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Submission by Mahaanui Kurataiao Ltd

On behalf of

Tē Taumutu Rūnanga

To: Selwyn District Council

PO Box 90
Rolleston 7643

Submission on a publicly notified Consultation Draft

1.0 Introduction

This submission is being made by Mahaanui Kurataiao Ltd on behalf of Tē Taumutu Rūnanga.

Tē Taumutu Rūnanga is one of the Papatipu Rūnanga that make up Tē Rūnanga o Ngāi Tahu. The Rūnanga are the collective of the hapū and whānau of Ngāi Tahu who hold manawhenua in the takiwā that includes the Tē Waihora catchment and also extends to the wider Selwyn District and south to the Hakatere/Ashburton River.

Status of Papatipu Rūnanga as Manawhenua

The Tē Rūnanga o Ngāi Tahu Act 1996 (the TRoNT Act) and the Ngāi Tahu Claims Settlement Act 1998 (the Settlement Act) give recognition to the status of Papatipu Rūnanga as kaitiaki and manawhenua of the natural resources within their takiwā boundaries.

Notwithstanding its statutory status as the representative voice of Ngāi Tahu Whānui “for all purposes” (as set out below), Tē Rūnanga o Ngāi Tahu accepts and respects the right of individuals and Papatipu Rūnanga to make their own submissions to the consent authority. In this case Tē Rūnanga o Ngāi Tahu is not submitting on this matter as it is a matter of local significance for which the Papatipu Rūnanga hold concerns.

Tē Rūnanga o Ngāi Tahu

Tē Rūnanga o Ngāi Tahu is the tribal representative body of Ngāi Tahu Whānui. It is a body corporate established under section 16 of the TRoNT Act. Section 15(1) of the TRoNT Act states:

Tē Rūnanga o Ngāi Tahu shall be recognised for all purposes as the representative of Ngāi Tahu Whānui.

In paragraph 7 of section 6 of the Settlement Act (recording the Crown's apology) Ngāi Tahu is recognised "as the tāngata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui." It has therefore been clearly affirmed in statute that Tē Rūnanga o Ngāi Tahu is the sole representative of Ngāi Tahu Whānui, the iwi that is tāngata whenua within the Ngāi Tahu Takiwā.

Tē Taumutu Rūnanga

Tē Taumutu Rūnanga is one of the Papatipu Rūnanga that makes up Tē Rūnanga o Ngāi Tahu. The Rūnanga are the collective of the hapu and whānau of Ngāi Tahu who hold manawhenua in the takiwā that centres on Taumutu and the waters of Tē Waihora and adjoining lands. Tē Taumutu Rūnanga have strong cultural associations with the land and waters including waipuna (springs) of Selwyn District area, and these natural resources and the associations held, form an important part of Tē Taumutu Rūnanga cultural identity. The social wellbeing of Tē Taumutu rūnanga is strongly identified and impacted by changes to the rural environment and the social impact of changes of any changes if of significance. This includes impacts on health, education and wider aspects of cultural identity and well-being. Explicit recognition of such taonga and cultural associations in rural residential development will support the well-being of tangata whenua through necessary recognition and protection of valued resources and places.

Mahaanui Kurataiao Ltd

Mahaanui Kurataiao Ltd is owned by the six Rūnanga of Christchurch and is mandated by each Rūnanga to engage in resource management on their behalf. Mahaanui Kurataiao Ltd (MKT) is an agent for the Rūnanga and has no interests of its own in relation to the proposed activity. Selwyn District Council should consider this submission as if it were directly provided by the Rūnanga involved.

2.0 STATUTORY REQUIREMENTS RELEVANT TO THIS DRAFT STRATEGY

Following are the requirements of the relevant legislative provisions related to protecting and enhancing tangata whenua values in relation to rural residential development. The aspects considered particularly important are highlighted in bold:

Resource Management Act 1991 (RMA)

Part II of the RMA contains a number of specific provisions relating to tangata whenua that must be considered in decisions made under the RMA:

- Sections 6(e) and 6(f) require that *"the relationship of Maori and their culture and traditions with their **ancestral lands, water, sites, wahi tapu, and other taonga**" and "the protection of historic heritage from **inappropriate subdivision, use and development**" is recognised and provided for.*
- Section 7(a) requires that particular regard is given to '**kaitiakitanga**'.
- Section 8 requires that the principles of the Treaty of Waitangi are taken into account.

