

BEFORE THE TIMARU DISTRICT COUNCIL

UNDER the Resource Management Act 1991

IN THE MATTER of the Proposed Timaru District
Plan – Hearing One: Introduction and General
Provisions and Strategic Direction

STATEMENT OF EVIDENCE OF RACHAEL ELIZABETH PULL

ON BEHALF OF TE RŪNANGA O NGĀI TAHU

(Submitter 185)

19 April 2024

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INTRODUCTION

1. My name is Rachael Elizabeth Pull.
2. I hold the qualifications of a Bachelor of Environmental Management (majoring in policy and planning) and a Postgraduate Diploma in Resource Studies from Lincoln University. I have been a full member of the New Zealand Planning Institute since 2015. I have completed the Making Good Decisions course.
3. I am employed by Te Rūnanga o Ngāi Tahu (Te Rūnanga¹) as a Senior Environmental Advisor - Planning in Te Ao Tūroa team. I have been in this position since October 2022.
4. I have over 15 years' experience in planning in New Zealand. I have worked for Whanganui, Far North and Thames-Coromandel District Councils as a planner, undertaking plan changes, bylaws and strategy development, resource consent drafting and processing as well as monitoring and enforcement work.
5. I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 and have complied with it in preparing this evidence. I confirm that the issues addressed in this evidence are within my area of expertise and I have not omitted material facts known to me that might alter or detract from my evidence. The issues addressed in this statement of evidence are within my area of expertise except where I state that I am relying on the evidence or advice of another person. The data, information, facts and assumptions I have considered in forming my opinions are set out in the part of the evidence in which I express my opinions.
6. My evidence primarily addresses the submissions of Te Rūnanga o Ngāi Tahu (submitter 185), who as a representative of Ngāi Tahu Whānui in this

¹ Te Rūnanga o Ngāi Tahu utilise the general 'ng' dialect as Te Rūnanga represent all Ngāi Tahu rūnanga and the use of the 'k' dialect is limited to the southern rūnanga only.

process seek to express the views of Te Rūnanga o Arowhenua who are mana whenua of the Timaru District, who are referred to in my evidence as **Ngāi Tahu**² for readability purposes. I contributed to the primary submission and further submissions on the Plan.

7. When referring to provisions within the proposed Timaru District Plan (**the Plan**) relating to Te Rūnanga o Arowhenua I have used the term of **Kāti Huirapa** for readability purposes.
8. My planning evidence is to be read in conjunction with the cultural evidence of Mr John Henry.
9. The key documents I have referred to in drafting this brief of evidence are:
 - (a) The Resource Management Act 1991 (**RMA**);
 - (b) Te Rūnanga o Ngāi Tahu Act 1996 (**TRoNT Act**);
 - (c) Ngāi Tahu Claims Settlement Act 1998 (**NTCSA**);
 - (d) Iwi Management Plan of Kāti Huirapa `992 (**IMP**);
 - (e) Canterbury Regional Policy Statement 2013 (**CRPS**);
 - (f) Proposed Timaru District Plan Section 42A report Part One and Overarching Matters, Alanna Hollier circulated 8 April 2024; and
 - (g) Proposed Timaru District Plan Section 42A report Strategic Directions and Urban Form and Development, Andrew Willis circulated 8 April 2024.

² For consistency, this evidence will be written with the 'Ng' dialect, except when referring to a direct plan provision, where the local 'K' dialect will be used. E.g.: Ngāi Tahu/Kāi Tahu

SCOPE OF EVIDENCE

10. My evidence:

- (a) Outlines the key themes raised in the submission and further submissions by Ngāi Tahu, including the RMA framework, relationship between mana whenua and the Crown and kaitiakitanga.
- (b) Acknowledges Ngāi Tahu general support for the Plan and the process as a whole;
- (c) Provides clarification of submission points relating to the Introduction and General Provisions and the Strategic Direction; and
- (d) Addresses the recommendations in the section 42A reports where they deviate from the Ngāi Tahu submission.

SUMMARY

- 11. In relation to **the Plan**, Ngāi Tahu made a submission and further submissions in general support of the notified version except where specific changes were requested. The submission generally sought to retain the notified version of the provisions but provided some further refinement of identified provisions in order to better achieve better integration of cultural values across **the Plan**.
- 12. The specific focus of the submission and further submission is to support Timaru District Council in recognising and providing for Ngāi Tahu values relating to te taiao. As kaitiaki, Ngāi Tahu have the responsibility to ensure that the Ngāi Tahu takiwā is left to the future generations in a better state than it currently is.
- 13. Overall, I generally agree with proposed direction set out in the section 42A reports prepared for this hearing and the direction within. I have however, made comment on identified provisions where the hearings panel (**Panel**) may wish to consider other factors.
- 14. A full summary of the Ngāi Tahu submissions that are addressed by my evidence in relation to this hearing and the references to the section 42A report is contained in **Appendix One** of this evidence. A full list of recommended changes can be found in **Appendix Four**.

RELEVANT STATUTORY DIRECTION

The Resource Management Act 1991 (RMA)

15. As this is the start of the hearings process, I have chosen to do some “scene setting” to provide the panel with a legislative foundation for our submission. Starting with section 5, the sustainable management purpose of the RMA includes the management of natural and physical resources in a way, or at a rate, that provides for current and future generations. The balance of the Part 2 provisions (i.e. sections 6, 7 and 8) identify specific matters that are relevant to achieving that overarching purpose. The following Part 2 matters are of particular relevance to Ngāi Tahu’s interests in relation to this hearing:
 - (a) Identification of where the Strategic Objectives and Part One provisions can be used to address several matters of national importance (s6(a), (b), (c), (d), (e) and (f) RMA).
 - (b) The Strategic Objectives provide a mechanism to have particular regard to s7(a), (c), and (f) RMA; and
 - (c) The Strategic Objectives and part 1 provisions take into account the principles of the Tiriti o Waitangi (the Treaty of Waitangi) in decision making (s8 RMA).
16. In relation to s6(a), this is established through the New Zealand Coastal Policy Statement 2010 (**NZCPS**) which recognises the cultural values of the coastal landscape to Tāngata Whenua. For example, Objective 3, and various policies in the NZCPS recognise that the coast has particular importance to Tāngata Whenua, including as kaitiaki. The mana whenua (SD-O5) or natural and historic environment (SD-O2) strategic objectives are one tool to implement these NZCPS provisions and section 6(a).
17. In relation to s6(b), best practice requires consideration of Tāngata Whenua associations and values as being part of an outstanding natural landscape. The natural and historic environment (SD-O2) strategic objective focuses on protection from inappropriate use which could include uses that adversely impact those identified values.
18. In relation to s6(c), the Ngāi Tahu Claims Settlement Act 1998 (**NTCSA**) has recognised that particular indigenous vegetation and fauna are recognised as

Taonga Species with cultural and spiritual value. The natural and historic environment (SD-O2) strategic objective focuses on recognition, protection and enhancement of values. This is also consistent with the National Policy Statement on Indigenous Biodiversity in regard to 'acknowledged taonga'.

19. In relation to s6(d), the Plan predominantly manages public access through Community and Open Space (SD-010) strategic objective. Access to mahinga kai locations and waterbodies is also recognised in the mana whenua (SD-O5) strategic objective.
20. In relation to s6(e), the mana whenua (SD-O5) strategic objective is proposed by the Plan to recognise and provide for the historic and contemporary relationship between Kāti Huirapa and the natural and spiritual world.
21. In relation to s6(f), Sites and Areas of Significance to Māori (SASM) are part of the RMA definition of Historic Heritage. Therefore, the natural and historic environment (SD-O2) strategic objective is also a tool to recognise and protect SASM and the recognised values on them.
22. In relation to s7(a) the mana whenua (SD-O5) strategic objective acknowledges Kāti Huirapa and their kaitiakitanga responsibilities.
23. In relation to s7(c) the mana whenua (SD-O5), centres (SD-O7) and settlement patterns (UFD-O1) strategic objectives seek to maintain amenity values identified. Amenity values include the cultural attributes of an area.
24. In relation to s7(d) the natural and historic environment (SD-O2) and mana whenua (SD-O5) strategic objectives maintain and enhance the quality of the environment which includes the natural and physical qualities, the amenity values and the cultural values of Ngāi Tahu.
25. In relation to s8 the provisions acknowledge the following principles of the Treaty:
 - (a) Retention of rangatiratanga: The objectives clearly acknowledge Kāti Huirapa rangatiratanga over the Timaru District.

- (b) Duty of active protection: The mana whenua chapter and the strategic objectives are a form of active protection of particular lands and waters.
 - (c) Duty to Consult: The mana whenua chapter and mana whenua (SD-O5) strategic objective helps Timaru District Council make informed decisions during consideration of resource consent applications and if consultation with Kāti Huirapa is required.
26. Central Government has also legislated Customary Fishing Protection Areas within the Timaru District as part of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. The access, maintenance and enhancement of these areas and the biodiversity within, are provided for through the Plan provisions to recognise and provide for the purpose and principles of Part 2 of the RMA.
27. As is described in the evidence of Mr John Henry, the Timaru District is the ancestral land of Ngāi Tahu. This includes the waters (wai), and wāhi tupuna, wāhi tapu and wāhi taonga.

