

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, Development and Earthworks (Part) and Chapter 14 Residential (Part)**

Brief of evidence of Timothy Mark Vial for Te Rūnanga o Ngāi Tahu and Ngā Rūnanga [1145 and FS 1448]

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Introduction

1. My name is Timothy Mark Vial.
2. I hold Degrees of Bachelor of Arts and Bachelor of Laws from the University of Otago, a Postgraduate Diploma in Museum Studies from Massey University, and a Master of Regional and Resource Planning from the University of Otago. I am a Full Member of the New Zealand Planning Institute and an accredited hearings commissioner.
3. I have worked in resource management for over 12 years. I am the Principal Planner at Kāi Tahu ki Otago Limited, a regional Kāi Tahu environmental consultancy. Previously I worked for the Dunedin City Council as a Planner.
4. I whakapapa to the Kāi Tahu hapū of Ngāi te Ruahikihiki and I am a member of Te Rūnanga o Ōtākou.
5. 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 Natural Environment Recovery Programme for Greater Christchurch (**NERP**) which forms part of the Recovery Strategy for Greater Christchurch/Te Mahere Haumanutanga o Waitaha;
 - (d) The Canterbury Regional Policy Statement (**CRPS**), particularly Chapter 5: Land Use and Infrastructure and Chapter 6: Recovery and Rebuilding of Greater Christchurch;
 - (e) The Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014, including the Statement of Expectations in Schedule 4; and
 - (f) Mahaanui – Iwi Management Plan 2013 which in terms of section 74(2A) of the Resource Management Act 1991 is a relevant planning document recognised by the iwi authority.

6. 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.

EXECUTIVE SUMMARY

7. Te Rūnanga o Ngāi Tahu and Ngā Rūnanga (**Te Rūnanga**) sought amendments to Chapter 8 Subdivision, Development and Earthworks (New Neighbourhood Zones) and to Chapter 14 Residential (Part) of the Replacement District Plan (**the Plan**) that:
- (a) Provide for the development of papakāinga housing to meet the needs of Ngāi Tahu whānui.
 - (b) Ensure that Ngāi Tahu has a more visible cultural presence in the urban environment.
 - (c) Provide for Ngāi Tahu values through the restoration and enhancement of indigenous biodiversity.
 - (d) Promote the development of high quality, sustainable residential environments.
 - (e) Protect waterways, wetlands and springs from the discharge of contaminants.
 - (f) Provide for the setback of development from waterways.
 - (g) Protect wāhi tapu and wāhi taonga values, including the silent file areas.
8. I largely support the amendments sought to Chapters 8 (New Neighbourhood Zone and 14 (Residential – Part) that recognise and provide for Ngāi Tahu values and interests in the rebuilding and redevelopment of Ōtautahi/Christchurch. In my opinion, these amendments achieve the purpose of the RMA, give effect to the CRPS and are consistent with both the LURP and the NERP.

9. I recommend removal of the reference to the 'Ngāi Tahu Urban Design Protocol' and Māori urban design principles from Chapter 14 (Residential – Part) as these concepts have yet to be developed to an extent that they can be included in the Christchurch Replacement District Plan. In my opinion, this is required to be consistent with the LURP (Outcome 4) and the strategic objectives of the Plan, in particular Strategic Objective 3.3.2.

Issue - Papakāinga Housing

10. Te Rūnanga sought amendments to Objective 14.1.1 – 'Housing supply' and to Policy 14.1.1.1 – 'Housing distribution and density' to provide for the development of papakāinga housing to meet the needs of Ngāi Tahu whānāui.
11. The imperatives for the development of papakāinga housing, as discussed in the evidence of Adam Blair at paragraphs 14.2 – 14.4, are specifically provided for in draft "Proposal 4 - Papakāinga" (a Phase 2 Proposal). I agree with Mr Blair that specific recognition within the Residential proposal would also be appropriate.
12. I support the insertion of a new policy, *14.1.1.A - Policy - Needs of Ngāi Tahu whānui*, between Policy 14.1.1.1 and 14.1.1.2, as proposed by Mr Blair at paragraph 14.10, but recommend the following wording.