Under section 74 when preparing or changing a district plan, a territorial authority shall have regard to:

- (b) (ii) *any relevant planning document recognised by an iwi authority affected by the district plan.*

The relevant planning documents recognised by Tē Rūnanga o Ngāi Tahu as the iwi authority are the Tē Taumutu Rūnanga Natural Resource Management Plan; Tē Rūnanga o Ngāi Tahu Freshwater Policy Statement and the Tē Waihora Joint Management Plan. The relevant policies from each document are outlined below:

Tē Rūnanga o Ngāi Tahu Freshwater Policy Statement

6.2 Objective Restore, maintain and **protect the mauri of freshwater resources.**

Policy 1. Accord priority to ensuring the availability of sufficient quantities of water of appropriate water quality to restore, maintain and **protect the mauri of the water body.**

Policy 4. Protect the opportunities for Ngāi Tahu's uses of **freshwater resources** in the future.

6.3. Policy 2. Restore and enhance the **māhinga kai values** of lakes, rivers, streams, wetlands, estuaries and riparian margins

Policy 4. Restore access to freshwater resources for cultural activities including the harvest of **māhinga kai.**

Te Waihora Joint Management Plan

2.3 Nga wai

Method 2.3 (f) Advocate;

(b) The retention and restoration of water flows in Tē Waihora tributaries and springs for the maintenance of water quality and freshwater habitats.

Selwyn District Plan

The Water Objectives B1.2.2 of the Selwyn District Plan in relation to expansion of townships include reference to: not adversely affecting wahi tapu or wahi taonga and ground and surface water; maintaining or enhancing the ecological habitats values of waterbodies and their margins and māhinga kai sites.

Mahaanui Iwi Management Plan

The relevant policies and objectives of Mahaanui Iwi Management Plan require due consideration and the incorporation of the appropriate, recognisable and meaningful statements from this plan be incorporated into the document.

3.0 THE SPECIFIC PROVISIONS OF THE DRAFT STRATEGY THAT MY SUBMISSION RELATES:

The whole draft document:

The submission is: Tē Taumutu Rūnanga opposes specific matters of the Rural Residential Strategy – Consultation Draft 2013 as identified below.

3.1 OUTLINE DEVELOPMENT PLANS

Tē Taumutu Rūnanga wish to reiterate their position on Outline Development Plans (ODPs) as stated in their submission to plan change 32. This position is that Tē Taumutu Rūnanga support the requirement for Outline Development Plans (ODPs) as part of rezoning land for rural-residential development; however Tē Taumutu Rūnanga opposes the requirement that ODPs are to be prepared by the private developer as part of their private plan change rather than prepared by Council as proposed under plan change 17.

3.1.1 Need to Recognise and Provide for Tangata Whenua Values

Outline Development Plans (ODPs) are a key planning mechanism which can effectively recognise and provide for the protection and enhancement of tangata whenua values in the zoning and development of land. As such, Tē Taumutu Rūnanga considers it is critical that tangata whenua values and wāhi taonga are identified in the preparation of ODPs. However, with the significant change in approach in the development of ODPs in plan change 32 from that in plan change 17, tangata whenua values are considered at risk of not being effectively included in the preparation of ODPs.

Tangata whenua values must be recognised and provided for in plans and plan changes, to archive the purpose of the Resource Management Act 1991 (RMA) and to discharge the Council's duties under s32, 74 and 75 of the RMA.

Tē Taumutu Rūnanga supports the concept of ODPs as a planning method as they are an effective tool for identifying tangata whenua values and areas for protection. In order to recognise and provide for Tē Taumutu Rūnanga's values it is imperative that these are clearly identified on the Outline Development Plans (ODPs). For example, the absence of the identification of waipuna or springs in an ODP would seriously undermine the ability for the district plan to recognise and provide for the associations held by Tē Taumutu Rūnanga with the ancestral waters of the area. Therefore, not recognising and providing for tangata whenua values in ODPs would undermine Tē Taumutu Rūnanga's cultural associations to their ancestral lands, water, sites, wahi tapu, and other taonga. This would not be consistent with Part II of the RMA in particular Sections 6(e) and 6(f) which require that "the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wahi tapu, and other taonga" and "the protection of historic heritage from inappropriate subdivision, use and development" is recognised and provided for. It would mean the lack of visibility of Tē Taumutu Rūnanga's cultural identity and values in the development of rural residential zones.

