

Before the Independent Hearings Panel

In the Matter of the Resource Management Act 1991

And

In the Matter of the Canterbury Earthquake (Christchurch Replacement
District Plan) Order 2014

And

In the Matter of the Proposed Christchurch Replacement Plan (**Chapter 8:
Subdivision (Part)**)

Brief of evidence of Tanya Jane Stevens for Te Rūnanga o Ngāi Tahu and Ngā Rūnanga [1145/1448]

Dated: 8 June 2015

Lane Neave
LAWYERS

179 Victoria Street
PO Box 13149
Christchurch
Solicitor Acting: J E Walsh
Phone: 03 379 3720
Fax: 03 379 8370
Email: jane.walsh@laneneave.co.nz

NGA72191 4361893.1

TABLE OF CONTENTS

INTRODUCTION	2
Qualifications and experience	2
EXECUTIVE SUMMARY	3
KEY ISSUES	4
Subdivision in Silent File Areas	4
Provision for Customary Access.....	4
Provision for cultural landscapes.....	6
Protection of indigenous biodiversity in subdivision	8
Protection of waterways and springs.....	8
Provision of sufficient land for stormwater management.....	10
Protect sites of Ngāi Tahu Cultural Significance	11
Correction of Halswell West ODP	12
CONCLUSION.....	12
TJS ATTACHMENT 1	13

INTRODUCTION

Qualifications and experience

1. My full name is Tanya Jane Stevens. I am employed by Te Rūnanga o Ngāi Tahu as a Senior Environmental Advisor.
2. I have the qualifications and experience set out in my evidence for the Commercial and Industrial Proposals dated 24 April 2015.
3. I whakapapa to the Ngāi Tahu hapū of Ngāti Kurī whose interests are represented by Te Rūnanga o Kaikōura. The southern boundary of the rohe of Te Rūnanga o Kaikōura is the Hurunui River and does not include any land areas within Ōtautahi or the greater Christchurch Area.
4. In preparing my evidence I have reviewed:
 - (a.) The evidence in chief on behalf of the Council.
 - (b.) The Land Use Recovery Plan (**LURP**);
 - (c.) The Canterbury Earthquake Recovery Strategy (**CERS**);
 - (d.) The Natural Environment Recovery Programme for Greater Christchurch (**NERP**) which forms part of the Recovery Strategy for Greater Christchurch/Te Mahere Haumanutanga o Waitaha;
 - (e.) The Canterbury Regional Policy Statement (**CRPS**), particularly Chapter 5: Land Use and Infrastructure and Chapter 6: Recovery and Rebuilding of Greater Christchurch.
 - (f.) The Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014, including the Statement of Expectations in Schedule 4; and
 - (g.) Mahaanui – Iwi Management Plan 2013 which in terms of section 74(2A) of the Resource Management Act 1991 (**RMA**) is a relevant planning document recognised by the iwi authority.
5. I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note (updated 1 December 2014) and I agree to comply with it. My qualifications as an expert are set out above. I confirm

that the issues addressed in this statement of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

6. I note that whilst I am of Ngāi Tahu descent and employed by Te Rūnanga o Ngāi Tahu, I am bound by the Code of Conduct and professional ethics of the NZPI, the RTPI and the IEMA and am required to be impartial and unbiased in my professional opinions expressed.

EXECUTIVE SUMMARY

7. Te Rūnanga o Ngāi Tahu (**Te Rūnanga**) and ngā Rūnanga¹ sought amendments to Chapter 8 Subdivision of the Replacement District Plan (**Replacement Plan**) that:
- (a) Protect Ngāi Tahu cultural values in silent file areas from inappropriate subdivision;
 - (b) Provide for customary access;
 - (c) Provide for consideration of cultural landscapes;
 - (d) Protect areas of indigenous biodiversity as part of subdivision;
 - (e) Ensure the protection of waterways and springs from the outset from inappropriate development;
 - (f) Ensure that sufficient land is set aside in subdivision for stormwater treatment;
 - (g) Protect sites of Ngāi Tahu cultural significance; and
 - (h) Sought the correction of the Halswell West ODP map.
8. I largely support the amendments sought by Ngā Rūnanga to Chapter 8 (Subdivision) that seek to ensure that subdivision is undertaken in a manner which comprehensively considers the full development process from the outset. However, in some instances I believe the relief sought could be clearer and more specific.

¹ There are six Papatipu Rūnanga within the area of the Christchurch District Plan, collectively referred to as ngā Rūnanga.