14.1.1.A Policy - Needs of Ngāi Tahu whānui

*a. Enable the housing needs of Ngāi Tahu whānui to be met throughout the residential area and in other locations where there is **an ongoing** relationship with ancestral lands.*

13. The development of papakāinga enables Ngāi Tahu to provide for their social, cultural and economic well-being, regardless of whether there is an ongoing relationship with that land. The development of papakāinga may provide a catalyst for re-establishing a relationship with ancestral lands. It is also important to recognise that Ngāi Tahu was alienated from much of its ancestral land, including many of the original areas set aside or recommended as Maori Reserves as part of Kemp's Purchase. In its Treaty settlement with the Crown, a cash settlement was provided to enable Ngāi Tahu to provide for the economic and social well-being of the tribe through the purchase and development of assets.

14. In my opinion proposed *14.1.1.A - Policy - Needs of Ngāi Tahu whānui*, also supports *14.1.6.3 Policy – Higher density housing to support Papakainga development*.

Issue – Ngāi Tahu Presence and Cultural Values

15. The rebuild and redevelopment of Ōtautahi/Christchurch provides an opportunity to establish a strong and visible Ngāi Tahu presence and to affirm the connections between Ngāi Tahu culture, identity and place in the urban environment.
16. The development of Wigram Skies, as discussed in the evidence of Tony Sewell for Ngāi Tahu Property Ltd (Strategic Directions), is an example of an urban development that enfolds Ngāi Tahu and European history into a contemporary residential subdivision.
17. This matter is directly addressed by Strategic Objective 3.3.3 - Ngāi Tahu Manawhenua, "*Ngāi Tahu Manawhenua's culture and identity are incorporated into, and reflected in, the recovery and development of Ōtautahi*".
18. Te Rūnanga sought amendments to Chapters 8 (New Neighbourhood Zone) and 14 (Residential – Part) to provide for Ngāi Tahu presence and cultural values respectively:
- (a) 8.4.2.6 Neighbourhood Plan, Context and Site Analysis
 - (b) 8.5.4.1 Assessment matter: Place making and context
 - (c) Objective 14.1.5 – High quality residential environments
 - (d) 14.1.5.1 Policy – Neighbourhood character, amenity and safety
 - (e) 14.1.6.1 Policy - Comprehensive Development
19. The revised version of Chapter 8 (Subdivision, Development and Earthworks) dated 9 March 2015 adopts the amendment sought by Te Rūnanga to 8.4.2.6 Neighbourhood Plan, Context and Site Analysis. I support this revision to the Proposal.

20. Te Rūnanga sought an amendment to 8.5.4.1 (as amended) to include 'sites or landscapes of Ngāi Tahu cultural significance' as an assessment matter for subdivision, block, site and building design and layout. This amendment is not reflected in the revised Proposal.
21. In my opinion, it is appropriate to include 'Ngāi Tahu Manawhenua cultural features' as an assessment matter for subdivision, block, site and building design and layout. The inclusion of this matter provides an opportunity to reflect 'sites or landscapes of Ngāi Tahu cultural significance' identified in the neighbourhood plan, context and site analysis in the subdivision, block, site and building design.
22. I consider the following change should be made to 8.5.4.1:
- Whether the subdivision, block, site and building design and layout:
- 1. addresses the existing context including retention of **existing natural and built features, Ngāi Tahu Manawhenua cultural features**, adjacent patterns of development and potential visual and physical connections;*
23. Te Rūnanga sought an amendment to Objective 14.1.5 – High quality residential environments to reflect the Ngāi Tahu and European heritage of Ōtautahi. I support the amendment to this objective proposed by Mr Blair for Council at paragraph 14.12.
24. Policy 14.1.5.1 identifies the elements that contribute to high quality residential environments. Te Rūnanga sought additional recognition of the principles of the 'Ngāi Tahu Urban Design Protocol' as an element of residential environments. I do not support this amendment to Policy 14.1.5.1, for the reasons outlined at paragraphs 26 – 28 of my evidence.
25. The submission sought amendments to Policy 14.1.6.1 to provide greater recognition of Ngāi Tahu heritage and cultural values in the planning and design of new neighbourhoods. I agree with the assessment of Mr Blair at paragraph 14.14 that the proposed amendments to this policy are appropriate.