Te Rūnanga o Ngāi Tahu Act 1996 (TRoNT Act)

28. Again, as scene setting, the TroNT Act provides for the modern structure of Ngāi Tahu. Te Rūnanga o Ngāi Tahu (Te Rūnanga) is the collective of eighteen Papatipu Rūnanga, which are regional bodies that represent local views of Ngāi Tahu Whānui. Section 15(2) states that:
- “Where any enactment requires consultation with any iwi or with any iwi authority, that consultation shall, with respect to matters affecting Ngāi Tahu Whānui, be held with Te Rūnanga o Ngāi Tahu.”³*
29. In turn Section 15(3)(a)-(c) requires Te Rūnanga, in carrying out consultation, to:
- (a) seek views of Papatipu Rūnanga;
 - (b) have regard to those views; and
 - (c) act in a manner that will not prejudice or discriminate against any Papatipu Rūnanga.

³ Section 15(2) Te Runanga o Ngai Tahu Act 1996

30. The Ngāi Tahu takiwā is described in Section 5 of the TRoNT Act. In general, it covers Te Waipounamu with the exception of an area in the Tasman/Marlborough regions. It covers the entire area managed by the Plan. A map is attached in **Appendix Two**.
31. Pursuant to section 10 of the TRoNT Act, the Te Rūnanga o Ngāi Tahu (Declaration of Membership) Order 2001 was made. The Schedule to that Order identifies the only Papatipu Rūnanga who represent the Tāngata Whenua interests of Ngāi Tahu within Timaru are Te Rūnanga o Arowhenua.
32. I also note that through section 35A(2), the Crown must provide the Council with information on iwi or groups that exercise kaitiakitanga within that region or district. The Ministry of Māori Development has created a directory of Iwi and Māori Organisations⁴ for the purposes of implementing this section of the RMA. It solely recognises Ngāi Tahu as the relevant iwi authority with Te Rūnanga o Arowhenua listed as the Papatipu Rūnanga for the Timaru District that the Council must consider in implementing the RMA.

Ngāi Tahu Claims Settlement Act 1998 (NTCSA)

33. One of the most important aspects of the Crown's settlement with Ngāi Tahu was a formal apology by the Crown. The wording was given much thought by both parties. The Crown included a formal apology as part of the Deed of Settlement and the NTCSA to acknowledge that Ngāi Tahu suffered grave injustices that significantly impaired its economic, social and cultural development. The Apology acknowledged that Ngāi Tahu is recognised "*as the tangata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui.*"
34. It is essential that the Ngāi Tahu settlement is understood to be more than Statutory Acknowledgements and Nohoanga Entitlements and that its relevance towards building a future for tangata whenua within RMA documents is acknowledged.

⁴ Te Kāhui Māngai which can be accessed from: <https://www.tkm.govt.nz/region/waipounamu-rekohu-wharekaui/>

35. Statutory Acknowledgements⁵ are an instrument included in the NTCSA legislation. Statutory Acknowledgements are areas of particular significance to Ngāi Tahu. Each Statutory Acknowledgment is in respect of a defined area and has a corresponding statement of their significance contained in a Schedule to the NTCSA. Section 211 states that Ngāi Tahu may use Statutory Acknowledgements in Environment Court proceedings as evidence of Ngāi Tahu's association with the identified statutory area.
36. Nohoanga⁶ entitlements are also provided under the NTCSA. Nohoanga are located on Crown owned land and provide Ngāi Tahu Whānui with the right to temporarily occupy land close to waterways to have access to mahinga kai. Nohoanga are one method which provides for the ongoing relationship of Ngāi Tahu with the area.
37. The NTCSA identifies the following Statutory Acknowledgement and Nohoanga Entitlements within the Timaru District:
- (a). Statutory Acknowledgements
- Rangitata River⁷
 - Ōrakupaoa Wetland⁸
- (b). Nohoanga Entitlements⁹
- Tengawai River
 - Pareora River (boundary)
38. For clarity, I note that the above mechanisms acknowledge the relationship between Ngāi Tahu and the Ngāi Tahu values associated with those areas. The mechanisms themselves do not provide protection of those values as such, and it is the role of planning documents to incorporate them into plans and to recognise and provide for those values.

⁵ NTCSA sections 207 and 208 and RMA section 95E(2)

⁶ NTCSA sections 255-268

⁷ Schedule 55 NTCSA

⁸ Schedule 49 NTCSA

⁹ Schedule 95 NTCSA

Canterbury Regional Policy Statement (CRPS)

39. The RMA requires Environment Canterbury (**ECan**) to provide broad direction and framework for RMA issues within the region in its CRPS. It cannot contain rules. The plan must give effect to the CRPS.
40. The chapters and the objectives and policies within the CRPS are meant to be read together. Chapter 2- Issues of Resource Management significance to Ngāi Tahu states in its introduction that the chapter is not read in isolation from the other CRPS chapters. Some of the issues identified in Chapter 2 that are relevant to this hearing include:
- (a) Land-use and infrastructure (including policy and planning provisions for papakāinga zoning and housing)
 - (b) Historic heritage (including access and recognition of sites of cultural significance)
 - (c) Natural hazards (including mitigation resulting in adverse effects on values important to Ngāi Tahu)
41. The CRPS also states that the Council will:
- “4.15 Include provisions for the relationship between Ngāi Tahu, their culture and traditions, and their ancestral lands, water, sites, wāhi tapu and other taonga within district plans”¹⁰.*

GENERAL COMMENT

42. I note the Ngāi Tahu submission and further submission provides an overall high level of support for the Plan as notified. I note that the section 42A reports for the introduction and general provisions largely aligns with the submission of Ngāi Tahu. The high degree of support likely reflects the Council relationship with Kāti Huirapa.
43. I have combined my evidence for both s42A reports to prevent repetition of parts of my evidence.

¹⁰ Page 41 Canterbury Regional Policy Statement. July 2021.

PART 1 AND OVERARCHING MATTERS S42a REPORT

Introduction

Submission no. 185.9, 185.1 (FS in support by Waipopo Huts Trust)

44. I support the recommendations in the s42A report in relation to the Introduction and How the Plan Works Chapters. I have no further comments to make on this these submission points.

Definitions

Submission no. 185.12, 185.13, 185.14,

Further submissions on: 240.2, (The Office of the Māori Trustee), 187.6, 187.14 (KiwiRail)

45. I support the recommendations in the s42A report in relation to correcting the definitions of Kāti Huirapa and Kāi Tahu. These changes make them more consistent with the NTCSA.
46. I suggest that consideration of ‘Noise Sensitive Activities’ submission point by Ngāi Tahu is potentially best made in the hearing where the noise provisions are considered. I will however discuss the matters here for completeness.
47. Ngāi Tahu further submitted in opposition to expanding the definitions of ‘noise sensitive activities’ and ‘sensitive activities’. As noted in paragraph 219 of the s42A report, if all the submissions to add activities to the definition of sensitive activities were accepted, then all activities in zones like the Māori Purpose Zone would require a resource consent. I agree that this is not the intent of these provisions.
48. “Sensitive Activities’ is defined in the National Policy Statement on Electricity Transmission (NPS-ET) 2008 as: *‘include[ing] schools, residential buildings and hospitals’*. ‘Sensitive activities’ is used in policy 6 of the NPS-ET with regard to reducing existing adverse effects when upgrading transmission infrastructure. In Policies 7 and 8 the term is used to avoid adverse effects on existing sensitive activities. From this national direction, I understand the intent of defining sensitive activities is about shaping the activity to minimise impact on these activities, not preventing activities on adjoining/surrounding

land or shifting the costs of compliance onto existing sensitive activities that were in place prior to the infrastructure being constructed or upgraded.

49. Within the Plan, I interpret the use of sensitive activities terminology as referring to stopping the sensitive activities from establishing where the effects on these activities cannot be mitigated. Paragraph 219 of the s42A report goes into detail on where the term is applied. I agree there is merit in applying this method to regionally significant infrastructure, which due to its purpose, scale and inability to relocate, has the potential to impact sensitive activities. However, I recommend that caution is applied when trying to control activities other than infrastructure, particularly private businesses which have the duty to avoid, remedy or mitigate adverse effects (s17 RMA). With improvements in technology and engineering designs, infrastructure can be improved over time to reduce their operational effects on the surrounding environment. The present wording of the Plan is implying that adjoining landowners and/or the public are the ones being penalised for using their own land as they choose. I am not sure if this was the intended outcome sought by Council.
50. The adverse effects mentioned in the report that sensitive activities will be protected from include:
- (a) Noise (covered by the 'noise sensitive activity' definition and the permitted standards for the noise of rural activities and infrastructure in NOISE-R1);
 - (b) Smell (this is a Regional Council function and not relevant to the Timaru District Plan); and
 - (c) Privacy (this is provided for by the boundary setbacks/maximum height limits for the zones).
51. Therefore, the remedy sought is:
- (a) That 'sensitive activities' applies only to regionally significant infrastructure.
 - (b) Provisions that relate to sensitive activities outside of regionally significant infrastructure are re-written to consider reserve sensitivity effects on the activity and not burden the adjoining landowners.