9. I have reviewed the revisions to the Subdivision Chapter dated 21 May (the **Revised Proposal**) and state whether or not I agree with these. Where the Council has provided an amendment that I do not agree with I have provided my reasoning within this brief of evidence. I have also included as **Attachment 1** a table showing the further amendments sought in addition to those already accepted in the Revised Proposal. Some of these amendments have already been agreed to by the Council in informal and formal mediation and that is explained in the body of my evidence where applicable. By way of clarification, if the table does not address a provision which has been amended by the Council in the Revised Proposal, that is because Te Rūnanga and ngā rūnanga accept those amendments.
10. In my view these amendments achieve the purpose of the RMA, give effect to the CRPS and are consistent with the LURP, CERS and the NERP.

KEY ISSUES

Subdivision in Silent File Areas

11. Silent Files are areas which are indicated within the Mahaanui IMP. They are used to indicate significant sites of sensitivity and value to Manawhenua. Due to the inclusion of the Natural and Cultural Heritage chapter within Stage 3 of the District Plan Review, matters relating to Subdivision within Silent File areas have been deferred until Stage 3.

Provision for Customary Access

12. Provision for customary access is sought in the Te Rūnanga and ngā rūnanga submission in Policy 8.1.1.4 and Matters for Discretion: Esplanade reserves, strips and additional land, 8.3.3.8.
13. During informal and formal mediation Mr Long indicated that he would be comfortable to include provision for customary access if an explanation was provided within the Plan.
14. I agree that an explanation would be useful to those users of the Plan who are not familiar with customary access. For that reason I have provided an explanation of customary access below:

Customary Access

Access to both sites and resources is essential to enable Manawhenua to fulfil their role as kaitiaki, and also ensure that traditional practices are able to continue. Customary access may include access to sites and resources for a number of purposes, such as:

- (a) Access to areas for Mahinga Kai – which can be sources of food, fibre, medicinal plants, and other resources for customary uses.**
 - (b) Access to areas or sites of cultural significance such as wāhi tapu.**
 - (c) Traditional trails, landmarks and settlements.**
15. I have considered whether this explanation would be useful in other parts of the Plan, or whether it is only relevant in the Subdivision chapter. I consider that it may be most sensible to include the explanation of customary access within the Introduction Chapter alongside the other explanations of Ngāi Tahu values. This way, all such explanations are in a central location. I note that Ms Janine Sowerby, the Council's planner leading the Introduction Chapter, has confirmed her support to me for this approach.
16. Mr Long agreed in mediation that an explanation would be useful. However, since mediation there appears to be some confusion as to whether this is suggested to be an explanation, a definition, or a glossary.
17. To confirm, it is my view that an explanation, rather than a definition or inclusion as a term in a glossary, is the most appropriate. The reason for this is that inclusion as either a definition or within a glossary would restrict the meaning of the term to such an extent that the fundamental values of customary access would be lost. Mr Long, Ms McIntyre for the Crown and myself are in general agreement with regards to the wording, however, I am of the view that the amended version as provided in the mediation report is not an explanation as is proposed, but is worded for inclusion in a

glossary. As such, the proposed wording set out above differs slightly from that recorded in the mediation report.

18. The proposed explanation, along with amended provisions 8.1.1.4 and 8.3.3.8 are set out in Attachment 1.²

Provision for cultural landscapes

19. Cultural landscapes are a relatively new tool used within planning to acknowledge the association that Tangata Whenua have with the land and water. In my experience I am aware that Tangata Whenua values with certain areas are often indicated on planning maps by 'dots' where archaeological finds have occurred, or where a very specific activity is known to have occurred.
20. Cultural landscapes acknowledge that the association with an area is not confined to 'dots', but rather to larger areas. An example is the cultural landscape formed around Te Waihora and its tributaries in Variation 1 to the proposed Canterbury Land and Water Regional Plan. Cultural landscapes also provide for acknowledgement of contemporary association with areas. The area may still be used for mahinga kai today, and therefore has both historic and contemporary associations. Or it may be quite contemporary in nature, for example Ngāi Tahu Farms at Balmoral and Eyrewell will form modern cultural landscapes, expressing mahinga kai in the twenty-first century.
21. The recognition of cultural landscapes is provided for in the CRPS (objective 12.2.2 and policy 12.2.3) which state that cultural landscapes should be protected from inappropriate subdivision, use and development.
22. I understand that the provisions Te Rūnanga and ngā rūnanga seek for cultural landscapes in the City Plan and the location of those landscapes is anticipated to occur through Stage 3 of the City Plan. My understanding is that the intention of cultural landscapes is to provide for some recognition of the Ngāi Tahu heritage in those areas through the provision of information, the design of new public facilities etc. It is not intended to

² I note that I have suggested a correction to the spelling of 'wāhi' within this provision in Attachment 1.

provide a level of protection commensurate with specific culturally significant sites.

