

Resource Management (Form, Fees and Procedure) Regulations 2003
Form 5
Submission on a publicly notified proposal for a plan change

To: Selwyn District Council
PO Box 90
Rolleston 7643

Name of Submitter:

Mahaanui Kurataiao Ltd on behalf of Te Taumutu Rūnanga. This is a submission on Proposed Plan Change No 28, Denwoods Trustee Limited, to the Selwyn District Plan.

I could not gain an advantage in trade competition through this submission.

Te Rūnanga O Ngāi Tahu Te 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:

Te 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 Te Rūnanga o Ngāi Tahu is the sole representative of Ngāi Tahu Whānui, the iwi that is tāngata whenua within the Ngāi Tahu Takiwā.

The Te 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", Te Rūnanga o Ngāi Tahu accepts and respects the right of individuals and Papatipu Rūnanga to make their own submissions to local authorities.

Te Taumutu Rūnanga

Te Taumutu Rūnanga is one of the Papatipu Rūnanga that makes up Te 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 Te Waihora and adjoining lands. Te Taumutu Runanga 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 Te Taumutu Runanga cultural identity. Explicit recognition of such taonga and cultural associations in rural residential development will support the well-being of tāngata 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. The Rūnanga use the mechanism of Mahaanui Kurataiao Ltd, to assist the articulation of their interests, values and aspirations into decision-making process of Councils. Mahaanui Kurataiao Ltd (MKT) is an agent for the Rūnanga and has no interests of its own in relation to the proposed activity.

1 STATUTORY REQUIREMENTS RELEVANT TO THIS DRAFT PLAN CHANGE

Following are the requirements of the relevant legislative provisions related to protecting and enhancing tāngata 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 Te Rūnanga o Ngāi Tahu as the iwi authority are the Te Taumutu Rūnanga Natural Resource Management Plan; Te Rūnanga o Ngāi Tahu Freshwater Policy Statement and the Te Waihora Joint Management Plan. The relevant policies from each document are outlined below:

Te Taumutu Rūnanga Natural Resource Management Plan

3.3 O Te Whenua

*Policy 2. Buffer zones must have **riparian planting along the waterways**.*

3.3.4 Drainage

*Policy 5. Planting along the margins of **drains** should be used to control sedimentation, reduce weed growth and the amount of weed cutting is necessary*

3.4. Riparian zones

*Policy 1. No abstraction from **springs** and connected groundwater.*

*Policy 2. Restoration of productive capacity of **wetland ecosystems**.*

*Policy 3. No further draining of existing **wetlands***

*Policy 4 That existing wetland areas be maintained and enhanced to provide for provide for tuna (eel) habitat and other **mahinga kai***

*Policy 5 Actively encourage restoration of wetland area with **indigenous vegetation** to protect ecosystem health*

3.5.2 Indigenous flora and fauna

*Policy 1. Advocate for habitat enhancement and the restoration and reintroduction of **indigenous species** programs.*

Te 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 waterbody.**

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 **Te Waihora tributaries** and **springs** for the maintenance of water quality and freshwater habitats.

Canterbury Regional Policy Statement

CHAPTER 12A - DEVELOPMENT OF GREATER CHRISTCHURCH

Chapter 12A provides direction for the growth, development and enhancement of the urban and rural areas of the Greater Christchurch sub-region for the period to 2041. It replaces the revoked Proposed Change No. 1 to the Canterbury Regional Policy Statement. Council is required to "give effect" to these provisions.

Objective 2: Character and Sustainability

To achieve built environments within Greater Christchurch that:

- (a) provide for quality living environments;
- (b) retain areas of special amenity and heritage values where these are of regional significance;
- (c) **retain values of importance to tangata whenua;**
- (e) are healthy, environmentally sustainable, functionally efficient, and economically vibrant.

Policy 13: Rural Residential Development

Rural Residential development further to areas already zoned in district plans as at 28 July 2007 may be provided for by territorial authorities, if it does not exceed the maximum quantities for the periods set out in Table 1, Policy 6, and if it accords with the methods under this policy.

