

**Submission on Proposed Timaru District Plan - He Po. He Ao. Ka Awatea.**

**Form 5 Submission on publically notified proposal for policy statement or plan, change or variation**

*Clause 6 of Schedule 1, Resource Management Act 1991*

**To:** Timaru District Council - Planning Unit

**Date received:** 15/12/2022

**Submission Reference Number #:**44

This is a submission on the following proposed plan (the **proposal**): Proposed Timaru District Plan - He Po. He Ao. Ka Awatea.

**Submitter:**

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**I wish to be heard:** Yes

**I am willing to present a joint case:** Yes

Could you gain an advantage in trade competition in making this submission?

- **No**

Are you directly affected by an effect of the subject matter of the submission that

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition

- **Yes**

**Submission points**

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**Point 44.1**

**Section:** NH – Natural Hazards

**Sub-section:** Policies

**Provision:**

**NH-P4** [Subdivision, use and development in Flood Assessment Areas, excluding high hazard areas and overland flow paths](#)

**Sentiment:** Amend

**Submission:**

Policy P4 refers to subdivision, use and development in flood assessment areas, excluding high hazard areas and overland flow paths. The policy is to, “*enable subdivision, use and development (excluding regionally significant infrastructure) in areas subject to inundation by a 0.5% AEP flood event provided that (among other matters)*”:

- *It is not likely to suffer significant damage in a flood event, and*
- *Significant adverse effects on people and property are avoided.*

There has been significant development with the specified flood assessment areas. The development undertaken is (to varying extents) at risk from flood events which can cause significant damage, and adverse effects on people and property. Some existing farm development in these areas may be contrary to this policy.

While they may be varying views (including cultural) as to whether development in some locations should have occurred recognising the flood risk, the development did occur.

**Relief sought**

That existing development is recognised within the policy.

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**Point 44.2**

**Section:** NH – Natural Hazards

**Sub-section:** Rules

**Provision:**

**NH-R1** [Earthworks, excluding land disturbance and for natural hazard mitigation works](#)

**Sentiment:** Amend

**Submission:**

Rule NH-R1 refers to earthworks within flood assessment areas. For sites subject to flooding in an 0.5% AEP event, the permitted activity criteria include a limit on the extent of earthworks in the General Rural Zone of 2000m<sup>2</sup> per annum, and the land not being in an overland flow path. This rule would exclude remedial work post-flooding events being undertaken as a permitted activity. Such work would be a restricted discretionary activity.

Post-flooding events there is a need to promptly reinstate farmland and infrastructure.

**Relief sought**

Enable remedial works to re-instate existing farmland and infrastructure post-flooding events as a permitted activity.

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**Point 44.3**

**Section:** NH – Natural Hazards

**Sub-section:** Rules

**Provision:**

**NH- R4** [Natural hazard sensitive activities](#) or structures and additions to such activities or [structures](#) with a ground floor area of 30m<sup>2</sup> or more

**Sentiment:** Amend

**Submission:**

Rule NH-R4 refers to natural hazard sensitive activities and structures with a ground floor area of 30m<sup>2</sup> or more in a flood assessment area. The permitted activity criteria for such activities and structures require that for other than buildings less than five years old and built to the minimum finished floor level specified:

- A flood risk certificate in accordance with the specified standard is issued, and
- The flood risk certificate states that the activity is not on land within an overland flow path, or a high hazard area, and either
- The activity is located on land that is not subject to flooding in 0.5% AEP rainfall event, or
- The activity is located on land that is subject to flooding in an 0.5% AEP rainfall event, and complies with the minimum finished floor level for the site.

There are existing natural hazard sensitive activities and structures which may be captured by this rule. There is some uncertainty over the extent of any overland flow paths, and as such how this rule may apply.

**Relief sought**

Enable the re-instatement of existing natural hazard sensitive activities and existing structures within flood assessment areas as a permitted activity.

Enable buildings that are not natural hazard sensitive activities (eg farm shed) as a permitted activity.

