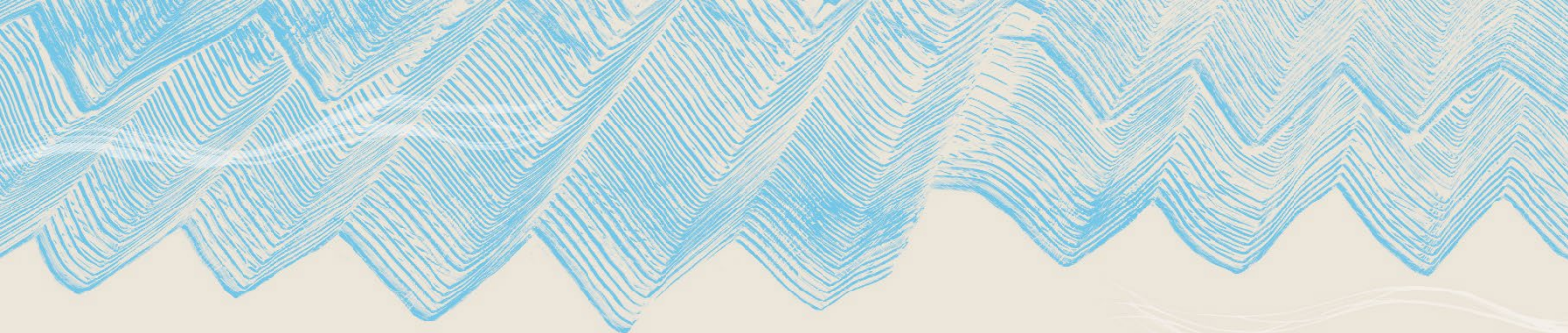
The application from Te Rūnanga states that the reasons for applying for the land to be vested in them is that the current lease arrangement fails to meet the true shared objectives of each party.

They see the need for a new approach or arrangement that:

- enables outdoor activities for the enjoyment of the public;
- protects the public; and
- supports the Ngāi Tahu connection to the whenua as mana whenua and as kaitiaki.

Te Rūnanga seeks to develop, enable, and support ahi kā, whilst connecting their customers with the iwi and the Proposed Vesting Area through the sharing of their stories.

They consider vesting the land will enhance the rangatiratanga of Ngāi Tahu in its takiwā, support the ability of Ngāi Tahu to develop, and will provide the iwi with a level of autonomy.



They see the achievement of this to be a significant example of the Treaty partnership in action, and a way to enhance that partnership. The vesting would give effect to the principles of Te Tiriti, allowing Ngāi Tahu to be kaitiaki of this whenua; taking on obligations to care for the whenua in a way that respects its whakapapa and the cultural and spiritual importance Ngāi Tahu place on the land.

### **Te Rūnanga and DOC District Office discussions on potential management arrangements**

In discussing the Vesting Proposal, Te Rūnanga and the DOC District Office intend to work collaboratively on this reserve and the wider Shotover River /Kimi-Ākau catchment, if a decision is made for Te Rūnanga to become the Administering Body of the Proposed Vesting Area.

The intention of both parties is to increase the conservation values of the reserves and public conservation land along the river between Māori Point and the Tuckers Beach Wildlife Management Reserve in a way that is consistent with giving effect to the principles of the Treaty. In doing this, Ngāi Tahu's ability to strengthen their connection to, and the cultural significance of, these sites would be enhanced.

Should the land be vested in Te Rūnanga, the fact that the surrounding land will be administered by DOC will require ongoing dialogue to ensure the management of the two areas of reserve is coordinated and complementary. An agreement between DOC and Te Rūnanga on the management of the wider Shotover River/Kimi-Ākau catchment would be an appropriate mechanism to achieve these outcomes, should a decision be made to vest the Proposed Vesting Area in Te Rūnanga.

### **Ministerial delegations under the Reserves Act**

Te Rūnanga also seek Ministerial delegations under the Reserves Act, relevant to the Proposed Vesting Area. Te Rūnanga identified that, along with becoming the administering body of the Proposed Vesting Area, they were also seeking delegations of Ministerial powers relating to the Vesting Proposal.