Methods

13.1 Areas within which Rural Residential development may occur shall be defined by changes to the district plan by the territorial authorities subject to the following:

- (iv) The location of any proposed Rural Residential development shall:
 - avoid significant adverse ecological effects;
 - not adversely affect ancestral land, water sites, wahi tapu and wahi taonga of Ngai Tahu;
 - avoid adverse effects on existing surface water quality.

Policy 15: Monitoring and Review

- (b) The Canterbury Regional Council, in conjunction with the territorial authorities, shall undertake monitoring of the supply, uptake and impacts of rural residential land use and development.

12A.6 Anticipated Environmental Results

The following are the anticipated environmental results from this Regional Policy Statement:

- (n) Retention and improvement of the natural environment and outstanding natural features and landscapes.*
- (o) Minimising adverse effects, including the cumulative effects of development, on the environment*

12A.7 Definitions

Outline Development Plan: means a plan prepared for the development of a Greenfields Area or Rural Residential Development in the manner outlined in Policies 8 and 13. It shall include maps, plans, and other descriptive and illustrative material as necessary to convey the information referred to in Policies 8 and 13.

Proposed Canterbury Land and Water Regional Plan 2012

Policy 4.3 The discharge of contaminants to water or the draining, diversion or abstraction of any water or disturbance to the bed of a fresh waterbody shall not diminish any values of cultural significance to Ngāi Tahu.

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 wāhi tapu or wāhi taonga and ground and surface water; maintaining or enhancing the ecological habitats values of waterbodies and their margins and mahinga kai sites.

Rural Residential Background Report (RRBR)

The RRBR is a non-RMA document that was prepared under the Local Government Act (LGA) and was adopted by Council in 2011. It is required 'to be considered' with a private plan change. It is also relevant under s74 of the RMA, where Council must 'have regard' to it in the preparing of a plan.

The RRBR introduces comprehensive principles and criteria that will guide rural residential development. This includes principles and criteria specifically related to tangata whenua that identifies key values of importance such as:

- *The protection of waterways, including rivers, streams, groundwater, wetlands, Te Waihora and springs, are of significance to Te Taumutu Rununga and Te Rununga o Ngai Tahu”;*
- *Protecting sites of significance and securing, enhancing and maintaining indigenous biodiversity and ecosystems;*
- *The need to take into account the principles of the Treaty of Waitangi.*

2. THE SPECIFIC PROVISIONS OF THE PROPOSAL THAT MY SUBMISSION RELATES TO IS:

The whole plan change.

My submission is: That Te Taumutu Rūnanga oppose the proposed Plan Change No 28 to change the land to a rural residential zone based on the matter identified below.

2.1 Overall absence of reference to tangata whenua values in the AEE, amendments to the plan change and in the Outline Development Plan (Appendix 13); and lack of engagement with Te Taumutu Rūnanga in the development of the plan change.

Te Taumutu Rūnanga do not agree for the land to be rezoned as rural-residential because of the lack of inclusion of tangata whenua values in the proposed plan change. The AEE fails to specifically

identify and address any potential adverse effects on tāngata whenua values associated with the development area. While the issue of restoring the waterway and riparian margin is identified under “Landscape and Visual Effects” and is an issue for tāngata whenua, this does not adequately equate to an assessment of effects on tāngata whenua values. Furthermore, the amendments to the plan, which mostly includes the amendment of current rules, the addition of new rules and new ‘matters to be considered’, do not include any reference to recognising and providing for tāngata whenua values. Significantly, the proposed ODP (Appendix 13) also is absent of providing for values of importance to tangata whenua.

This lack of inclusion of tangata whenua values in the amendments, AEE and ODP of the plan change is a reflection of the absence of any known consultation with rūnanga in the development of the plan change and ODPs. In addition, under the ‘*Statutory Framework - section 3.55, Section 6 and 8 –Matters of Importance /Treaty of Waitangi*’ the application fails to identify any tāngata whenua issues stating that, “*There are not considered to be any matters of national importance or Treaty of Waitangi issues associated with the Site*”. This statement can not be made without any consultation with Te Taumutu Rūnanga and Ngāi Tahu.