3.1.2 Approach to ODPs

Tē Taumutu Rūnanga opposes the approach of relying solely on private plan change processes to rezone land as it removes the Council's proactive role of developing ODPs which occurred under proposed plan change 17. During the proposed plan change 17 processes whereby Council was responsible for developing the ODPs, rūnanga was involved early on in the development and had direct input into these ODPs. This process provided rūnanga assurance that their values would be included in the ODPs. However, with the applicant developing the ODPs under a private plan change process, there is a risk that rūnanga will no longer have a direct, proactive input into the ODPs as they did under proposed PC17. It would most likely result in rūnanga being positioned in a reactive mode by challenging private plan changes at the submission and hearing stage rather than having direct, proactive input in the ODP process. The local authority cannot require an applicant for a private plan change request to consult with rūnanga as part of developing the ODPs, or determine whether and how any values identified will be recognised and protected if consultation does occur.

Chapter 6 Regional Policy Statement

The role of the private plan process to develop ODPs for rural residential development is considered an insufficient process to adequately ensure that the ODPs will fulfil Council's responsibility prescribed in Chapter 6, Policy 6.3.9 of the CRPS for managing rural residential development. This includes Policy 6.3.9 (5) that "the location and design of any proposed rural residential development shall: *support the protection and enhancement of ancestral land, water sites, and wahi tapu and wāhi taonga of Ngāi Tahu*".

Te Taumutu Rūnanga seek the following decision from the Selwyn District Council:

Tē Taumutu Rūnanga seek that the Rural Residential Strategy Consultation Draft adopts the 'Council developed ODPs approach' proposed in PC17 as this process provides greater certainty to the rūnanga that their values would be included.

If, the developer prepared ODPs approach as under proposed plan change 32 is to proceed, then Tē Taumutu Rūnanga's second preferred relief is that a process be formalised between Tē Taumutu Rūnanga and Selwyn District Council to assure all steps are taken to:

- Encourage any private plan change applicant to consult with rūnanga in the development of ODPs; and
- That when the Council receives a plan change request, those requests are forward to rūnanga for comment before being accepted for processing under Clause 25 of Schedule 1 of the RMA.

3.3. RURAL RESIDENTIAL LOCATION CRITERIA – GENERIC CRITERIA (APPENDIX 1)

3.3.1 Chapter 6 of the CRPS (LURP).

3.3.1.1 Not significantly adversely affect ancestral land, water, sites wāhi tapu and wāhi taonga of Ngāi Tahu

Tē Taumutu Rūnanga consider that the above wording in the criterion above under “Chapter 6 of the CRPS (LURP)” relating to Ngāi Tahu values does not give adequate weight to the protection of their cultural values. The wording - “*Not significantly adversely affect ancestral land, water, sites, wāhi tapu and wāhi taonga of Ngāi Tahu*” does not provide a proactive direction or outcome to protect, enhance and restore Ngāi Tahu cultural values in rural residential development. These values are expressed in the Mahaanui Iwi Management Plan (IMP) which includes ‘Ngāi Tahu subdivision and development guidelines’. These guidelines provide proactive measures relating to cultural landscapes, stormwater, earthworks, waste treatment and disposal, design guidelines, and landscaping and open space.

Furthermore, the wording in the Draft Strategy does not reflect the wording in Chapter 6, Policy 6.3.9 (5) (i) of the CRPS which states that the “*the location and design of any proposed rural residential development shall: ...support the protection and enhancement of ancestral land, water sites, and wāhi tapu and wāhi taonga of Ngāi Tahu*”. This wording provides a more proactive protection of cultural values through the words “support” and “enhance” rather than merely “*not significantly adversely affect*”.

Te Taumutu Rūnanga seek the following decision from the Selwyn District Council:

Tē Taumutu Rūnanga seek that the wording under the Rural Residential location criteria table in Appendix 1 under “Chapter 6 of the CRPS (LURP)” relating to Ngāi Tahu values be changed to the following wording (changes in bold):

Support the protection and enhancement of ancestral land, water, sites, and wāhi tapu and wāhi taonga of Ngāi Tahu”.