52. Ngāi Tahu submitted in opposition to the submission to define and refer to “Ancestral Lands”. The term is referred in the Plan because s61 refers to ancestral lands. The High Court concluded in 1987 that Māori ancestral land is land which has been owned by ancestors¹¹. Mr Henry’s evidence provides a discussion on the history of the Timaru District in his evidence; therefore, I direct any questions on the ancestral ownership of Timaru District land.
53. I recommend avoiding the use of this term as it creates an unnecessary criterion for Kāti Huirapa to justify (that its ancestral land to the applicant), for Council to accept (placing additional specialist work on themselves to verify and acknowledge) and because in the case of Timaru, it applies to the entire district and therefore provides no further clarity. I support the recommendation of the s42A report in paragraphs 255-257 to remove the term.
54. The Māori Trustee also states that ‘Ancestral lands’ and ‘Māori Land’ are used interchangeably. For clarity, Māori Land is a legal term that applies to a surveyed piece of land. Consequently, the definition changes in scope depending on the legalisation referred to at any given time¹². Land can also be removed from the Māori Land register and lose its definition as Māori Land; however, ancestral land does not stop being land that was formally owned by ancestors. I support the definition of Māori Land used in the Plan.
55. The s42A report notes that this issue will come up in other hearings for different sections on the Plan. My recommendation is to continue with the definition in the notified Plan as it is tailored to fit the circumstances of the Timaru District and the aspirations of Kāti Huirapa. When considering the implementation of the National Policy Statement for Indigenous Biodiversity, this may include the inclusion of the “Specified Māori Land” definition which can be noted as applying only to the Ecosystems and Indigenous Biodiversity chapter.

¹¹ Royal Forest and Bird Protection Soc v Habgood Ltd [1987] 12 NZTPA 76. Accessed from Thomson Reuters Westlaw on 26 September 2023 from [Royal Forest and Bird Protection Society Inc v W A Habgood Ltd | Cases | New Zealand | Westlaw \(thomsonreuters.com\)](https://www.thomsonreuters.com/au/au/cases/nz/royal-forest-and-bird-protection-society-inc-v-w-a-habgood-ltd/)

¹² Forestry Act, National Policy Statement for Indigenous Biodiversity, Te Ture Whenua Māori Act 1993.

56. Remedy Sought:
- (a) That provisions throughout the plan are not limited by the need to prove the sites are 'Ancestral Land'.
 - (b) The difference between Māori Land as defined by this Plan, Māori Land in different pieces of legislation and Ancestral Land is clarified and this is applied on a case by case basis.

Mana Whenua Chapter

Submission no. 185.25, 185.24, 185.26, 185.27, 185.28, 185.29, 185.3, 185.31, 185.32, 185.33, 185.34, 185.35

57. I acknowledge the relationship between Timaru District Council staff and Arowhenua provided the opportunity for me to join a pre-hearing meeting on the submissions relating to the Mana Whenua Chapter and provide additional context to the submissions.
58. Following the meeting, the only submission point not accepted in the s42A report was submission 185.24 (paragraphs 338-340) in relation to using 'mana whenua' instead of 'Māori'. This submission point seeks specificity when it comes to the local application of the RMA provisions. The RMA uses the term 'Māori' because it applies at the national scale. The Plan only applies to Kāti Huirapa for these provisions, and as such. the submission seeks the inclusion of Kāti Huirapa (as the exact group) for clarity and ease of implementation. The submission applies to section MW1 which has the title 'Identity of Kāi Tahu and Kāti Huirapa in Timaru District'. In my opinion, the title provides the clarity sought by Ngāi Tahu as it makes clear that the provision applies solely to Kāti Huirapa.
59. There are submissions relating to other chapters which seek to include 'Māori landowners', who for various reasons are not recognised as Kāti Huirapa. For clarity, provisions relating to mana whenua and holding the rangatiratanga over the Timaru District and beyond should solely apply to Kāti Huirapa.
60. I consider the enablement of Māori Land/providing for Māori is a separate issue as not all Māori Landowners are mana whenua. The NTCSA is a

statutory and binding recognition by the Crown and Parliament as the supreme lawmaker of the takiwā in which Ngāi Tahu exclusively holds rangatiratanga and is the Tāngata Whenua of. Therefore, I recommend that application of these terms is carefully applied based on its purpose.

HEARING REPORT 2: STRATEGIC DIRECTIONS AND URBAN FORM AND DEVELOPMENT

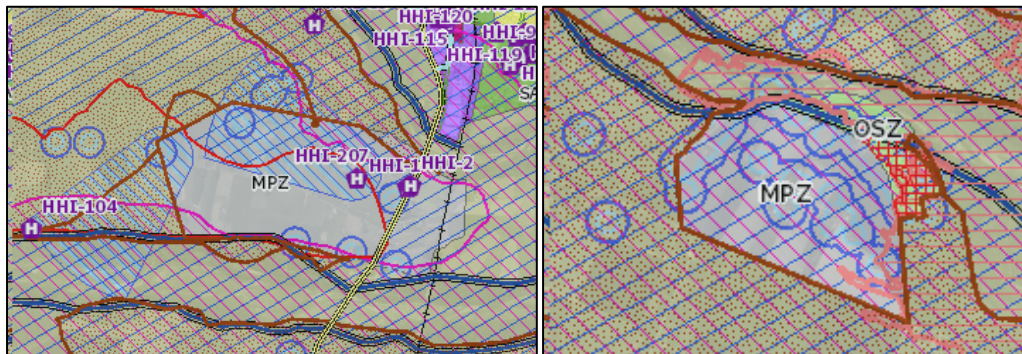
Introduction/General Comments

Submission no. 185.16, 185.15

61. I agree with the s42A report at paragraphs 53-55 that 'Treaty Obligations' apply regardless of the Strategic Direction; however, as noted in paragraphs 15 of this evidence, Council's 'obligations' to mana whenua in relation to the RMA are significantly wider than just section 8 of the RMA. I consider it is advantageous for the Council to reference Iwi Management Plans (**IMP**) along with the Growth Strategy in the Introduction section as it will provide for greater context and background information to Plan users and demonstrates compliance with 4.17 of the CRPS¹³. It would also help address the concern about applying mana whenua values within the other strategic directions.
62. The Ngāi Tahu submission questioned the application of the Mana Whenua Strategic Direction and its weight in relation to the other objectives of the strategic direction chapter. The purpose of the submission was to provide as much clarity to the Plan users as possible by noting within the strategic objectives for the various topics where there are mana whenua values to consider and how this will be implemented. The submission recommended amending the other strategic objectives (in particular SD-O2 Natural and Historic Environment) to consider mana whenua values where there was context to.
63. This submission was rejected in paragraph 37 of the s42A report, however the submission by Transpower (s159.35) which was accepted, has addressed this issue in part, by amending the Plan to note the lack of hierarchy between the strategic objectives or with the objectives and policies of the Plan which I support.

¹³ Page 41: Territorial authorities, in order to give effect to their functions under the RMA will: ... 4.17 Take into account iwi management plans during plan development. Canterbury Regional Policy Statement.

64. I acknowledge that the circumstances of an application and the scale of any activity will create the hierarchy of effects and provisions to be considered. However, I remain unconvinced that a sole clause in the Mana Whenua Strategic Objectives will be given equal or greater weight than the combined provisions of all the Strategic Directions.
65. To analyse this for the purpose of this evidence, I have undertaken an assessment using the feasible activity of a papakāinga development on Māori Purpose Zone land as my test case. This assessment of the Strategic Directions against this scenario is included in **Appendix Three**.
66. For reference, below is a screenshot of the District Plan map that shows the Māori Purpose Zone in grey surrounded by the General Rural Zone, versatile soils, Regional Infrastructure (including a Flight Path Protection Area not shown), Hazards, Heritage Items and Drinking Water Protection Areas.



Figures 1 and 2: Notified Timaru District Plan maps of the Māori Purpose Zone with the Infrastructure and Transport, Hazards and Risks, Natural Hazards, Heritage Item and Other District Wide Matters overlaid.

67. As you can see in figures 1 and 2 above, there is very little Māori Purpose Zoned land that is not subject to additional restrictions due to overlays and adjoining activities such as infrastructure which are covered by the other strategic directions in the chapter.
68. The conclusion I come to after considering a papakāinga activity in the Māori Purpose Zone highlights a common situation with Māori Land. Despite the enabling direction proposed by Council for the Māori Purpose Zone and the

Strategic Direction for Mana Whenua, when it is overlaid with the other provisions of the Plan, the outcome is not enablement, but uncertainty.

69. I support the Council in its attempts to address the long standing and well documented issues with enabling Māori Land, however to ensure this direction is not minimised in the large number of issues this Plan must address, I recommend the following amendments to the Introduction:

(a) Reference to and direction to consider the IMP. This allows more recognition as another planning document to be considered as part of the s104 assessment. A direct reference carries more weight than an implied one.

(b) An advice note under the Strategic Direction O-5 (Mana Whenua) that states:

Advice Note: This Strategic Direction applies District Wide and contains direction that applies to the implementation of other Strategic Directions.

70. My recommendations on how to enable Māori Land within the particular provisions of the Strategic Directions are below.

SD-O1: Residential areas and activities

Submission no. 185.17 (Further submissions in support by McKnight, MFL Ltd, O'Neill, Johnston)

71. The s42A report response (paragraph 73) to the Ngāi Tahu submission relies on the Māori Reserves (an undefined term) and the Māori Purpose Zone to enable development and counter the wording of SD-O1 as opposed to clarifying within SD-O1 that growth can occur in the Māori Purpose Zone. I remain concerned that the Māori Purpose Zone would not achieve this outcome based on the potentially contradicting language used in the two strategic objectives.

72. To provide for certainty and enablement, I recommend that either the Māori Purpose Zone is added to the existing list in clause 1, and/or that a new clause is considered to be able to consider locations not identified in clause 1.