Ministerial delegations sought by Te Rūnanga is as follows:

- s16 (10 & 10A) – naming of reserves;
- s24 – reclassification of reserves (excluding revocation);
- s41 – approval of reserve management plans;
- s48(1) – consenting provisions for granting easements / right of way in reserves;
- s53 – powers other than leasing;
- s54 – leasing powers on reserves (including approving the rental and rent reviews); and
- s121 – allowing conditional approvals or consents to be given for other powers identified above.



## Consultation on public notification of the Vesting Proposal

The Vesting Proposal has been discussed with Te Rūnanga, the seven Otago and Murihiku Papatipu Rūnanga, the Otago Conservation Board (OCB) and Otago Fish & Game Council (F&GC).

### Otago and Murihiku Papatipu Rūnanga

The seven Papatipu Rūnanga fully support the proposal as a demonstration of the partnership between DOC and Ngāi Tahu. They also see it restoring a direct connection to the whenua, and means that Ngāi Tahu can act as kaitiaki for this land.

The key feedback from Papatipu Rūnanga was to recognise that if the land is vested in Te Rūnanga, this creates a responsibility on Ngāi Tahu to act as kaitiaki and care for the whenua. Te Rūnanga o Ngāi Tahu and the Papatipu Rūnanga have all confirmed they accept and welcome that responsibility.

### Otago Conservation Board consultation.

The OCB were asked to

1. identify and consider the relevant Treaty principles and their relevance to the proposal.
2. provide feedback on the proposed vesting in regard to Section 26(4)(a) of the Reserves Act. Specifically, whether the vesting of the reserve would have any adverse effects on the management of the reserve and the interests of the public in the reserve.
3. provide comment on whether the public notification process is necessary, or not
4. provide feedback on whether the vesting of the Shotover Jet lease area in Te Rūnanga would enable better carrying out of the purposes of the recreation reserve.

Their feedback on the proposal was:

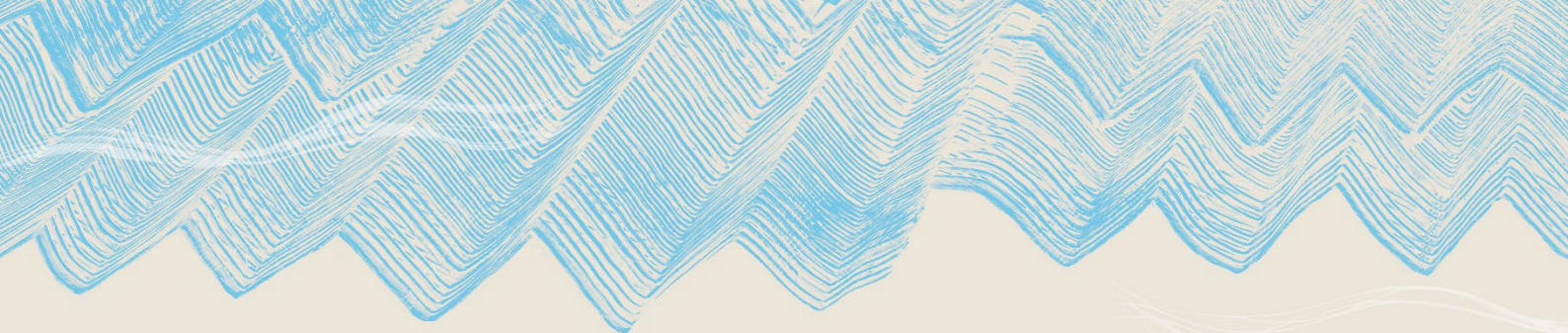
With regard to Point 1 above, Section 4 of the Conservation Act is of fundamental importance and should not be trumped by other consideration, as ruled by the Supreme Court of New Zealand. The Board see this proposal aligning with the Treaty principles of rangatiratanga, partnership and active protection. They emphasised the following:

The Board recognise that Ngāi Tahu whanui have the right to express rangatiratanga over their takiwā as acknowledged by the Crown in the Ngāi Tahu Settlement Act 1998 and the Apology. They consider vesting the reserve will enhance Te Rūnanga's ability to provide Ngāi Tahu whanui with a level of autonomy over an area that is of high cultural significance.

The Board commented that the process undertaken to date between DOC and Te Rūnanga appears to reflect positive partnership. They recognised that resourcing Te Rūnanga will enable them to work with Papatipu Rūnaka on matters they deem to be of importance with respect to this whenua.

The Board acknowledged that this area is of high cultural significance to Ngāi Tahu whanui and steps should be taken to actively protect this ancestral whenua as deemed appropriate by Ngāi Tahu whanui themselves.