23. Cultural landscapes will form part of the Natural and Cultural Heritage Chapter (Chapter 9). However, due to the phased approach to the City Plan, I consider that it is appropriate to include reference to those provisions in the relevant rule frameworks within Phase 1, particularly because the provisions that I recommend amending are not subject to the deferral to Stage 3 (unlike other natural and cultural provisions which are) and so it is important that these matters are dealt with now³. The nature of the amendments I believe give potentially affected parties the opportunity to consider how they may be affected in subdividing land by the cultural landscape provisions when they are introduced, and make the appropriate submissions.
24. In Attachment 1, I provide three relevant provisions where consideration of cultural landscapes is appropriate, at such time as they are included in the Plan.
25. Although the relief sought in relation to cultural landscapes was not addressed in Mr Long's evidence in chief, the inclusion of cultural landscapes in the manner set out in Attachment 1 was agreed by Mr Long and Ms McIntyre on behalf of the Crown in formal mediation.
26. I suggest that an advice note may be incorporated into Chapter 9 – Natural and Cultural Heritage to explain references to Cultural Landscapes. Having not yet viewed Chapter 9 I am not able to comment on what appropriate wording may be for such an advice note. This will be addressed by Te Rūnanga and Ngā Rūnanga in submission points on that Chapter when notified.
27. I consider that the inclusion of cultural landscapes is necessary to achieve the purpose of the RMA, in particular s6(e) and (h), and gives effect to the CRPS.

³ Minute dated 5 June specifies the provisions to be deferred are: Objective 8.1.1; Policies 8.1.1.1 to 8.1.1.3; Rule 8.3.7 and Assessment matter 8.5.2 and the following definitions: Significant indigenous vegetation; indigenous vegetation; indigenous fauna; indigenous vegetation clearance. The amendments sought sit outside of the deferral and are therefore in scope of this hearing.

Protection of indigenous biodiversity in subdivision

28. Notwithstanding the deferral of natural and cultural heritage provisions, references to indigenous biodiversity occur throughout the Subdivision Proposal not just in those provisions which are to be deferred until Stage 3. Accordingly, for the reasons set out below, I have included in Attachment 1 the two remaining provisions⁴ within the Subdivision Proposal where consideration of indigenous biodiversity is, in my opinion, required. I discuss this further below.
29. The Te Rūnanga and ngā rūnanga submission sought to protect areas of indigenous biodiversity in subdivision.
30. The retention of indigenous biodiversity has a range of benefits:
- (a) provides habitat for native wildlife;
 - (b) contributes to the overall health of biodiversity in the city;
 - (c) in hilly areas, can provide slope stability, controlling sediment and erosion;
 - (d) contributes to the overall amenity of the area.
31. Te Rūnanga and ngā rūnanga seek for indigenous biodiversity to be a consideration at the subdivision stage. I consider that indigenous biodiversity is an appropriate consideration and allows for the comprehensive assessment of a site at the early stages of development.
32. Agreement on this was not reached during formal or informal mediation due to the request of the Crown and Christchurch City Council (CCC) to defer matters pertaining to natural and cultural heritage in subdivision.

Protection of waterways and springs

33. The Panel have already heard of the significance and value attributed by Ngāi Tahu mana whenua to freshwater and springs. Of course, the protection of freshwater and springs is essential to all.
34. Notwithstanding that some matters in relation to springs have been deferred (eg Rule 8.3.7) the deferral does not cover all submissions points

⁴ 8.3.5.3 (5) and 8.3.7.3 (g)

in relation to springs and in particular the submission by Te Rūnanga and ngā Rūnanga that seeks to include the consideration of the effects of subdivisions on springs in addition to waterways in matter 5 of the Matters for Discretion: *Provision of land for open space and recreation (8.3.5.3)*.

35. Mana whenua consider that springs are inherently connected to waterways, however, I note that the definition of waterways provided in Chapter 2 of the Plan does not explicitly include springs (although it is perhaps an inherent part of that definition in any case). For that reason, for the avoidance of any doubt for plan users, I believe that springs should be included within Matter for Discretion 5.
36. Rule 8.3.7.1 provides for the protection of springs as a restricted discretionary activity. Te Rūnanga and ngā rūnanga sought the inclusion of a condition, requiring a consent notice to be registered against the Certificate of Title. Mr Long in formal mediation, agreed that he would be comfortable with this subject to clearer wording of the standard. I have suggested the following:

RD 3

Subdivision of land where springs are known to exist.