**Point 44.4**

**Section:** NH – Natural Hazards

**Sub-section:** Rules

**Provision:**

[Flood Assessment Area Overlay](#) **Activity status: Permitted**

**Where**

[High Hazard Overlay](#) **PER-1**

The [building](#) or [structure](#) or addition is below ground; or

**PER-2**

**Activity status where compliance is achieved:**  
**Restricted Discretionary**

**Matters of discretion are restricted to:**

1. any potential adverse [effects](#) of diverting or blocking [overland flow path](#)(s), including upstream and downstream flood risks; and
2. any increased flood risk for people, property, or public spaces; and
3. the effectiveness and potential adverse [effects](#) of any proposed mitigation measures; and
4. any [operational need](#) or [functional need](#) for the

The new [building](#) or [structure](#) or addition has a ground floor area of less than 10m<sup>2</sup>; or

### PER-3

The new [building](#) or [structure](#) or addition is located within a [road](#) corridor; or

### PER-4

A [Flood Risk Certificate](#) for the [site](#) has been issued in accordance with [NH-S1](#) and the certificate states that the activity is not located on [land](#) that is within an [overland flow path](#).

5. any increased reliance on emergency services; and
6. any positive [effects](#) of the proposal.

**Sentiment:** Amend

#### **Submission:**

Rule NH-R7 refers to structures with a ground floor area less than 30m<sup>2</sup> in area in a flood assessment area. Where the structure is not below ground, less than 10m<sup>2</sup> in area, or within a road corridor, the permitted activity criteria for such structures requires the issue of a flood risk certificate stating that the structure is not within an overland flow path. Where the structure is within an overland flow path, the structure becomes a restricted discretionary activity.

Above ground structures between 10m<sup>2</sup> and 30m<sup>2</sup> within an overland flow path which are not within a road corridor would require resource consent as a restricted discretionary activity. Any existing structures captured by this rule which are affected by a climate related natural event (wind, flooding, earthquake) or by fire, would require a resource consent to be re-instated.

#### **Relief sought**

Enable the re-instatement of existing structures less than 30m<sup>2</sup> within flood assessment areas as a permitted activity.

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### **Point 44.5**

**Section:** HS – Hazardous Substances

**Sub-section:** Rules

#### **Provision:**

**HS-R1** Use and/or storage of [hazardous substances](#) in a [hazardous facility](#) (excluding Major Hazard Facilities)

**Sentiment:** Amend

#### **Submission:**

Dairy sheds would count as hazardous facilities. Under this rule the use and/or storage of hazardous substances in a dairy shed within a flood assessment area would be a permitted activity where the dairy shed had a finished floor level equal to or higher than the minimum floor level as stated in a flood risk certificate issued.

The use and/or storage of hazardous substances in a dairy shed which did not have the required floor level would require a resource consent as a restricted discretionary activity. Existing use provisions would authorise the current use and storage in existing sheds.

## Relief sought

Allow the use and storage of hazardous substances in existing dairy sheds in flood assessment areas as a permitted activity.

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### Point 44.6

**Section:** SASM – Sites and Areas of Significance to Maori

**Sub-section:** Policies

**Provision:**

**SASM-P2** Consultation and engagement with [Kāti Huirapa](#)

**Sentiment:** Amend

**Submission:**

This policy refers to consultation and engagement between landowners and applicants with Kati Huirapa prior to applying for consent, and/or undertaking activities within or adjacent to the identified SASM's as being the most appropriate way to obtain understanding of the potential impact of any activity on the site or area.

Other methods may be more effective and practical than a consent process. For example farm environment plans could include cultural matters as and where relevant. Catchment groups would be another method to support consultation and engagement. A resource consent process would take time, require resourcing (capacity and capability), and potentially may also be an ad-hoc case by case process.

## Relief sought

Enable other methods, for example Farm Environment Plans, to also support consultation and engagement with Kati Huirapa, and to obtain understanding of the potential impact of activities.

Only require resource consents where there is a need to, particularly given the comments in the AEC report around broad areas, ie direct consent requirements for activities that pose threats to significant areas over broad areas need to be appropriately targeted.