With respect to Points 2 and 4, the Board believe that there are unlikely to be adverse effects on the management of the reserve, interest of the public and the carrying out of the purposes of the reserve for the following reasons.



Te Rūnanga is a sizeable organisation that has been operating since 1996 and manage a range of activities. They feel there is no reason to believe that there will be adverse effects on the management of the reserve in vesting it in Te Runanga.

Te Rūnanga has an enduring cultural and historical connection to this reserve and in allowing them greater autonomy over the reserve the experience at place will be enhanced and expressed in a way deemed appropriate by mana whenua. They did not consider that this conflicts with the interests of the public and felt it will have a positive impact on the experience at place.

Te Rūnanga indicated to OCB that they wish to reinvest the concession fees from the Shotover Jet operation back into Morning Star Beach Recreation Reserve for the purpose of improving the conservation values and cultural heritage narrative there. This demonstrated to the Board that conservation outcomes are at the heart of the vesting proposal. Te Rūnanga indicated at this time that there was no desire to seek delegations from the Minister of Conservation, similar to those of territorial authorities, that would allow them to undertake things such as undertaking lease arrangements without the Minister's consent, to spend the lease revenue other than on the reserve(s) or extend to undertaking such things as disposal of the land, further demonstrating to the Board that conservation outcomes are at the heart of this proposal.

The Board is keen to see the intention of spending lease revenue locally on conservation future-proofed and how the purpose of the vesting could be recorded. The Board understands that under s41 of the Reserves Act, a Reserve Management Plan can be required and that s26(2) of the Reserves Act also allows for special conditions to be attached to a vesting, at the time of vesting. The Board encouraged DOC to continue its discussions with Te Rūnanga to investigate how these mechanisms can be applied constructively to future proof the conservation outcomes for the site.

The Board saw the reallocation of the concession fee from DOC to Te Rūnanga as a way in which the Treaty partner can be resourced for the activities above, which they feel is of particular importance.

With regard to Point 3, the Board recommended that public notification was not necessary for the following reasons:

Public notification is not required when vesting in the likes of Councils.

Te Rūnanga is an entity established through an Act of Parliament and in the perspective of the Board aligns with the likes of a council rather than a private profit-seeking entity.

The specific piece of the reserve to be vested is small, being 0.8 hectares of a 41-hectare block.

There are no adverse impacts and many benefits in vesting the reserve in Te Rūnanga.

The Board did note that notification should be reconsidered if compelling issues arise that were not known at the time of the Board's advice.

***NOTE:*** It was later clarified with the OCB chairperson, via email correspondence, that Te Rūnanga were seeking the accompanying delegations for vesting of the reserve. The OCB Chair noted this and did not retract any of their relevant s26(4)(c) statements but reinforced the Board's strong desire *"to see that any decision to vest this parcel of land is on the basis that appropriate tools are used to ensure that conservation outcomes are futureproofed for the Morning Star Reserve."*

## Otago Fish and Game Council consultation

The Vesting Proposal was placed before the Otago F&GC by DOC and Te Rūnanga at a Council meeting. Otago F&GC subsequently sent a letter to DOC outlining their response, as follows

The Council were assured by Te Rūnanga that present public drive-on access through the reserve to the river margin for recreation and boat launching will not be compromised by the vesting. It didn't see any adverse effects on the management of the reserve, or on licence holders interests in it. With that assurance, the Council confirmed it has no other interest in the Reserve vesting proposal.

The Council remained neutral on public notification of the vesting and considered that this was a matter better decided by DOC and/or Director General of Conservation. It did however want to note that these are public resources and transparency around changes in the status of their administration is important.

## Legislative framework for considering the Vesting Proposal

The proposed decision on this vesting is subject to section 4 of the Conservation Act which requires the Department to give effect to the principles of the Treaty of Waitangi.

The vesting, if approved, will be carried out subject to the provisions of the Reserves Act 1977.

Section 3 of the Reserves Act outlines the general purpose of the Reserves Act. It identifies that conservation land subject to the Act shall be administered for the purpose of providing for the preservation of their values and management for the benefit and enjoyment of the public.