73. Remedy sought for SD-O1:

1. *There is sufficient residential development capacity in existing and proposed urban areas to meet demand and household choice, provided through:*

- a. the use of existing zoned greenfield areas;*
- b. a range of densities in existing urban areas; and*
- c. higher residential densities in close proximity to the Timaru and Geraldine town centres, and Highfield Village Mall;*
- d. the new Future Development Areas identified for the General Residential Zone.; and*
- e. the use of land zoned Māori Purpose Zone.*

...

5. *New residential development and choices are considered against the Strategic Directions and Growth Strategy.*

SD-O2: The natural and historic environment

Submission no. 185.18

74. As noted in paragraphs 15-21 of this evidence, many of the values to be protected and managed by SD-O2 are directly related to mana whenua values and matters of national importance. The Ngāi Tahu submission sought clarification and cross referencing to ensure clarity to the Plan user. The s42A report rejects this submission stating that SO-O5 contains relationship provisions and therefore recognition in this direction is not required. I have sought to improve the ability to implement this by recommending the addition of an advice note to SD-O2.

75. As well as the lack of clarity, my concern is also that Historic Heritage provisions traditionally have stronger provisions in District Plans than provisions implementing s6(e) (providing for the relationship) due to the use of 'protect' in the statement. The RMA definition of Historic Heritage includes SASM. Case law in relation to Outstanding Natural Landscapes includes Tangata Whenua values and the NTCSA clearly identifies taonga species. All these issues are addressed by this strategic direction.

76. Therefore, I seek that it is clearly communicated to the Plan user in SD-O2 that there are mana whenua values to be considered when implementing this strategic direction. As well as the advice note to SD-O5, I recommend the following minor changes to SD-O2.

77. Remedy sought:

The District's natural and historic environment is managed so that:

- 1. the health and wellbeing of the community are recognised as being linked to the natural environment;*
- 2. an integrated management approach is adopted that recognises that all parts of the environment are interdependent (Ki uta ki tai);*
- 3. the natural character of the coastal environment, wetlands and waterbodies is preserved and protected from inappropriate subdivision, use, and development;*
- 4 the values of important landscapes and features are protected from inappropriate subdivision, use, and development;*
- 5. indigenous biodiversity and access to it, is maintained and enhanced and restored where necessary so that there is at least no overall loss;*
- 6. significant indigenous vegetation and significant habitats of indigenous fauna are identified and their values recognised, protected and where appropriate, enhanced and used, and where ecological integrity is degraded, restored;*
- 7 the life-supporting capacity of ecosystems and resources is safeguarded for future generations; and*
- 8 the important contribution of historic heritage to the District's character and identity is recognised, and significant historic heritage [retain hyperlink to RMA definition] and its values are protected from inappropriate subdivision, use, and development.*

SD-O4: Natural hazards

Further Submission on 196.17 (Fuel Companies)

78. As noted in paragraph 66 of this evidence, the Māori Purpose Zone is subject to significant natural hazards and policy overlays. This is the key reason for Ngāi Tahu further submission in support of the expansion of the strategic

direction for natural hazards to consider the impacts and issues associated with recovery and wellbeing.

79. The strategic directions are there to give effect to relevant higher order documents such as national policy statements and provide a basis for how decisions relating to resource use will be made in the District over the life of the Plan.

80. The strategic direction for Natural Hazards (SD-O4) currently reads:

Natural hazards risks are addressed so that:

1. *areas subject to natural hazards and risk are identified;*
2. *development is avoided in areas where the risks of natural hazards to people, property and infrastructure are assessed as being unacceptable; and*
3. *for other areas, natural hazards risks are appropriately mitigated.*

81. The proposed National Policy Statement for Natural Hazard Decision-making (**NPS-NHD**) 2023 is intended to apply to planning decisions that result in or enable new development. It is directed at decision-makers who exercise functions or powers under the RMA and will therefore apply to the Council when it comes into force.

82. The discussion document identifies the same issue as the submission:

“Consideration of natural hazard or climate change impacts on hapū, iwi and Māori is insufficient¹⁴”.

“Remaining Māori land is disproportionately exposed to natural hazard risk, and developing Māori land can be challenging. The proposed NPS-NHD seeks to acknowledge and deliver on the Treaty of Waitangi principles of active protection and tino rangatiratanga by requiring decision-makers. It will do this by requiring decision-makers to engage early and involve tangata whenua (through existing resource management

¹⁴ Page 15 Proposed National Policy Statement for Natural Hazard Decision-making. September 2023.

*processes) when making decisions on new developments on specified Māori land where a high or moderate risk exists.*¹⁵

83. It further states that about 80% of the 800 Marae in New Zealand are in low lying coastal areas or near flood prone rivers. It recommends a direction that requires decision makers to engage early and involve tangata whenua when making decisions on new development in natural hazard areas in order to take into account the principles of the Treaty. This is similar to SD-O5(7); however, I remain concerned about the clarity to Plan users and decision-makers that they will need to link the Mana Whenua clause and the Natural Hazard Strategic Direction together. At present, this is unclear.
84. It is arguable as to the extent to which the Plan must take into account a proposed National Policy Statement. Section 32 of the RMA requires an evaluation as to the extent to which the Plan is the most appropriate way to achieve the purpose of the RMA, identify other reasonably practical alternatives and whether the provisions are the most efficient and effective way of achieving the objectives. The NPS-NHD provides an alternative solution to the notified provisions.
85. My interpretation of the s42A report analysis on the Ngāi Tahu submission (paragraph 137) was that it accepted the issue put forward but did not have a solution that did not create a greater exposure to risk for mana whenua. It recommended an assessment matter in the Natural Hazards Chapter to be determined at that hearing in which Natural Hazards will be discussed.
86. I recommend that an early adoption of the NPS-HND provides this solution as well as prevents the issue being re-notified in the future when the NPS-HND is adopted.
87. Policy 2 of the NPS-NHD sets out how decision-makers are to determine a natural hazard risk. They are required to consider as follows:

Policy 2 When determining natural hazard risk, decision-makers are to consider:

¹⁵ Page 6 Proposed National Policy Statement for Natural Hazard Decision-making. September 2023.

- (a) *first, the likelihood of a natural hazard event occurring (either individually or in combination) and the consequences of the natural hazard event occurring, including potential loss of life, serious injury, adverse effects on the environment, and potential serious damage to property and infrastructure; and*
- (b) *second, tolerance to a natural hazard event, including the willingness and capacity of those who are subject to the risk (such as a community, Māori, or the Crown) to bear the risk of that natural hazard (including its cost) and any indirect risks associated with it.*

88. In relation to determining what the tolerance to a natural hazard event, Policy 7 of the NPS-NHD is relevant.

Policy 7: Māori and, in particular, tangata whenua values, interests, and aspirations are recognised and provided for, including through early engagement, when making decisions on new development on specified Māori land where there is a high or moderate natural hazard risk.

89. Therefore the remedy sought for SD-O4 is:

Natural hazards risks are addressed so that:

1. *areas subject to natural hazards and risk are identified as follows;*
 - (i) the likelihood of a natural hazard event occurring (either individually or in combination) and the consequences of the natural hazard event occurring; and*
 - (ii) the tolerance and ability to recover from to a natural hazard event.*
2. *development is avoided in areas where the risks of natural hazards to people, property and infrastructure are assessed as being unacceptable; and*
3. *for other areas, natural hazards risks are appropriately mitigated. and*
4. *decisions on acceptable levels of risk of Natural Hazards for the Māori Purpose Zone need to incorporate mātauraka.*

90. The above version of SD-O4 gives better effect to the purpose of the RMA because it gives effect to a proposed National Policy Statement as well as being consistent with Part 2 matters. It is a more efficient and effective way of making the Plan, because the Plan will likely have to be changed anyway

when the proposed NPS-NHD comes into effect. Therefore, it is a better use of resources to update the provisions of SD-O4 during this plan review process.

SD-O5 Mana whenua

Submission 185.2

Further submission opposing 240.4 (The Office of the Māori Trustee) and 181.22 (OWL)

91. The position in the s42A report (paragraph 73) is that growth is identified for Mana Whenua in Strategic Direction SD-O5. It states:

Māori reserve lands are able to be used by Kāti Huirapa for their intended purposes;

92. For clarity, the correct and defined term within the Plan is “Māori Land”.

93. I also recommend the removal of ‘intended purpose’ as it is vague and open to interpretation. To a Plan user unfamiliar with the values held by Kati Huirapa, ‘intended purpose’ could be taken to mean permitted activities, which I’m sure is not the Council’s intention. The removal of the phrase would enhance the readability of the provision for Plan users and make implementation easier for Council staff.

94. The s42A report has recommended only one change to the notified version of this strategic direction. This was to limit one of the provisions to provide for Kāti Huirapa access to ‘where appropriate’ (paragraph 153).

Notified Version:

Kāti Huirapa retains, and where appropriate is able to enhance access to their sites and areas of significance

S42A recommendation:

Where appropriate, Kāti Huirapa retains, and ~~where appropriate~~ is able to enhance access to their sites and areas of significance

95. The reason given in the submission is health and safety. Yet in paragraph 154, the s42A report notes that landowner permission is required for access

and development, which would also address this concern. I also note that this provision is focused on retaining access, not new access being granted implying that the landowner has already agreed, or it is land owned by Kāti Huirapa.