Issue - Ngāi Tahu Urban Design Protocol and Māori urban design principles

26. Ngāi Tahu urban design values are recognised in Policy 14.1.5.1, and are provided for as an urban design, appearance and amenity matter at 14.9.1 (previously 14.9.6).
27. The six Māori design principles set out at 14.9.1 were assessed by Mr McIndoe for Council, who concludes that these principles remain undefined and do not assist the interpretation and application of the other urban design matters. Similarly, an assessment by the Property Group (Appendix 1 – Evidence of Andrew Macleod) concludes that it would be more appropriate to address these principles in the objective and policy framework.
28. Te Rūnanga has advised that the 'Ngāi Tahu Urban Design Protocol' was a proposal between Ngāi Tahu and CERA that was intended to provide guidance on the Māori design principles for the rebuild of the City. My understanding is that the work being done at this stage applies to the Central City and that protocols for other areas have yet to be developed. In the absence of guidance I recommend removal of the references to the Protocol and the design principles from Policy 14.1.5.1 and 14.9.1 respectively.

Issue - Comprehensive planning for new neighbourhoods

29. Te Rūnanga sought an amendment to Objective 14.1.6 to promote residential developments that reflect the four pillars of sustainability. This amendment is adopted by Mr Blair at paragraph 14.13. I support this amendment.
30. The submission of Te Rūnanga on Policy 14.1.6.6 – 'Stormwater Networks' sought to avoid the direct discharge of stormwater to the urban waterways and to promote on-site treatment where practicable. The practice of using the urban waterways as a receiving environment for the discharge of stormwater and contaminants is not supported by Te Rūnanga.
31. I agree with Mr Blair's assessment that an "avoid" standard is unachievable. However, it is my opinion that the intent of the submission by Te Rūnanga can be addressed by making the following amendments to Policy 14.1.6.6:

- a. *Ensure that stormwater management:*
- i. utilises “soft” engineered solutions that ~~limits~~ **reduce the flow of** stormwater ~~leads on~~ **directly into** waterways **without detention on land or in artificial wetlands; and***
 - ii. enables the development of multipurpose amenity areas that integrate with the parks and open space networks;*
 - iii. **utilises “low impact urban design and development” solutions** **to improve**s water quality and infiltration;*
 - iv. **does not exacerbate** ~~reduces the~~ potential for bird strike to aircraft;*
 - v. encourages stormwater swales, wetlands, and retention basins planted in native species (rather than left as grass) that are appropriate to the specific use, recognising the ability of particular species to absorb water and filter waste; and*
 - vi. has sufficient capacity to meet the required level of service in the infrastructure design **[#495 Crown]***
32. I note that stormwater management and the use of “Low Impact Design” solutions to mitigate the effects of stormwater are discussed in the evidence of Robert Norton. I defer to Mr Norton’s expertise in this area.
33. Te Rūnanga does not support unnecessary restrictions on the establishment or restoration of wetlands, waterways and other natural features, while acknowledging that bird strike is a relevant issue of concern for Christchurch International Airport. In my opinion, the proposed amendment to Policy 14.1.6.6 iv. addresses the issue of concern for Te Rūnanga and is consistent with Assessment Matter 14.9.5.2.
34. In my opinion, the proposed amendments to Policy 14.1.6.6 give effect to the CRPS, LURP and to the NERP (Projects 4 and 5).
35. I note that ‘14.1.6.6 Policy – Stormwater Networks’ is struck out in the 9 March 2015 version of this Proposal. I am uncertain as to why this policy is struck out. I record that I support the notified version of this policy, subject to the amendment discussed above.

Issue – Protection of waterways, wetlands and springs from the discharge of contaminants

36. Te Rūnanga sought amendments to Rules 14.2.3.14, 14.3.3.15, 14.6.3.15, 14.7.4.8, and 14.8.3.8 to protect urban waterways from the discharge of contaminants from waste management areas. The revised Proposal requires waste management areas to be “designed in a way that avoids spillage or leakage into any water body”. I support this amendment to the Residential rules.

Issue - Setback of development from waterways

37. The submission of Te Rūnanga sought the addition of rules and assessment matters to protect the riparian margins of waterways, wetlands and springs. This is a matter that is specifically addressed in Stage 2 within Proposal 6 "General Rules and Procedures" at Section 6.6 "Waterway Setbacks".

38. I also note that the relationship of tangata whenua with freshwater is provided for in the Residential Proposal by “14.1.6.8 Nga kaupapa / Policy Protection and enhancement of sites, values and other taonga of significance to tangata whenua.”

Issue – Protection of wāhi tapu and wāhi taonga values, including silent file areas

39. The submission of Te Rūnanga sought the addition of rules and assessment matters to protect wāhi tapu and wāhi taonga values, including the silent file areas. This matter will be addressed in Proposal 9 "Natural and Cultural Heritage" (which I understand will be dealt with in a later Phase of the Plan Review).



Timothy Mark Vial
20 March 2015