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### Point 44.7

**Section:** SASM – Sites and Areas of Significance to Maori

**Sub-section:** Policies

**Provision:**

**SASM-P5** Protection of values of [Sites](#) and Areas of Significance to [Kāti Huirapa](#)

**Sentiment:** Amend

**Submission:**

This policy relates to the protection of values of SASM, and lists a range of methods from the AEC report to protect the values. Landowners and occupiers may also be able to aid in the protection of the identified values through awareness of cultural values where appropriate. This may need to be balanced against the concerns the runanga have around the detailed information as to the specific location of sites. Notwithstanding, protection of values can be constrained if the affected persons do not know what they are (not necessarily locations).

## Relief sought

Consider landowner and occupier awareness of the relevant cultural values in the methods to achieve this policy. Also methods such as farm environmental plans as noted under policy 2.

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**Point 44.8**

**Section:** SASM – Sites and Areas of Significance to Maori

**Sub-section:** Policies

**Provision:**

**SASM-P8** Protection of [wāhi taoka](#), [wāhi tapu](#), [wai taoka](#) and [wai tapu sites](#) and areas

**Sentiment:** Amend

**Submission:**

The same comments as noted under policies SASM-P2 & P5 are also relevant to SASM-P8.

**Relief sought**

Consider landowner and occupier awareness of the relevant values in the methods to achieve this policy. Also methods such as farm environmental plans as noted under policies 2 and 5.

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**Point 44.9**

**Section:** SASM – Sites and Areas of Significance to Maori

**Sub-section:** Rules

**Provision:**

**2. Activity status: Permitted**

[Wāhi Taoka](#)  
and [Wai Taoka](#)  
Overlay

**Where:**

**PER-1**

The [earthworks](#) are for the purpose of [maintenance](#), [repair](#), or [replacement](#), of any of the following:

1. existing fencing; or
2. existing tracks or [roads](#); or
3. existing reticulated stock water systems including troughs; or
4. existing [natural hazard mitigation works](#); and

**PER-2**

The [earthworks](#) are only undertaken within the footprint or modified ground comprised by the existing item; and

**PER-3**

**Activity status when compliance not achieved:  
Restricted Discretionary**

**Matters of discretion are restricted to:**

1. whether [Te Rūnanga o Arowhenua](#) has been consulted, the outcome of that consultation, and the extent to which the proposal responds to, or incorporates the outcomes of that consultation; and
2. whether a cultural impact assessment has been undertaken and the proposal's consistency with the values identified in [SCHED6 – Schedule of Sites and Areas of Significance to Kāti Huirapa](#); and
3. the potential adverse [effects](#), including on sensitive tangible and/or intangible cultural values as identified through engagement with [Te Rūnanga o Arowhenua](#); and
4. [effects](#) on [sites](#) where there is the potential for koiwi or artefacts to be discovered, including consideration of the need to implement an accidental discovery protocol or have a cultural monitor present, and whether an accidental discovery protocol has been agreed with [Te Rūnanga o Arowhenua](#); and

Any [replacement](#) item is of the same nature, character and scale of the item being replaced; and

#### PER-4

The Accidental Discovery Protocol commitment form, contained within [APP4 - Form confirming a commitment to adhering to an Accidental Discovery Protocol](#), has been completed and submitted to Council, at least 2 weeks prior to the commencement of any [earthworks](#).

5. whether there are alternative methods, locations or designs that would avoid or mitigate the impact of [earthworks](#) on the values associated with the [site](#) or area of significance; and
6. the appropriateness of any mitigation measures proposed; and
7. whether the proposed activity provides an opportunity to recognise [Kāti Huirapa](#) culture, history and identity associated with the [site/area](#), and any potential to:
  1. affirm the connection between [mana whenua](#) and place; or
  2. enhance the cultural values of the [site/area](#); or
  3. provide for the relationship of [Kāti Huirapa](#) with their [taoka](#); commensurate with the scale and nature of the proposal; and
8. any opportunities to maintain or enhance the ability of [Kāti Huirapa](#) to access and use the [Site](#) or Area of Significance; and
9. where the [earthworks](#) will remove [indigenous vegetation](#), the nature of any [effects](#) on [mahika kai](#) and other customary uses; and
10. in respect of utilities, the extent to which the proposed utility has [functional needs](#) for its location.