3.3.1.2 Avoid adverse effects on existing surface water quality.

Tē Taumutu Rūnanga considers that the above criterion needs to include groundwater quality as well as surface water quality. Groundwater quality is increasingly a significant issue due to the rapid increased intensification of landuse in the district. There is a criterion in the Draft Strategy related to groundwater which states the “*avoidance of the groundwater recharge zone for Christchurch’s drinking water*” however this does not adequately protect groundwater in the whole district area. The protection and restoration of groundwater quality is addressed in the following policy in the IMP:

Wai Māori , Policy WM 6.3 *To require that clear and effective targets are established for restoring water quality in the takiwā, with immediate attention to: (a) Lowland and coastal streams; and (b) Groundwater.*

In addition, the absence of reference to ‘groundwater quality’ in the Draft Strategy is inconsistent with Chapter 6, in the CRPS. Policy 6.3.9 (5)(i) does not limit water quality to surface water but water quality in general. It states that the “*the location and design of any proposed rural residential development shall: ...avoid adverse effects on existing water quality*”. Policy 6.3.3 –“Development in accordance with Outline Development Plans” also includes the “*.... protection and enhancement of surface and groundwater quality....*” (Policy 6.3.3 (10)).

In addition, Tē Taumutu Rūnanga considers that it is critical that water *quantity* in both surface water and groundwater is also protected from adverse effects along with the protection of water quality. Degraded water quantity in the rivers and other waterways in the Selwyn district is a critical issue. Large areas in the Selwyn district are in the “red zone” which means that which means

that the water allocation exceeds the precautionary trigger levels by 100% or more as illustrated in the CWMS (figure 2: Groundwater allocation zones in Canterbury'). Water is a taonga to Te Taumutu Rūnanga and the quantity of water needs to be protected and included in the Draft Strategy.

There also needs to be specific reference to 'drains and water/stock races' as these are often overlooked as not legitimate 'surface waterways'. Most drains or races were once natural waterways that fed into Tē Waihora and are as such still valued by Tē Taumutu Rūnanga as important taonga. Protection of the water quality and quantity of these waterways would help towards restoring the cultural health of the waterways and hence its mauri and provide for the relationship of Tē Taumutu Rūnanga with water as a significant taonga.

Te Taumutu Rūnanga seek the following decision from the Selwyn District Council:

Tē Taumutu Rūnanga seeks that the criterion "Avoid adverse effects on existing surface water quality" be changed to the following wording (changes in bold):

*Avoid adverse effects on water quality **and quantity of surface water (including drains and water/stock races) and groundwater.***

3.3.2 Landscape values

3.3.2.1 Protection of natural features, significant trees and vegetation.

Tē Taumutu Rūnanga consider that the exclusion of provision for the protection and restoration of indigenous flora and fauna in the above criterion undermines the Rūnanga's relationship with native, indigenous species as they provide mahinga kai and biodiversity values and are a taonga. The Canterbury Plains are a highly modified landscape and the natural character of the plains has been seriously degraded with land intensification. Historically it was a rich source of mahinga kai. The protection and restoration of indigenous flora and fauna is advocated in the Mahaanui Iwi Management Plan 2013, Tane Mahuta, Policy 3.1:

To approach the restoration of indigenous biodiversity in the takiwā based on the following principles:

- a) Restoration of indigenous biodiversity is about restoring original and natural landscapes, and therefore the mauri of the land; and*
- (b) Restoration of indigenous biodiversity is about restoring the relationship of Ngāi Tahu to important places and resources; including planning for customary use.*

The restoration of indigenous species is also outlined the CWMS target area for 'enhanced Indigenous biodiversity across the Zone' in the *Selwyn Waihora - Zone Implementation Programme*, of which Tē Taumutu Rūnanga have had an integral part in its development. The target specifically requires that "Indigenous biodiversity corridors are created across the plains including waterway corridors" (p.11).

In addition, the protection of 'cultural landscapes' needs to be included in the criterion above. The Mahaanui IMP – Chapter 5.8 Ngā Tūtohu Whenua, defines 'cultural landscapes' as "a geographical area with particular (and often related) traditional, historical, spiritual and ecological value to Ngāi Tahu". The IMP describes how "the whole of the Canterbury region has cultural landscape value: Ngāi Tahu travelled through, engaged with and named the land, and tāngata whenua history is part of the landscape". The importance of providing for cultural landscapes in council planning is stated in Policy CL1.2 in the IMP (see below).