96. Similar to the use of the term ‘unacceptable’, the term ‘where appropriate’ is not limited to health and safety. The wording as it currently reads, ‘existing access’ could be lost for any number of reasons, especially when read in conjunction with other Strategic Directions. I note that the same recommendation has been applied to public access in SD-O10 for similar reasons, but it is still not clear that the limitation of ‘appropriate’ relates solely to public health when reading the Plan.
97. The reasoning taken in the s42A report for the change includes consistency with the notified provisions of the chapters. My concern with this reasoning is that it could create a pre-determined position, as future changes proposed to the SASM chapter (at a future hearing) may unintentionally result in inconsistencies with the Strategic Direction. I propose basing the decision on the documents that the Plan are required to adhere to, such as the CRPS which seeks to *provide for Ngāi Tahu access to areas and sites associated with mahinga kai, wāhi tapu and wāhi taonga*¹⁶ may provide better guidance and direction.
98. The other part of the Ngāi Tahu submission related to relating to this strategic direction sought to provide more context on how the Plan should provide for the relationship of Kāti Huirapa and their culture and traditions. The submission is discussed in paragraph 155 of the s42A report. I am concerned that the submission point by Ngāi Tahu has not been fully understood in relation to the use of the term “cultural resources”. ‘Cultural resources’ in the context used in the submission, mean the materials used in customary activities, including mahinga kai. It can also mean resources such as storytelling and the use of placenames to enhance a sense of place and amenity for Kāti Huirapa. I have proposed a new clause to help clarify this by using the RMA definition of ‘amenity’ as they includes cultural attributes.

¹⁶ Page 31 Issues of Significance to Ngāi Tahu relevant to the Canterbury Regional Policy Statement.

99. Therefore, I seek the following remedies to SD-O5 Mana Whenua:

The status of Kāti Huirapa is recognised and their historic and contemporary relationship with the District's land, water bodies and wetlands, coastal environment, and indigenous species is recognised and provided for by ensuring:

- i. mahika kai resources and habitats of indigenous species are sustained and opportunities for their enhancement or restoration are encouraged;*
- ii. the health of water body and wetland environments is protected from adverse effects of land use and development;*
- iii. the values of identified sites and areas of significance to Kāti Huirapa are recognised and protected;*
- iv. Where appropriate, Kāti Huirapa retains, and where it can be undertaken safety is able to enhance access to their sites and areas of significance;*
- v. Māori reserve lands are able to be used by Kāti Huirapa for their intended purposes;*
- vi. Kāti Huirapa are able to carry out customary and cultural activities in accordance with tikanga;*
- vii. Kāti Huirapa are actively involved in decision making that affects their values and interests in these matters and are able to exercise their kaitiakitaka responsibilities.*
- viii. The amenity values of Kāti Huirapa are reflected in the landscape of new development.*

100. Ngāi Tahu further submitted in opposition to the Office of the Māori Trustee submission that sought to widen access for all Māori Landowners. The s42A report (paragraph 157) rejects the submission stating that this Strategic Direction is limited to SASM. I am concerned this contradicts the earlier statement that the Strategic Direction SD-O5 (paragraph 55) applies to Māori Reserves and growth, which is different from SASM. Also, paragraph 100 of the s42A report states that SD-O5 applies irrespective of whether the specific matters are contained within SD-O2 (Natural and Historic Environment), again meaning that the Strategic Direction is not limited to SASM or the Māori Purpose Zone. This creating confusion as to where the SASM is considered.

101. I believe that the Strategic Direction applies District Wide and is not limited to SASM, although I do consider it will mostly be applied to SASM and Māori Purpose Zone resource consent applications. This overarching application of Strategic Direction chapters is consistent with other second-generation District Plans. Further clarity can be provided by the proposed advice note to SD-O5.
102. The Ngāi Tahu further submission seeks to retain the objective to mana whenua, not Māori Landowners. This is to be consistent with the NTCSA and CRPS. For this reason, the submission made by the Māori Trustee should be rejected, not the reason in the s42A report, that the objective is limited to SASM.

SD-O7 Centres

Submission 185.21

103. Ngāi Tahu submitted in support of this strategic direction as social wellbeing is an important outcome for the Plan. The submission requested an amendment to also recognise the relationship Kāti Huirapa have with their culture and their ancestral lands, water, sites, wāhi tupuna, wāhi tapu, and other taonga. The s42A report in paragraph 186 states that the Strategic Direction Mana Whenua (SD-O5) addresses this aspiration.
104. I again seek clarity from the panel that Strategic Direction Mana Whenua (SD-O5) applies across all the Strategic Directions and that this is sufficiently clear to Plan users as detailed in paragraph 100 of this evidence.
105. I note that clause 1 of the objective does refer to amenity which does include cultural attributes under the RMA definition. When read with the recommended new clause for the mana whenua objective to consider amenity values of Kāti Huirapa, there will be a clear direction and link between the objectives.

SD-O9 Rural areas

Submission 185.22 (Further Submission opposed by Horticultural NZ)

106. Ngāi Tahu submitted in support of this strategic direction, noting the significant amount of SASM and Māori Purpose Zone impacted by this

objective and sought assurance that it would be read in conjunction with the other strategic directions. The s42A report has recommended that within the 'rural environment' that primary productive activities are 'prioritised'. This is a significant change from 'enable' and when combined with the clause that avoids activities with no functional/operational need to be in the rural area, creates a hierarchy through terminology that overrides all other strategic directions including the Infrastructure and Mana Whenua objectives.

107. I consider that mana whenua activities including Nohoanga Entitlements, Papakāinga, Marae, kura (schools) and cultural activities can and should occur in rural areas, not in the least because this is where many of these sites are located. I am concerned that the new wording could be interpreted as only providing for those activities which have a functional/operational need to locate in the rural area/rural environment may mean that those interpreting the plan could mean that non rural activities are not allowed.
108. For clarity, I wish to confirm that Mana Whenua activities including Nohoanga Entitlements, Papakāinga, Marae and Cultural Activities have a functional/operational need to locate in the rural area/rural environment as that is the established location of these activities. The Māori Purpose Zone is surrounded by General Rural Zone, and activities on the Māori Purpose Zone should not be restricted due to potential reverse sensitivity effects from activities on the General Rural Zone.
109. I suggest that the issue may be addressed by amending reference in the strategic direction back to 'enable' primary production activities instead of 'prioritise'.

UFD-O1 Settlement patterns

Submission 185.23

Further submission opposing 240.4 (The Office of the Māori Trustee)

110. Ngāi Tahu submitted in support of this Strategic Direction. This was partially accepted by the s42A report with the addition of clauses on accessibility and connectivity and the effects on the stormwater network. I support this recommendation if this objective will be read in conjunction with the Strategic

Directions which will address the other issues with the recommended changes detailed.

111. I oppose the limitation of 'where appropriate' to clause 8 in relation to enabling papakāinga. If the Strategic Direction clauses are read together, the Natural Hazard objective will already consider the safety aspect and the rural objective will consider the reserve sensitivity issue. As discussed in paragraph 96, the term 'appropriate' is too broad and subjective to communicate to the Plan user what the concern is. In this case, the s42A report states it refers to the type of land the activity occurs on being either Māori Land or Ancestral Land (Paragraph 294). I do not consider this is how this provision reads, especially given the application of this terminology elsewhere in the Strategic Directions and the fact that the entire District is potentially Ancestral Land.
112. Limiting papakāinga to 'where appropriate' does not achieve the outcome sought by the s42A report and should be removed for the following reasons:
- (a) The intent of the Council is that Māori Land should be enabled;
 - (b) Strategic Direction SD-O5 applies only to Kāti Huirapa because they are mana whenua, which is a different concept to Māori landowner;
 - (c) The plan has a clear definition of Papakāinga and the activity status will be determined in the zoning; and
 - (d) Other clauses of the objective will provide the ability to balance the enablement of papakāinga against other directions such as considering natural hazards.

CONCLUDING COMMENTS

113. The Ngāi Tahu submissions on the proposed Timaru District Plan generally support the notified plan and seek minor amendments to provide for the values and future of Papatipu Rūnanga. The evidence of Mr John Henry provides the cultural context behind the submission direction. My evidence provides drafting and supporting reasons to enable the Hearings Panel to make provision for the principles of Te Tiriti as set out in the NTCSA. A list of the remedies sought are consolidated in **Appendix Four** of this evidence.
114. I have found the lack of clear reference to the further submissions and analysis of them to be confusing across both reports. It is not clear where and how the issues and arguments of the further submissions have been taken into account and how the Panel will consider those concerns. Relying on the summaries, it is also unclear if the further submissions have been read, understood and addressed by the s42A report, given the previous issues with the summary of submissions which saw a significant number of them missing.
115. For clarity, I have noted the submissions and further submissions relevant to my evidence under each topic and detailed in **Appendix One** of this evidence.