Include the following standard:

Any spring on any new allotment shall be protected from drainage, contamination, and a consent notice to this effect shall be registered against the Certificate of Title. This consent notice shall require the preservation of the springs in their current state or an enhanced state on the allotment.

37. I note that the above wording was posed to Mr Long but not agreed to. Further discussion was not held due to the deferral of this rule. However, Mr Long again confirmed that he was comfortable with such a standard, but that the wording would need to be agreed. I include it here for the record and to assist when matters regarding springs are heard in due course.
38. During formal mediation the Crown also sought the reinstatement of deleted Matter of Discretion, 8.3.7.3 (10).⁵ *'The effects on ecological,*

⁵ Shown struck through at page 55 of Mr Long's Revised Proposal.

cultural and amenity values associated with springs' and, 12. *'The extent to which the development provides for pathways, for the water to flow from the spring head, that have regard to the existing natural flow path'*. I confirm that Te Rūnanga and ngā Rūnanga support the reinstatement of those matters of discretion.

39. Whilst I acknowledge that there are district wide rules in the notified Chapter 6, General Rules and Provisions, I believe that it is important for there to be a trigger at subdivision stage to consider the effects of subdivision on springs and waterways. Similar to cultural landscapes, springs can be affected by subdivision arrangements and accordingly, consideration at the outset of development provides the opportunity to incorporate springs into development and to ensure the ongoing protection of springs, where appropriate⁶.
40. In my opinion, the amendments sought achieve the purpose of the RMA and gives effect to the CRPS Objective 7.2.3.

Provision of sufficient land for stormwater management

41. Te Rūnanga and ngā rūnagna sought amendments to ensure that sufficient land is put aside at the subdivision stage to provide for the management of stormwater.
42. Te Rūnanga and ngā rūnanga sought amendments to Policy 8.1.3.4 Stormwater disposal. I note that this policy was considered during the Residential hearings and wording by Mr Scott Blair for the Council was proposed. The amendment comprised of three additional clauses.
43. Evidence on the Residential Proposal from Mr Timothy Vial, on behalf of Te Rūnanga and ngā rūnanga, for the most part agreed with the amendments proposed by Mr Blair for Policy 8.1.3.4, with some small amendments. Mr Long at paragraphs 7.59 and 7.60 however does not support the drafting provided by Mr Blair and (for the most part) agreed with by Mr Vial. I defer to the evidence of Mr Vial and prefer the

⁶ I note that Mr Long has included a definition of springs at page 103 of the Revised Proposal. I have not commented on that definition as it is my understanding that this definition will be requested to be deferred until Stage 2, when setbacks from waterbodies are dealt with.

amendments proposed by Mr Blair to those in the revised proposal. I also note that matter (j) of Mr Blair's amendments include use of low impact urban design to reduce the effects of stormwater. The use of low impact urban design was agreed to in the revised Commercial and Industrial proposals. Inclusion in the subdivision proposal is therefore consistent with that approach.

44. As a second relief, whilst the Te Rūnanga and ngā rūnanga amendments to Policy 8.1.3.4 Stormwater disposal were not supported by the Council, the amendments sought by the Crown have been incorporated into the Revised Proposal (b) and (l) and achieve the same outcome sought as the Te Rūnanga and ngā rūnanga submission.
45. Amendments sought to add a new assessment matter in 8.5.1 (Revised Proposal) have been accepted, however, for consistency with the approach agreed with CCC in other chapters a minor amendment is suggested:

8. Whether appropriate provision is made for onsite stormwater treatment **or connection to a catchment based treatment network.**

Protect sites of Ngāi Tahu Cultural Significance

46. The submission of Te Rūnanga and ngā rūnanga seeks the protection of Ngāi Tahu Sites of Cultural Significance. These have been incorporated in the Revised Proposal for the most part, with the exception of matters for discretion 8.3.5.3. The Te Rūnanga and ngā rūnanga submission sought amendments to include reference to cultural landscapes and did not seek the inclusion of consideration of sites of Ngāi Tahu cultural significance.
47. In order to better reflect the intent of the provision I have redrafted the relief sought by Te Rūnanga and ngā Rūnanga as follows:

8. The need for land to be set aside and vested in the Council as a reserve for open space and/or recreation where it will provide for one or more of the following:

[...]

g. recognition of Ngāi Tahu ~~culture~~ **cultural values**, ~~history~~ **historic and contemporary** and identity associated with ~~specific places~~ **sites of Ngāi**

Tahu cultural significance and any cultural landscapes identified in the plan where appropriate;

48. I believe that drafting above better reflects the intention of the provision and achieves consistency with the remainder of the Plan.
49. This was agreed during informal mediation with Mr Long.