CL1.2 To require that local and central government give effect to cultural landscapes in policy, planning and decision making processes as a tool to:

- (a) enable holistic assessment of effects on cultural values;*
- (b) Recognise the relationship of Ngāi Tahu to particular areas and sites; and*
- (c) Provide a wider context for cultural heritage management and the protection of individual*

Te Taumutu Rūnanga seek the following decision from the Selwyn District Council:

Te Taumutu Rūnanga seek that the criterion “*Protection of natural features, significant trees and vegetation*” be changed to the following wording (changes in bold):

*Protection, **enhancement and restoration of indigenous flora and fauna in particular mahinga kai species, cultural landscapes, natural features, significant trees and vegetation.***

3.3.3 Categorisation of criteria

Te Taumutu Rūnanga consider that several criteria need to be categorized into the ‘red star’ group instead of the ‘yellow triangle’ due to their high cultural significance. These include the following criteria:

- *Protection of natural features, significant trees and vegetation*
- *Avoid adverse effects on existing surface water quality*
- *Avoid significant adverse ecological effects*
- *Not significantly adversely affect ancestral land, water, sites wāhi tapu and wāhi taonga of Ngāi Tahu*
- *Avoid locations that may compromise the quality of ecosystems or indigenous biodiversity and ensure that rural residential areas do not adversely affect ancestral land, water and the wāhi and wāhi taonga of Te Taumutu Rūnanga. These include the need to protect and enhance rivers, streams, groundwater, wetlands and springs within the catchment of Lake Ellesmere/Tē Waihora, springs and any associated mahinga kai sites.*

The above criteria all need to be ‘critical outcomes’ in rural residential development as these matters are of critical significance to Te Taumutu Rūnanga. These issues are articulated in the Mahaanui IMP. Furthermore, the outcomes above are required under ‘Policy 6.3.9 (5) (d), (i), (j), (l) - Rural residential development’ in Chapter 6 of the CRPS.

Te Taumutu Rūnanga seek the following decision from the Selwyn District Council:

Te Taumutu Rūnanga seek that the above listed criteria are re-categorised into the ‘red star’ group as critical outcomes that are required to be achieved.

4.0 STUDY AREA CRITERIA

Due to time and capacity constraints, the ‘study area criteria’ in the Draft Strategy have not been assessed as to whether they adequately protect and provide for the cultural values of Te Taumutu Rūnanga. However, it is assumed that the changes to the “generic criteria” sought by Te Taumutu Rūnanga in this submission will sufficiently cover any issues that may arise in the ‘study area criteria’.

5.0 SUPPORTS IN PART - RECOGNITION OF TANGATA WHENUA VALUES

Tē Taumutu Rūnanga supports in part the following provision:

Avoid locations that may compromise the quality of ecosystems or indigenous biodiversity and ensure that rural residential areas do not adversely affect ancestral land, water and the wāhi and wāhi taonga of Te Taumutu Rūnanga. These include the need to protect and enhance rivers, streams, groundwater, wetlands and springs within the catchment of Lake Ellesmere/Tē Waihora, springs and any associated mahinga kai sites.

However, there needs to be more emphasis on 'protecting, enhancing and maintaining' their values rather than just avoiding any 'compromise' of them. This provides a stronger outcome to be achieved in protecting these cultural values.

Te Taumutu Rūnanga seek the following decision from the Selwyn District Council:

Te Taumutu Rūnanga seek that the above criteria is changed to the following wording to better provide for their cultural values.

*Avoid locations that may compromise the quality of ecosystems or indigenous biodiversity and ensure that rural residential areas **protect, enhance and maintain** ancestral land, water and the wāhi and wāhi taonga of Te Taumutu Rūnanga. These include the need to protect and enhance rivers, streams, groundwater, wetlands and springs within the catchment of Tē Waihora /Lake Ellesmere, springs and any associated mahinga kai sites.*

6.0 Closing Points

Tē Taumutu Rūnanga appreciates the opportunity for public participation provided through the Resource Management Act (1991). Tē Taumutu Rūnanga does wish to be heard at any hearing for the resource consent. Correspondence on this submission to be made to Chief Executive, Mahaanui Kurataiao Ltd, PO Box 3246, Christchurch 8140 or Bryan.McGillan@ngaitahu.iwi.nz

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