The reasons for Te Taumutu Rūnanga’s opposition:

Rules and ODPs are key planning mechanisms which can effectively recognise and provide for the protection and enhancement of tangata whenua values in the zoning and development of land. Rural residential development may potentially have adverse effects on tāngata whenua values such as wāhi tapu and wāhi taonga, biodiversity, native species, mahinga kai values, natural features, water quality, waterways, waipuna (springs) and wetlands. In order to recognise and provide for Te Taumutu Rūnanga’s values it is imperative that their values are clearly identified on the ODPs, in the rules and also in the AEE. Failure to adequately recognise and provide for tāngata whenua values in these planning mechanisms effectively undermine Te Taumutu Rūnanga’s cultural associations to their ancestral lands, water, sites, wāhi 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 Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga” and “the protection of historic heritage from inappropriate subdivision, use and development” is recognised and provided for. It would also be inconsistent with *Chapter 12A of the CRPS* which outlines mandatory prescribed criteria for managing rural residential of which ODPs must “give effect” to. These criteria include, under Policy 13, information to ensure that the location shall “*not adversely affect ancestral land, water sites, wāhi tapu and wāhi taonga of Ngāi Tahu*”.

In addition, proposed provisions in plan change 32 protect tāngata whenua values such as:

- Amendment 68, Quality of the Environment. New Policy B3.4.3(b) whereby Living 3 Zone is to meet the following strategic outcomes including “*avoid land that contain sites of significance to tāngata whenua or where development would result in significant adverse effects on ecological values or indigenous biodiversity*”; and
- Amendment 86, Residential and business Development – Town Form. Policy B4.3.11. New Explanations and Reasons outline how the preparation of ODP includes the requirement of the... “*protection of significant sites and features, including sites of cultural significance to*

tangata whenua (ancestral land and water, springs, mahinga kai sites, wāhi tapu and wāhi taonga of Te Rūnanga o Ngāi Tahu and Te Taumutu Rūnanga)”.

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

Te Taumutu Rūnanga oppose the plan change to rezone as rural residential as this process needs to incorporate an assessment of tāngata whenua values. As such, Te Taumutu Rūnanga request that a Cultural Impact Assessment (CIA) be undertaken to assess the potential effects on tāngata whenua values of the plan change process to provide certainty to the rūnanga that their values would be included. And that this process be formalised between Te Taumutu Rūnanga and the applicants to assure all steps are taken to incorporate tāngata whenua values in the development of the area.

2.2 Matters that concern tangata whenua that need to be included in a CIA and are not included in the plan change:

Te Taumutu Rūnanga identify a list of significant issues including potential adverse effects that have not been identified nor addressed in the plan change and which need to be included in a CIA as ‘adverse eff. These tāngata whenua matters need to be included in a plan change process for the development of the land. These include, but are not limited to:

- The provision for low impact house design features such as rainwater collection which is critical given the high water table in the Site;
- The protection of the water quality and quantity of the drain(waterway) in the middle of the Site which is significant as these drains (waterways) flow into Te Waihora;
- The protection of any possible waipuna (springs) on the Site;
- Groundwater protection especially given the high water table;
- How the discharge of the stormwater will affect the water quality of the waterway and downstream waterways including Te Waihora (Te Waihora is a tribal taonga and represents a major mahinga kai and is an important source of mana);
- The potential adverse effects of the cumulative and incremental changes in the development of the rural residential and residential areas on the water quality and quantity of the waterways in the catchment;
- The protection of any wāhi tapu and wāhi taonga values;
- The expression of Ngāi Tahu cultural identity through the naming of streets, reserves etc and artwork within the development;
- The enhancement and restoration of indigenous biodiversity and mahinga kai values through native plantings;
- The protection of the waterways with a 20m wide riparian margin of native planting on both sides;
- The adverse effects of planting mainly exotic trees on rūnanga’s values associated with providing and restoring native, indigenous species and in particular taonga and mahinga kai species; and
- The lack of monitoring of the water quality and quantity of the surface waterways and groundwater and the protection and restoration of indigenous biodiversity.

The lack of recognising and providing for Te Taumutu Rūnanga's values in the plan change would mean the lack of visibility of Te Taumutu Rūnanga's cultural identity and values in the development of rural residential zones.

Te Taumutu Rūnanga does wish to be heard in support of this submission.

Signature of Submitter (or person authorised to sign on behalf of submitter)
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Date: 26 November 2012

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