**Note:** *Limited notification of [Te Rūnanga o Arowhenua](#) is likely to be required under this rule.*

**Sentiment:** Amend

#### Submission:

Rule SASM-R1, second clause, refers to earthworks in Wahi taoka and Wai taoka areas. Earthworks enabled as permitted activities include the maintenance, repair or replacement of existing:

- Fences
- Tracks or roads
- Stockwater systems
- Natural hazard mitigation works.

The above are subject to the conditions that the earthworks are only undertaken within the existing footprint, any replacement is of the same nature, character and scale, and an accidental discovery protocol has been completed and submitted at least two weeks prior.

Any earthworks not permitted would require consent as a restricted discretionary activity.

This rule would require resource consent for earthworks for the repair and re-instatement of existing irrigation and house water pipelines, and cables. Given the importance of such infrastructure on farms, any repair or re-instatement needs to be undertaken at the time of the failure. Applying for a resource consent is not practical in such a situation. The rule also notes that limited notification of the Arowhenua runanga is likely to be required under this rule.

Similarly, any earthworks to re-instate farm infrastructure post a flood event would also require resource consent. Again, given the need to promptly re-instate infrastructure in such circumstances, it would not be practical to apply for a resource consent.

The Section 32 report for the SASM provisions notes that while, “*earthworks are more limited in the wai taoka and wahi taoka areas, there are exceptions for earthworks associated with maintenance and repair of existing fences, tracks and other activities. These exemptions should cover the majority of earthworks activities that are conducted in these areas. The earthworks rules in the Wai taoka overlay are similar to the earthworks standards in the current district plan rural 1 zones that require earthworks to be set back from rivers and wetlands, although it is acknowledged the proposed plan rules apply over a larger area*”.

For the Wai taoka area SASM23, these comments in the Section 32 report may downplay the significance of the rules within this SASM.

The Aoraki Environmental Consultancy report which the SASM chapter is based on notes, “*that the district plan must also include mechanisms to ensure that adverse effects on the values can be managed so that the relationship can be maintained and the values can be protected. The effectiveness of a plan in achieving this will depend on both the range of effects that are managed, and the strength of management imposed.*

*Direct consent requirements for activities that pose threats to significant areas enable stronger management and have the potential to be the most effective planning mechanism to protect the values of these areas. However use of this approach over broad areas can only be justified, in terms of benefits and costs, if it is appropriately targeted to activities that are highly likely to result in adverse effects.*

*Kati Huirapa recognise that the ability to manage effects, particularly the effects of earthworks and structures, needs to be balanced against the reasonable expectation of people to be able to undertake that activities provided for in the underlying zone.*

The Aoraki Environmental Consultant reply to the TDC post the draft district plan notes that, “*Arowhenua understands there may be a need for earthworks to occur within a SASM where there is a need to undertake remedial works. These earthworks would typically be carried out in areas that have already been disturbed when the original infrastructure was installed.*

*Arowhenua is concerned that enabling earthworks to proceed as a permitted activity within the SASM prevents Arowhenua from being involved in any discussions as to the scale, location and quantity of the works, and the potential effects of the works on the SASM. Without appropriate controls this poses a significant risk to the SASM. Arowhenua do not support these earthworks being a permitted activity within a SASM.*

*For earthworks to be a permitted activity with a SASM, these are limited to works associated with emergency management, and the repair of regionally or nationally significant infrastructure by a crown agency or council. Additionally, the works shall be for the purpose of:*

- *Maintaining, repairing and/or reinstating (not replacing) existing infrastructure where within the footprint or ground previously modified by the existing infrastructure, and an ADP form is used.*
- *Reinstatement is limited to the reinstatement of the existing infrastructure items on a like for like basis, within pre-event footprint and of the same or similar scale, and an ADP form is used.*
- *Replacement is not utilised in the wording of the rule. (On the basis that replacement could mean it is replaced adjacent or nearby, and may not be the same or similar scale).*

Enabling the repair and re-instatement of existing irrigation and house water pipelines and cables on a like for like basis as a permitted activity would be consistent with this.