Rachael Pull

19 April 2024

APPENDIX ONE: Summary of Te Rūnanga o Ngāi Tahu submissions

Introduction and General Provisions section 42A report

Sub No.	Specific provision / matter	Sub Position	Reason for submission	S42A position	Position at hearing
Introduction					
185.9	Description of the District	Amend	As the first settlers to the area and with the longest history, Kāi Tahu should be noted at the start of the history of the section and not a small paragraph at the end. The term 'Takata Whenua' as a heading is not used anywhere else in the Plan.	Accept P85-87	Support P44
185.1	Treaty of Waitangi / Te Tiriti o Waitangi and Māori Issues of Significance	Amend	This overarching section relies on the Mana Whenua Chapter and does not stand on its own. There is no reference to statutory acknowledgements, Te Rūnanga o Ngāi Tahu, relevant iwi documents or engagement with Kāti Huriapa in areas other than the mana whenua chapter where cultural values need to be considered.	Accept P125-126	Support P44
FS on 185.1 (Waipopo Huts Trust)		Support			
Definitions					

Sub No.	Specific provision / matter	Sub Position	Reason for submission	S42A position	Position at hearing
185.12	Functional Needs	Support	We support the use of the definition (particularly in the Natural Hazards Chapter) as it recognises that certain cultural practices and activities can only occur in particular locations.	Accept P164-165	Support
185.13	Kāti Huirapa	Amend	An advice note stating that for the purpose of interpreting this plan that Kāti Huirapa includes Te Rūnanga o Ngāi Tahu.	Accept P310, 313	Support P45
185.14	Kāi Tahu	Amend	This definition is not complete as per section 9 of the Ngāi Tahu Claims Settlement Act 1998. A minor addition is requested to be consistent with legalisation.	Accept P309, 311	Support P45
FS on 187.6 187.14 (KiwiRail)	Noise Sensitive Activity	Oppose	This submission seeks to significantly increase the amount of restriction on Iwi activities without a clear proven issue. Currently the definition applies to buildings that have a sleeping component and this submission seeks to include all activities at a marae. This is a significant increase in restrictions that does not have a clear rationale behind it. The noise effects are a long term effect that has the greatest impact	Rejected P157 &167	Support P47

Sub No.	Specific provision / matter	Sub Position	Reason for submission	S42A position	Position at hearing
			while sleeping. Restricting all marae activities through the rules associated with this definition is unreasonable and requires a site specific noise study to prove that there is a potential health risk for marae activities within Timaru from the activities that the rules that this definition relates to.		
FS on 240.2 (Māori Trustee)	Ancestral lands	Oppose	Provisions relating to Ngāi Tahu are a legal obligation set out in the Te Tiriti o Waitangi, Ngāi Tahu Deed of Settlement 1997, the Ngāi Tahu Claims Settlement Act 1998 (NTCSA), Te Rūnanga o Ngāi Tahu Act 1996 (TRONT Act) and associated legislation. As set out in	Rejected 255-257	Support P52
FS on 240.3 (Māori Trustee)	Papakāika	Oppose	our submission and for any avoidance of doubt, the TRONT Act and NTCSA, outlines and confirms that Ngāi Tahu holds rangatiratanga over the Ngāi Tahu Takiwā (a map of the Takiwā is included in our submission). Ngāi Tahu and Ngāi Tahu Whānui, means the collective of individuals who descend from the primary hapū of Waitaha, Ngāti Mamoe, and Ngāi Tahu, namely, Kāti Kurī, Kāti Irakehu, Kāti Huirapa,	No comment	Nothing to comment on. Assuming this will be analysed at a different hearing.

Sub No.	Specific provision / matter	Sub Position	Reason for submission	S42A position	Position at hearing
			Ngāi Tūāhuriri and Kai Te Ruahikihiki. It is Ngāi Tahu, as tangata whenua of the Ngāi Tahu Takiwā and of which the boundaries of this plan are wholly within, who must and are to be exclusively recorded as Poutini Ngā Tahu and tangata whenua. This does not allow for the government to recognise other iwi tāngata whenua status within the plan boundaries without further breaching Te Tiriti o Waitangi and the TRONT Act and NTCSA.		
Mana Whenua					
185.25	MW1 Identity of Kāi Tahu and Kāti Huirapa in Timaru District	Support	The Mana Whenua section in its entirety is supported (except where changes have been requested below) as it describes who mana whenua. It highlights the values and matters that are important to Kāi Tahu. This section has been developed with mana whenua as it is critical that only mana whenua define their own values and interests.	Accept P345	Support P57

Sub No.	Specific provision / matter	Sub Position	Reason for submission	S42A position	Position at hearing
185.24	MW1 Identity of Kāi Tahu and Kāti Huirapa in Timaru District	Amend	We recognise that 'Māori' is the legal term used by Central Government to outline its responsibilities in legalisation, however in the Mana Whenua Chapter, the precise term should apply to recognise that the provisions only apply to Mana Whenua.	Reject P338-340	Support P58
	MW2.2.5 Practical expression of rakatirataka and kaitiakitaka role in resource management				
185.26	MW2.2 Resources of significance and specific interests in resource management	Support	The Mana Whenua section in its entirety is supported (except where changes have been requested below) as it describes who mana whenua. It highlights the values and matters that are important to Kāi Tahu. This section has been developed with mana whenua as it is critical that only mana whenua define their own values and interests.	Accept in part	Support P57
185.27	MW2.1.5 Kaitiakitaka/takata tiakitaka	Amend	We support this section, however request minor changes to improve clarity.	Accept in part P347-348	Support P57

Sub No.	Specific provision / matter	Sub Position	Reason for submission	S42A position	Position at hearing
185.28	MW2.1.6 Rakatirataka	Support	We support this section, however request minor changes to improve clarity.	Accept in part P349-354	Support P57
185.29	MW2.1.9 Wāhi tapu and wāhi tūpuna	Support	We support this section, however request minor changes to improve clarity.	Accept	Support P57
185.3	MW2.2.3 Culturally significant sites and wāhi tūpuna	Support	We support this section, however request a minor changes to improve clarity regarding the expression of our cultural identity throughout the District.	Accept P355-356	Support P57
185.31	MW2.2.4 Occupation of ancestral land	Support	We support this section, however request a minor change to recognise the current zoning issues on these sites that are still to be addressed.	Accept P357-358	Support P57
185.32	MW2.2.5 Practical expression of rakatirataka and kaitiakitaka role in resource management	Support	We support this section, however request a minor change to recognise that the Te Reo version of the Treaty should be used in the Mana Whenua section. Also that the hyperlink for the Treaty should refer to the principles or a word version in Te Reo Māori and English of the actual treaty. It currently links to the	Accept P359-365	Support P57

Sub No.	Specific provision / matter	Sub Position	Reason for submission	S42A position	Position at hearing
			Treaty of Waitangi Act 1975 which is not relevant to this section.		
185.32	MW2.2.5 Practical expression of rakatirataka and kaitiakitaka role in resource management	Support	We support this section, however request minor changes to improve clarity regarding legal and moral obligations	Accept P359-365	Support P57
185.33	MW3.2 Statutory acknowledgements	Support	We support this section, however request minor changes to improve clarity.	Accept in part P366-369	Support P57

Sub No.	Specific provision / matter	Sub Position	Reason for submission	S42A position	Position at hearing
185.33	MW3.2 Statutory acknowledgements	Support	We support this section, however request minor changes to improve clarity to identify that statutory acknowledgement areas and their cultural values are also protected through Outstanding Natural Landscape provisions.	Accept in part P366-369	Support P57
185.34	MW4 Hapū and iwi planning documents	Support	<p>We support this section, however request minor changes to improve clarity to identify that iwi planning documents also include planning documents from the Te Rūnanga o Ngāi Tahu.</p> <p>This section could also provide more detail as to how it complies with the National Planning Standards regarding Hapū and iwi planning documents.</p>	Accept P370-373	Support P57
185.35	MW5.3 Consultation expectations	Support	We support this section.	Accept	Support P57

Strategic Direction section 42A report

Sub No.	Specific provision / matter	Sub Position	Reason for submission	S42A position	Position at hearing
Strategic Direction					
185.15	Introduction	Amend	The Introduction and Chapter as a whole seems to rely on the Growth Management Strategy for the District. This strategy indicates that mana whenua reviewed the document, however there is little provision for iwi growth and development within the document. We request that the Chapter does not solely rely on the Growth Strategy but also Iwi Management Plans and treaty obligations to partner with iwi to allow for growth and development on our land.	Reject P53, 55	Clarify/Amend P61
185.16	Objectives (General)	Amend	The National Planning Standards require the Strategic Direction section outline the key strategic matters for the district and guide decision making at a strategic level. The objective for mana whenua is limited to the topic and are not integrated enough to provide	Accept in part P37, 40	Support P61

Sub No.	Specific provision / matter	Sub Position	Reason for submission	S42A position	Position at hearing
FS on 185.16 (Waipopo Huts)			guidance on how to address issues when the activity impacts more than one strategic objective. For example the Natural Hazards objective references infrastructure and the infrastructure objective references growth. This isolation of mana whenua to one objective will impact its ability to be considered and the following submission points identify how mana whenua values can be considered throughout the plan.		
185.17	SD-01 Residential Areas and Activities	Amend	The objective states there is sufficient residential capacity in the existing and proposed urban areas. It limits development outside these urban areas.	Reject P66, 73	Support/Clarify P71
FS on 185.17 (McKnight, MFL Ltd, O'Neill, Johnston)		Support	There is little integration between the objectives meaning that they will be hard to implement at a decision making level without clarification within the objective as to how it relates to other objectives within the section.		