Correction of Halswell West ODP

50. The incorrect version of the agreed ODP map was included in the notified proposal. This has since been corrected and the version which was agreed between Fulton Hogan and Te Ngāi Tūāhuriri has been incorporated into the Revised Proposal.

CONCLUSION

51. The **attached** amendments to the Revised Proposal, along with those already accepted by the Council in its Revised Proposal achieve the following:
- (a) Ensure the protection of springs and waterways from the outset of development;
 - (b) Protect cultural landscapes from inappropriate subdivision;
 - (c) Allow for the retention of indigenous biodiversity; and
 - (d) Encourage a comprehensive assessment of the values of any site at subdivision.
52. In my opinion, these amendments achieve the purpose and sections 6, 7 and 8 of the RMA, give effect to the CRPS and Strategic Objectives 3.3.1 and 3.3.3 of the Christchurch Replacement Plan, and are consistent with the LURP, NERP and CERS.



Tanya Jane Stevens

8 June 2015

ATTACHMENT 1

Replacement Plan Provisions	Te Rūnanga and Ngā Rūnanga Amended Relief shown in bold underlined The amendments below are to the provisions of the Revised Proposal dated 21 May (“the Revised Proposal”)	Evidence Reference (paragraphs)
Explanation	<p>Customary Access</p> <p>Access to both sites and resources is essential to enable Manawhenua to fulfil their role as kaitiaki, and also ensure that traditional practices are able to continue. Customary access may include access to sites and resources for a number of purposes, such as:</p> <p>(a) Access to areas for Mahinga Kai – which can be sources of food, fibre, medicinal plants, and other resources for customary uses.</p> <p>(b) Access to areas or sites of cultural significance such as wāhi tapu,</p> <p>(c) Traditional trails, landmarks and settlements.</p>	12-18
8.1.1.4 Policy – Access to waterways / Mana whakahaere	a. Provide for appropriate public access and customary access to and along the marings of rivers, lakes, waterways and the coastline, including through esplanade reserves and strips, except in respect of Lyttelton Port of Christchurch where is is necessary to ensure public safety and the security of adjoining cargo and adjoining activities.	12-18
8.1.2.7 Policy – Open Space	a. Subdivision will ensure that, where appropriate, a public open space network is provided which: [...] vii. strengthens the relationship that Ngai Tahu and the community have with the land and water, including by protecting or enhancing natural features, access to sites and taonga, historic heritage, cultural landscapes identified in the plan , and mahinga kai.	19-27
8.3.3.8 Matters for discretion: Esplanade reserves, strips and additional land	7. Whether the protection of wāhi wāhi tapu , customary access , mahinga kai and other taonga requires an esplanade reserve or esplanade strip of greater or lesser width than 20 metres.	12-18
8.3.5.3 Matters for discretion: Provision of land for open space and	[...] 5. Any impact of subdivision works on sites or areas of significance to tangata whenua, or on waterways, springs, any cultural landscape identified in the plan, indigenous biodiversity , mahinga kai and the coastline. [...] 8. The need for land to be set aside and vested in the Council as a reserve for open space and/or recreation where it will provide for one or more of the following:	46-49

recreation	[...] g. recognition of Ngāi Tahu culture cultural values, history, historic and contemporary and identity associated with specific places sites of Ngāi Tahu cultural significance and any cultural landscapes identified in the plan where appropriate;	
8.3.7.1 Restricted discretionary standards	RD 3 Subdivision of land where springs are known to exist. Include the following standard: Any spring on any new allotment shall be protected from drainage, contamination, and a consent notice to this effect shall be registered against the Certificate of Title. This consent notice shall require the preservation of the springs in their current state or an enhanced state on the allotment.	36, 37
8.3.7.3 Matters for discretion: Heritage and natural environment	2. Trees [...] g. The value of retaining and protecting significant trees, and indigenous biodiversity , including to the identify of the site and context.	28-32
8.5.3.1 Assessment matters – All residential zones	8. Whether appropriate provision is made for onsite stormwater treatment or connection to a catchment based treatment network.	41-45