Regarding remedial work following a flood event, the AEC report notes that, “*Arowhenua do not support the repairing of existing large scale infrastructure following a natural event that damages domestic and farming related infrastructure as a permitted activity if this requires extensive earthworks or infrastructure to be relocated or repositioned. A scale of works needs to be ascertained to prevent landowners undertaking the work on their own without input from suitability qualified experts*”.

In effect, resource consent for earthworks which are not permitted would need to be applied for and obtained in advance to authorise the required earthworks so that they could be undertaken as and when required. Given the requirements of the resource consent process, this also raises capacity and capability issues. Other methods could aid the desired outcomes. (Refer comments under the SASM policies).



There is also a risk that the required consents are not obtained. Not being able to obtain the required resource consents would be very significant for the farming operations being undertaken in the rural zone.

### Relief sought

Enable the repair and re-instatement of existing irrigation systems, and house water pipelines as a permitted activity on the same basis as for stockwater systems.

Enable earthworks for remedial works to reinstate on a like for like basis farmland and infrastructure following a flood event as a permitted activity. This avoids the need to determine an appropriate scale of works.

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### Point 44.10

**Section:** SASM – Sites and Areas of Significance to Maori

**Sub-section:** Rules

**Provision:**

SASM-R6 [Intensively farmed stock](#)

**Sentiment:** Oppose

**Submission:**

Rule SASM-R6 refers to intensively farmed stock. Within a Wai taoka intensively farmed stock is a restricted discretionary activity.

The Aoraki Environmental Consultant reply to the TDC post the draft district plan notes that Arowhenua support a (as initially proposed in the draft plan) non-complying activity status for intensively farmed stock, particularly within a SASM. A reason for this is that the runanga is seeking that both the Timaru District Council and Environment Canterbury appropriately protect SASM's. The runanga note that Environment Canterbury do not manage the full extent of culturally significant sites as Environment Canterbury do not manage those values that fall outside the bed of a waterbody. Because of this regional consents have not been an adequate forum for Arowhenua to raise matters of protecting SASM sites. Additionally, farming land use consents from Environment Canterbury may be a controlled activity with no assessment matters requiring cultural values to be considered.

We would note that resource consent applications to Environment Canterbury for farming, and other related activities, do require consultation with Arowhenua runanga. For example cultural assessments are required.

The council's Section 32 report notes that, "*The effect of the rule is very limited by the fact that most farms will have existing use rights to continue intensively farming stock. The spatial extent of the overlays further limits the effect of this rule*".

While existing use rights may authorise current intensively farmed stock, there can be uncertainty over time as to what may be authorised as farm management and practices can change from year to year. Further, while the spatial extent of the SASM overlays may limit the effect of this rule for some sites, other SASM's can cover a large extent, for example Wai taoka 23.

### Relief sought

Allow intensively farmed stock within Wai taoka areas as a permitted activity. Use other methods to protect cultural values.

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### Point 44.11

**Section:** NATC – Natural Character

**Sub-section:** Policies

**Provision:**

NATC-P4 **Preservation of natural character from inappropriate [subdivision](#), use and development**

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**Sentiment:** Amend

**Submission:**

Policy NATC-P4 refers to the preservation of the natural character values of the riparian margins. With regard to the Rangitata River, riparian margins are defined as being 100 metres from the bank edges of the river. This margin will in places include farmed land.

**Relief sought**

That the policy recognises there is farmed land within the riparian margin of the river as defined.