Sub No.	Specific provision / matter	Sub Position	Reason for submission	S42A position	Position at hearing
185.18	SD-02 The Natural and Historic Environment	Amend	The definition of historic heritage includes sites of significance to Māori, however mana whenua consideration is not present in this objective. Section 6 of the RMA states that Council as part of its role in implementing the Act shall recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga. In order to give effect to this, it is requested that the objective is amended to include reference to this relationship as to better provide guidance in how to achieve this objective.	Reject P93, 100	Support/Clarify P74
185.19	SD-04 Natural Hazards	Amend	Much of the district and the Māori Land is subject to Natural Hazards. The objective states 'avoid' development in these areas where the risk is 'unacceptable'. The term 'unacceptable' seems	Accept in part	Support/Clarify P78

Sub No.	Specific provision / matter	Sub Position	Reason for submission	S42A position	Position at hearing
FS on 185.19 (Waipopo Huts)		Support	<p>to be subjective and could see mana whenua unable to recognise their rakatirataka on their own land.</p> <p>There is little integration between the objectives meaning that they will be hard to implement at a decision making level without clarification within the objective as to how it relates to other objectives within the section.</p>	P129, 136-137	
FS on 196.17 (Fuel Companies)	SD-04 Natural Hazards	Support	Support the expansion of the Strategic Direction to consider more than just the immediate risk, but also the impacts associated with recovery and wellbeing.	Reject P130	Clarify P78

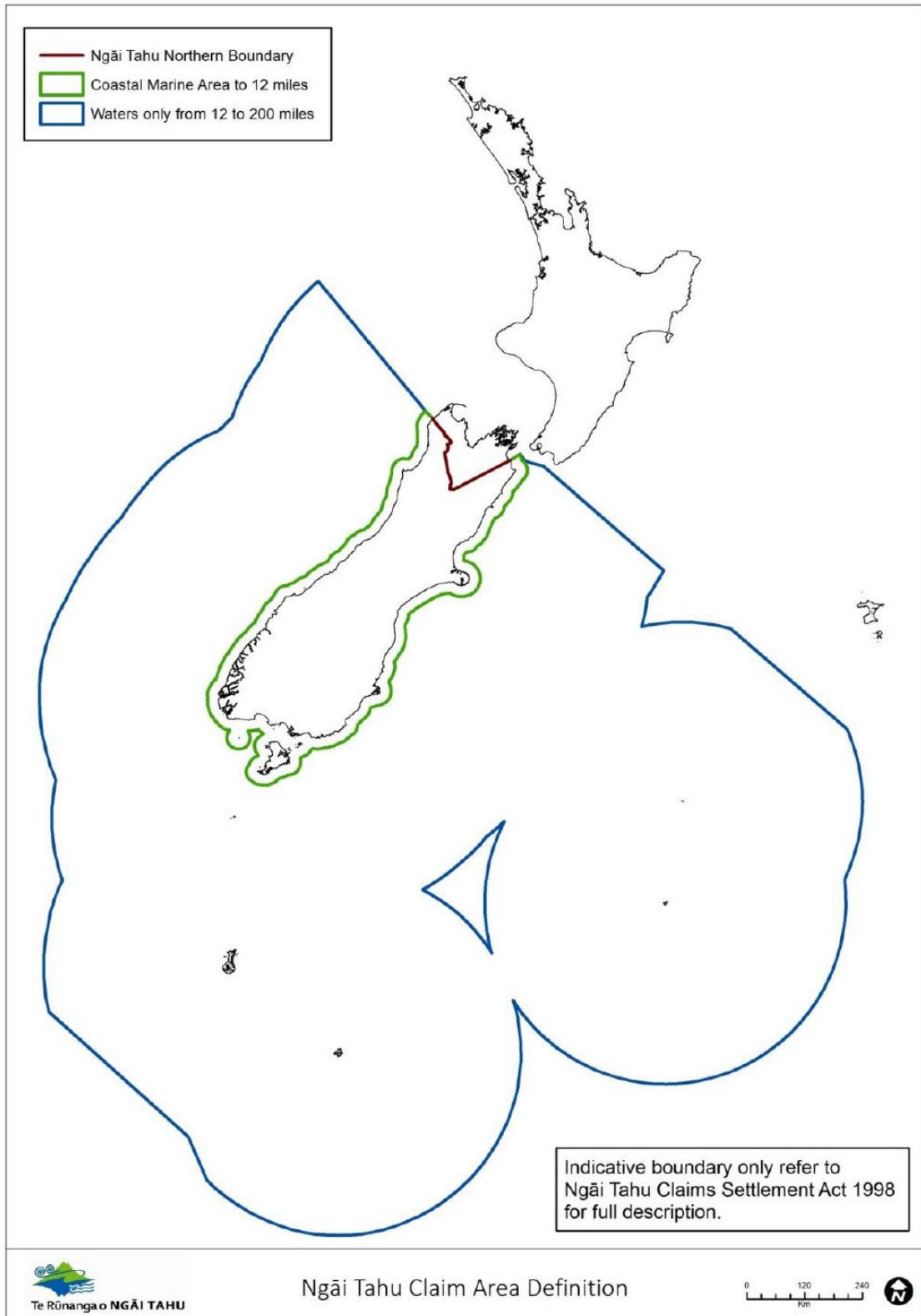
Sub No.	Specific provision / matter	Sub Position	Reason for submission	S42A position	Position at hearing
185.2	SD-05 Mana Whenua	Support	<p>We support the objective on mana whenua outlined by the National Planning Standard to address how resource management issues of significance to iwi authorities are addressed in the plan.</p> <p>However we requested that a minor changes to include all cultural resources and all types of Kāti Huirapa land to better achieve these outcomes. We also request that reference to growth and development of our people is acknowledged here as a desired outcome.</p>	Reject P150, 155-156	Clarify P91
FS on 240.4 and 240.5 (Māori Trustee)	SD-05 Mana Whenua	Oppose	Provisions relating to Ngāi Tahu are a legal obligation set out in the Te Tiriti o Waitangi, Ngāi Tahu Deed of Settlement 1997, the Ngāi Tahu Claims Settlement Act 1998 (NTCSA), Te Rūnanga o Ngāi Tahu Act 1996 (TRONT Act) and associated legislation. As set out in our submission and for any avoidance of doubt, the	Rejected P157	Support/Clarify P91

Sub No.	Specific provision / matter	Sub Position	Reason for submission	S42A position	Position at hearing
			<p>TRONT Act and NTCSA, outlines and confirms that Ngāi Tahu holds rangatiratanga over the Ngāi Tahu Takiwā (a map of the Takiwā is included in our submission). Ngāi Tahu and Ngāi Tahu Whānui, means the collective of individuals who descend from the primary hapū of Waitaha, Ngāti Mamoe, and Ngāi Tahu, namely, Kāti Kurī, Kāti Irakehu, Kāti Huirapa, Ngāi Tūāhuriri and Kai Te Ruahikihiki. It is Ngāi Tahu, as tangata whenua of the Ngāi Tahu Takiwā and of which the boundaries of this plan are wholly within, who must and are to be exclusively recorded as Poutini Ngā Tahu and tangata whenua. This does not allow for the government to recognise other iwi tāngata whenua status within the plan boundaries without further breaching Te Tiriti o Waitangi and the TRONT Act and NTCSA.</p>		

Sub No.	Specific provision / matter	Sub Position	Reason for submission	S42A position	Position at hearing
FS on 181.22 (OWL)	SD-05 Mana Whenua	Oppose	Note that the introduction of the zone states the following: "One of the main aspirations of the Māori Purpose Zone is to create an enabling planning regime to not only encourage the development and use of the existing Māori land, but to create a place for mana whenua to return to. Māori should benefit from these provisions and enjoy the additional activities that can be undertaken within the Zone."	Accepted in Part P153	Support/Clarify P91
185.21	SD-07 Centres	Support	We support town centres as a place for social interaction. There is little integration between the objectives meaning that they will be hard to implement at a decision making level without clarification within the objective as to how it relates to other objectives within the section.	Reject P183, 186	Support P103
185.22	SD-09 Rural Activities	Support	There is little integration between the objectives meaning that they will be hard to implement at a decision making level without clarification within	Reject	Clarify/Amend P106

Sub No.	Specific provision / matter	Sub Position	Reason for submission	S42A position	Position at hearing
FS on 185.22 (Horticulture NZ)		Oppose	the objective as to how it relates to other objectives within the section. In particular, how this objective is considered next to the objectives for Mana Whenua and the Natural and Historic Environment. Many of the Sites of Significance to Māori are in the rural environment and this strategic objective needs to recognise this and provide guidance.	P224, 238	
185.23	UFD-O1 Settlement Patterns	Support	We recommend minor changes to this objective to be consistent with the Strategic Direction objectives and the policies of the various plan chapters.	Accept in part P274, 292	Support/Clarify P110

APPENDIX TWO: Ngāi Tahu Takiwā



APPENDIX THREE: Assessment table for enabling the Māori Purpose Zone

The following comments consider the effectiveness of relevant sections of the Strategic Directions against a fictional yet realistic scenario of a papakāinga development on the Māori Purpose Zone at Arowhenua. As this is a theoretical exercise, I have placed no weighting on any of the provisions.

SD-O1 Residential Areas and Activities

Provision	Comment
<p>1. There is sufficient residential development capacity in existing and proposed urban areas to meet demand and household choice, provided through: a. the use of existing zoned greenfield areas;</p> <p>b. a range of densities in existing urban areas; and</p> <p>c. higher residential densities in close proximity to the Timaru and Geraldine town centres, and Highfield Village Mall;</p> <p>d. the new Future Development Areas identified for the General Residential Zone.</p>	<p>There is no recognition of the ability to develop in the Māori Purpose Zone and the only background document considered is the Growth Strategy and not any IMP.</p>
<p>2. limited rural lifestyle development opportunities are provided where they concentrate and are attached to existing urban areas, achieve a coordinated pattern of development, avoid significant reverse sensitivity effects on existing and permitted rural activities, recognises the productive capabilities of the soils and location.¹² and are capable of efficiently</p>	<p>The Māori Purpose Zone is surrounded by Rural Zoning so is therefore not part of the coordinated pattern of development. Based on the proposed definition of 'sensitive activities' papakāinga would also be limited by the reverse sensitive clause of this provision.</p>

Provision	Comment
connecting to reticulated sewer and water infrastructure;	
4. the location of new residential areas and activities avoids creating significant conflict with incompatible zones and activities.	

