Before the Independent Hearings Panel

Under	the Resource Management Act 1991 and the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014
And	
In the Matter of	the proposed Christchurch Replacement District Plan (**Chapter 8: Subdivision**)

Memorandum of Counsel for Te Rūnanga o Ngāi Tahu and Nga Rūnanga [1145] in relation to the joint application of the Council and the Crown seeking to defer natural and cultural matters

Dated: 26 May 2015

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MAY IT PLEASE THE PANEL;

1. This Memorandum of Counsel is filed on behalf of Te Rūnanga o Ngāi Tahu and Nga Rūnanga [1145] (**Te Rūnanga**) in response to the joint application filed on 19 May 2015 on behalf of the Council and the Crown seeking to defer the hearing of evidence and the decision on certain matters until Stage 3 (**Joint Application**).

2. The Joint Application seeks to defer the provisions in Proposal 8 that relate to natural and cultural heritage matters[1] (**the Provisions**) and the definitions of "significant indigenous vegetation" and indigenous vegetation" (**the Definitions**) until the hearing on the Natural and Cultural Heritage Proposal that is being notified in Stage 3.

3. Te Rūnanga wishes to record its position on the Joint Application given it made submissions on the Provisions and the Definitions and the deferral will have implications for evidence and for mediations.

Position on the deferral of the Provisions

4. The Provisions that have been identified in the Joint Application are broader in their application than to just indigenous vegetation and include matters which are important considerations at subdivision stage. For example, the Provisions also relate to protection of springs and significant natural features (referenced in Objective 8.1.1, Policy 8.1.1.1, Rule 8.3.7.1 and in the Matters for Discretion 8.3.7.3).

5. While Te Rūnanga supports the intention to avoid duplication in the hearings, it is concerned that carving the Provisions out of Proposal 8 may result in a disjointed (albeit interim) framework applying to subdivision.

6. That is; if the Panel issues a partial decision on the subdivision provisions but does not seek to replace any of the operative provisions relating to natural and cultural matters, there is potential for a disjointed framework to apply to subdivision in the period between the subdivision proposal becoming partially operative and Stage 3 becoming operative.

[1] Those provisions listed at paragraph 7.1(a) of the memo

7. It may be that the resultant framework is workable, however Te Rūnanga is concerned that the Council (or the Crown) has not turned its mind to whether it is (at least this is not addressed in the Joint Application).

8. Further, there are also a number of other provisions which have not been included in the Joint Application but which Te Rūnanga submitted on and which also relate to natural and cultural heritage matters and which presumably will still be heard in Proposal 8. This means that evidence will still have to be called on some matters which relate to natural and cultural matters in any case.

9. For example, they include:

   a. 8.3.5.3(5) Provision of Land for open space and recreation which as notified included "any impact of subdivision works on sites or areas of significance to tangata whenua, or on waterways, mahinga kai and the coastline" ; and

   b. 8.3.2.3 (2) Property Access which included "Any impact on waterways, ecosystems, mahinga kai…" in the notified version.

10. Overall, Te Rūnanga does not necessarily oppose a deferral, but rather it seeks that these issues be considered by the Panel in making its decision on the Joint Application.

11. Counsel respectfully suggests that the Panel might be assisted if the Council were to review and advise the Panel and the parties on:

   a. whether the resultant framework that will apply if a partial decision on subdivision is to be made, is a workable framework;

   b. whether it is necessary to defer all of the provisions which relate to natural and cultural heritage matters as opposed to just those identified in the Joint Application (including those provisions which were notified, or submitted on by parties such as Te Rūnanga to be included); and

   c. identify the complete list of those provisions so it is clear what provisions are to be heard now.

Position on deferral of the Definitions

12. In respect of deferring the Definitions until Stage 3, Te Rūnanga does not oppose that for the following reasons:

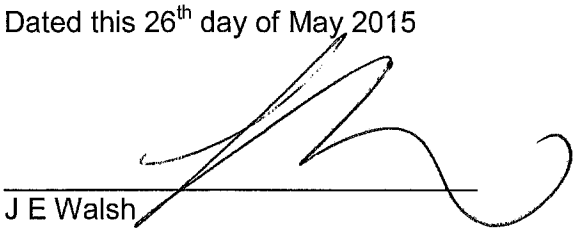
    a. In respect of the definition of "indigenous vegetation" Te Rūnanga produced evidence at the Strategic Directions hearing that the term should be deleted as it included references to exotic vegetation and it was difficult to understand its meaning in the absence of supporting provisions which were to be notified later[2]; and

    b. In respect of the definition of "significant indigenous vegetation", this has not been dealt with in evidence yet (as far as counsel understands). Te Rūnanga anticipates that Stage 3 will deal with the primary methods relating to significant indigenous vegetation (for example through mapping) and so it is appropriate to consider the definition at that Stage.

Service on relevant parties

13. Counsel also respectfully requests that where correspondence or applications for directions are filed with the Panel that affect other parties (particularly where such applications have implications for the filing of evidence), that all relevant parties be served.

Dated this 26th day of May 2015



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[2] Evidence of Lynda Murchison dated 25 November 2014 paragraphs 40 - 41