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**Point 44.12**

**Section:** NATC – Natural Character

**Sub-section:** Policies

**Provision:**

**NATC-P5**      **Anticipated activities in [riparian margins](#)**

**Sentiment:** Amend

**Submission:**

Policy NATC-P5 refers to the anticipated activities in the riparian margins. Similar to policy NATC-P4, there is farmed land with parts of the riparian margin. The policy does refer to enabling earthworks that are for the purpose of maintenance and repair of existing fences, tracks, roads, or for limited new fencing and tracks.

**Relief sought**

That the policy recognises there is farming within parts of the riparian margin of the river as defined.

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**Point 44.13**

**Section:** NATC – Natural Character

**Sub-section:** Policies

**Provision:**

**NATC-P6**      **[Buildings and structures in riparian margins](#)**

**Sentiment:** Amend

**Submission:**

Policy NATC-P6 refers to buildings and structures in the riparian margins. There are structures associated with farming activities within the riparian margins. (For example irrigators).

**Relief sought**

That the policy recognises there are existing structures within the riparian margin of the river. The policy could refer to new buildings and structures.

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**Point 44.14**

**Section:** NATC – Natural Character

**Sub-section:** Rules

**Provision:**

NATC-R3 [Earthworks](#)

**Sentiment:** Amend

**Submission:**

Rule NATC-R3 refers to earthworks in the riparian margin. Earthworks for the maintenance and repair of existing fences, tracks, roads or natural hazard mitigations works are a permitted activity. Earthworks to construct a new fence, or track up to three metres in width are also permitted. All other earthworks for farming related matters would be a restricted discretionary activity.

Given that there are existing farming activities within parts of the riparian margin, there is also existing infrastructure for irrigation and stockwater systems. Such systems can periodically require earthworks for maintenance and repair, or re-instatement.

There is also a flood risk within the riparian margins, and farmland with the riparian margin can at times require remedial work for reinstatement.

**Relief sought**

Enable the maintenance, repair and re-instatement of existing stockwater and irrigation systems (including associated structures) within the riparian margin as a permitted activity.

Enable earthworks within the riparian margin for remedial works to reinstate on a like for like basis farmland and infrastructure following a flood event as a permitted activity.

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**Point 44.15**

**Section:** LIGHT – Light

**Sub-section:** Rules

**Provision:**

<a href="#">Light Sensitive Areas</a>	<b>Activity status: Permitted</b>  <b>Where:</b>  <b>PER-1</b>  <a href="#">LIGHT-S1</a> and <a href="#">LIGHT-S2</a> are complied with; and  <b>PER-2</b>  The outdoor artificial lighting must:  1. be <a href="#">fully shielded</a> (see <a href="#">Figure 18 – Lighting Fixtures</a> ); and 2. have a colour corrected temperature of no greater	<b>Activity status when compliance not achieved:</b> <b>Non-complying</b>
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|  | than 3000K (warm white); and<br>3. be installed in a manner that precludes operation between 10pm and 7am the following day. |  |
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**Sentiment:** Amend

**Submission:**

Wai taoka sites are captured within the definition of light sensitive areas. Outdoor artificial lighting within light sensitive areas is permitted under rule 3 where the standards (S1 & S2) are complied with, and (among other matters) the lighting is installed in a manner that precludes operation between 10pm and 7am the following day. Where compliance is not achieved the activity status of the rule becomes non-complying.

Dairy sheds would have outdoor artificial lighting operating prior to 7am. This means that for dairy sheds within a Wai taoka site the outdoor lighting would be a non-complying activity. While the existing use provisions may authorise current lighting, any required changes may require resource consent as a non-complying activity.

The summary of threats and management needs for significant sites and areas listed within the AEC report on Sites and Areas of Significance to Maori listed disturbance of birds by night lighting within Wahi tapu and Wahi taoka sites, not Wai taoka sites. The preferred management approach is to restrict external lighting near habitat areas.

In the Section 32 report for the lighting provisions under the Approach to Evaluation (Page 20) notes that the degree of impact on/interest from Maori is of low significance. This seems at odds with the non-complying activity status.

**Relief sought**

In line with the approach in the AEC report, as and where appropriate the restrictions could be made specific to Waihi tapu and Wahi taoka sites, and bird habitat areas within those sites.