SD-O4 Natural Hazards

Provision	Comment
<p>2. development is avoided in areas where the risks of natural hazards to people, property and infrastructure are assessed as being unacceptable; and</p> <p>3. for other areas, natural hazards risks are appropriately mitigated.</p>	<p>The Māori Purpose Zone is overlaid with significant natural hazards. It is unclear if the provision in SD-O5(7) to actively involve Kāti Huirapa in decisions that affect their interests would be implemented jointly with this provision or if a consent would be declined based on this provision.</p>

SD-O5 Mana Whenua

Provision	Comment
<p>The mana whenua status of Kāti Huirapa is recognised and their historic and contemporary relationship with the District's land, water bodies and wetlands, coastal environment, and indigenous species is recognised and provided for by ensuring:</p>	<p>Note this only applies to Kāti Huirapa, meaning that this will not apply to Māori Landowners who do not whakapapa to Kāti Huirapa.</p>
<p>where appropriate, Kāti Huirapa retains, and is able to enhance</p>	<p>It is unclear what is inappropriate about Kāti Huirapa retaining or</p>

Provision	Comment
access to their sites and areas of significance;	enhancing access on their sites. If this is related to natural hazards, this should be adequately covered in the Strategic Direction on Natural Hazards. Papakāinga includes conservation activities that would require access.
Māori reserve lands are able to be used by Kāti Huirapa for their intended purposes	Unclear land status term creates uncertainty, and I interpret 'intended purposes' to potentially mean that unless it's a permitted activity it should not be enabled.

SD-09 Rural Areas

Provision	Comment
2. managing the adverse effects of intensive production activities on existing sensitive activities;	The Māori Purpose Zone is surrounded on all sides the General Rural Zone. A new papakāinga activity would not be protected by this clause as it only applies to 'existing'. It is unclear what the date of 'existing' is.
3. managing the adverse effects, including reverse sensitivity effects, of new sensitive activities on primary production;	The Māori Purpose Zone is surrounded on all sides by the General Rural Zone. A new papakāinga activity could be impacted by this provision if considered a 'sensitive activity'.
4. avoiding activities that have no functional/operational need to locate in the rural area;	It is unclear if a papakāinga activity on a Māori Purpose Zone would meet the definition of functional or

	operational need. Rural area is not limited to zone and the direction is 'avoid', meaning that it is a high threshold.
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UFD-O1 Settlement Patterns

Provision	Comment
1. efficiently accommodates future growth and capacity for commercial, industrial, community, educational and residential activities, primarily within the urban areas of the Timaru township, future development areas and the existing townships of Temuka, Geraldine, and Pleasant Point;	There is no recognition of the ability to develop in the Māori Purpose Zone and the only background document considered is the Growth Strategy and not any IMP.
4. protects drinking water supplies from the adverse effects of subdivision, use and development;	The Māori Purpose Zone is overlaid with the Drinking Water Protection overlay. This is another barrier to development.
6. avoids significant adverse effects on areas with important natural, cultural and character values;	It is unclear if papakāinga activities that use natural values (i.e mahinga kai) would be restricted by this provision. It would likely require weighting based in the individual activity.
8. where appropriate, enables papakāika, to occur	The inclusion of 'where appropriate' has removed the effectiveness of this provision when read with the other strategic directions.
9. avoids locating new growth in areas where the impacts from natural hazards are unacceptable or which	See comments on SD-O4 Natural Hazards

Provision	Comment
would require additional significant hazard mitigation;	
10. controls the location of activities, primarily by zoning, to manage conflicts between incompatible activities, including reverse sensitivity effects and avoid these where there may be significant adverse effects;	See comments on SD-O9 Rural Areas
12. avoids unanticipated urban development outside of the Future Development Area Overlay or out of sequence development, unless it provides significant development capacity and contributes to a well-functioning urban environment;	See comments on SD-O1 Residential Areas and Activities

Conclusion: Assuming all Strategic Directions have equal weight, the enablement of an activity such as papakāinga in the Māori Purpose Zone will be subject to many restrictions with no clarity of outcome should a resource consent be required.

APPENDIX FOUR: Remedies Sought

Sensitive Activities

- (a) That 'sensitive activities' applies only to regionally significant infrastructure.
- (b) Provisions that relate to sensitive activities outside of regionally significant infrastructure are re-written to consider reserve sensitivity effects on the activity and not burden the adjoining landowners.

Ancestral Land

- (c) That provisions throughout the plan are not limited by the need to prove 'Ancestral Land'.
- (d) That it is clear the difference between Māori Land as defined by this Plan, Māori Land in different pieces of legislation and Ancestral Land and this is applied on a case by case basis.

Introduction of Strategic Directions

- (e) Reference to and direction to consider the IMP. This allows more recognition as another planning document to be considered as part of the s104 assessment. A direct reference carries more weight than an implied one.

SD-O1: Residential areas and activities

- (f) That SD-O1: Residential areas and activities is amended as follows:
 1. *There is sufficient residential development capacity in existing and proposed urban areas to meet demand and household choice, provided through:*
 - a. *the use of existing zoned greenfield areas;*
 - b. *a range of densities in existing urban areas; and*
 - c. *higher residential densities in close proximity to the Timaru and Geraldine town centres, and Highfield Village Mall;*
 - d. *the new Future Development Areas identified for the General Residential Zone.; and*
 - e. *the use of land zoned Māori Purpose Zone.*

5. New residential development and choices are considered against the Strategic Directions and Growth Strategy.

SD-O2: The natural and historic environment

(g) That SD-O2: The natural and historic environment is amended as follows:

The District's natural and historic environment is managed so that:

- 1. the health and wellbeings of the community are recognised as being linked to the natural environment;*
- 2. an integrated management approach is adopted that recognises that all parts of the environment are interdependent (Ki uta ki tai);*
- 3. the natural character of the coastal environment, wetlands and waterbodies is preserved and protected from inappropriate subdivision, use, and development;*
- 4 the values of important landscapes and features are protected from inappropriate subdivision, use, and development;*
- 5. indigenous biodiversity and access to it, is maintained and enhanced and restored where necessary so that there is at least no overall loss;*
- 6. significant indigenous vegetation and significant habitats of indigenous fauna are identified and their values recognised, protected and where appropriate, enhanced and used, and where ecological integrity is degraded, restored;*
- 7 the life-supporting capacity of ecosystems and resources is safeguarded for future generations; and*
- 8 the important contribution of historic heritage to the District's character and identity is recognised, and significant historic heritage [retain hyperlink to RMA definition] and its values are protected from inappropriate subdivision, use, and development.*

SD-O4: Natural hazards

(h) That SD-O4: Natural hazards is amended as follows:

Natural hazards risks are addressed so that:

- 1. areas subject to natural hazards and risk are identified as follows;*

(i) the likelihood of a natural hazard event occurring (either individually or in combination) and the consequences of the natural hazard event occurring; and

(ii) the tolerance and ability to recover from to a natural hazard event.

2. development is avoided in areas where the risks of natural hazards to people, property and infrastructure are assessed as being unacceptable; and
3. for other areas, natural hazards risks are appropriately mitigated. and
4. decisions on acceptable levels of risk of Natural Hazards for the Māori Purpose Zone need to incorporate mātauraka.

SD-O5: Mana Whenua

(i) That SD-O5: Mana Whenua is amended as follows:

The mana whenua status of Kāti Huirapa is recognised and their historic and contemporary relationship with the District's land, water bodies and wetlands, coastal environment, and indigenous species is recognised and provided for by ensuring:

- i. *mahika kai resources and habitats of indigenous species are sustained and opportunities for their enhancement or restoration are encouraged;*
- ii. *the health of water body and wetland environments is protected from adverse effects of land use and development;*
- iii. *the values of identified sites and areas of significance to Kāti Huirapa are recognised and protected;*
- iv. *Where appropriate, Kāti Huirapa retains, and where it can be undertaken safety is able to enhance access to their sites and areas of significance;*
- v. *Māori ~~reserve~~ lands are able to be used by Kāti Huirapa for their intended purposes;*
- vi. *Kāti Huirapa are able to carry out customary and cultural activities in accordance with tikanga;*
- vii. *Kāti Huirapa are actively involved in decision making that affects their values and interests in these matters and are able to exercise their kaitiakitaka responsibilities.*
- viii. *The amenity values of Kāti Huirapa are reflected in the landscape of new development.*

Advice Note: This Strategic Direction applies District Wide and contains direction that applies to the implementation of other Strategic Directions.

SD-O9: Rural areas

- (j) That SD-O9: Rural areas is amended as follows:

A range of primarily productive activities are enabled in the rural environment to enable ~~prioritise~~ the ongoing use of land for primary production for present and future generations, while: ...

UFD-O1 Settlement patterns

- (k) That UFD-O1 Settlement patterns is amended as follows:

A consolidated and integrated settlement pattern that: ...

8. ~~where appropriate,~~ enables papakāika, to occur;