Section 17 of the Reserves Act sets out the requirements for administering recreation reserves. These include ensuring public access, the management of other conservation values to the extent that is compatible with the recreation reserve status, the conservation of qualities which contribute to the natural environment and the better use and enjoyment of the reserve and its values, where compatible with its recreation reserve status, as a soil, water and forest conservation area.

Section 26(1) of the Reserves Act allows for reserves to be vested in an Administering Body where the Minister considers this is for the better carrying out of the purposes of the reserve. In this case, the purposes of the reserve are primarily for recreation.

Section 26(2) provides for vesting to be carried out subject to special conditions. Where conditions are placed on a vesting, these are included on the Gazette Notice which authorises the vesting.

Section 26(3) requires any vesting of reserves is to be publicly notified unless one of three exemptions apply.

The exemptions are set out in s26(4)(a), (b) and (c) of the Reserves Act. The exemptions under s26(4)(a) and s26(4)(b) are not considered to be relevant in this instance, however, s26(4)(c) has been considered relevant.

The sub-section provides as follows:

*“(4) Notwithstanding subsection (3), the Minister shall not be required to publicly notify the proposed vesting where—*

*(c) the Minister has consulted the relevant conservation board and Fish and Game Council, and those bodies have advised the Minister that—*

*(i) the proposed vesting does not have any adverse effects on the management of and the interest of the public in the reserve; and*



*(ii) public notification is considered by them to be unnecessary.”*

As consultation has been undertaken with both the OCB and Otago G&GC the requirements under s26(4)(c) for an exemption are met.

While the exemption has been considered, the Minister of Conservation has the right to use their discretion in deciding whether or not to proceed with a public notification process. On this basis, the Minister has decided to use this discretion.

## Proposed Conditions of the vesting

An administering body is required to prepare a management plan which includes a public comment phase and approval by the Minister, however some fundamental high-level matters are established at the outset as conditions of vesting.

Proposed conditions of this vesting are:

- Funds received by the vestee in its capacity as the administering body for that part of the Morning Star Beach Recreation Reserve are to be administered and applied in accordance with the requirements of the Reserves Act 1977. Pursuant to section 84 of the Reserves Act 1977 the Minister of Conservation authorises funds to be expended for the purposes of managing, administering, maintaining, protecting, improving, and developing the following reserves in addition to the Morning Star Beach Recreation Reserve:
  - a) Oxenbridge Tunnel Recreation Reserve
  - b) Arthurs Point Gorge Scenic Reserve
  - c) Tuckers Beach Recreation Reserve
  - d) Tuckers Beach Wildlife Management Reserve
  - e) such other reserves or land as may be approved by the Minister of Conservation from time-to-time in accordance with section 84 and/or section 85 of the Reserves Act 1977.

## Public Notification process

DOC are publicly notifying the Vesting Proposal in accordance with section 119 of the Reserves Act. This will include:

- advertising the proposal in the appropriate newspapers and on DOC's website;
- beginning a submission period for at least one month from the date of the public notice;
- holding public hearings if requested by submitters in accordance with section 120 of the Reserves Act led by a Commissioner; and
- developing a hearings report to be provided to the Minister on the Vesting Proposal



## What happens next

If a hearing is required, it will most likely be held in mid-July. All submitters who have indicated they wish to be heard will be informed of the time and venue once the public notification period has closed.

All submissions on this proposal, and the outcome of any hearing that is held, will be considered by a Commissioner of the Reserves Act. Their recommendations will be incorporated into a hearing report which will support the final decision report. This will be presented to the Minister of Conservation to make a final decision on the vesting and the Reserves Act delegations that Te Rūnanga are seeking.

If the decision is made to vest the land in Te Rūnanga, it will be published as a notice in the New Zealand Gazette, at which point Te Rūnanga will become the Administering Body for this area of land.

If the decision is made not to vest, the land will continue to be managed by DOC.

## Submissions

Please send written submissions on the Vesting Proposal (including the grounds for any objection you may have) and an indication of whether you wish to be heard in support of your submission to:

*Statutory Land Management Manager  
Christchurch Service Centre  
Private Bag 4715  
Christchurch Mail Centre  
CHRISTCHURCH 8140  
Email [SLM@doc.govt.nz](mailto:SLM@doc.govt.nz)*

***Submissions must be received by 5pm on 26 June 2022.***

Once submitted, submitters' information is subject to the Official Information Act 1982 and may be released under that Act. If you wish to keep any part of your submission confidential, you need to state this in writing when making your submission.