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**Mahaanui
Kurataiao Ltd**
Manawhenua Environmental Services

Level 6, 79 Hereford Street
PO Box 3246
Christchurch 8140
P: 03 377 4374
F: 03 365 4920
www.mkt.co.nz

Submission by Mahaanui Kurataiao Ltd

On behalf of

Te Rūnanga o Ngāi Tahu, Te Waihora Management Board and Te Taumutu Rūnanga

To

Selwyn District Council Draft Plan Change 7, Publicly Notified 27 February 2010

Please note the attached map and table to this submission forms a part of the submission

1.0 INTRODUCTION

This submission is a joint submission being made by Mahaanui Kurataiao Ltd on behalf of Te Rūnanga o Ngāi Tahu, Te Waihora Management Board and Te Taumutu Rūnanga (hereafter referred to as Ngāi Tahu).

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 attention of the consent authority is respectfully drawn to the special status of Te Rūnanga o Ngāi Tahu. Te Rūnanga o Ngāi Tahu notes that this submission should not be treated as a single submission, in the manner customarily adopted by consent authority, but should be accorded the status and weight due to the tribal collective, Ngāi Tahu Whānui, which it represents.

There are currently over 43,000 members of Ngāi Tahu Whānui whose names are registered on the roll in accordance with section 8 of the Act and this number continues to grow.

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 the consent authority. In this case Te Rūnanga o Ngāi Tahu is submitting in support of concerns held by Te Hapū o Ngāti Wheke (Rāpaki) Rūnanga and Te Rūnanga o Koukourāta.

Te Waihora Management Board

Te Waihora Management Board is an advisory board for the development and implementation of the Te Waihora Joint Management Plan. It comprises representatives of the six Papatipu Rūnanga of mid Canterbury with interests in Te Waihora.

Te Taumutu Rūnanga

Te Taumutu Rūnanga are one of the Papatipu Rūnanga that make up Te Rūnanga o Ngāi Tahu. The Rūnanga are the collective of the hapu and whanau of Ngāi Tahu who hold manawhenua in the takiwā that centres on Taumutu and the waters of Te Waihora and adjoining lands.

Status of Papatipu Rūnanga as Manawhenua

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.

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. Environment Canterbury should consider this submission as if it were directly provided by the Rūnanga involved.

2.0 BACKGROUND

Ngāi Tahu 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 Ngāi Tahu cultural identity. Plan Change 7 focuses on the area of Lincoln and this area is rich in these Ngāi Tahu taonga. Explicit recognition of such taonga and cultural associations in residential development, urban design planning and design elements will support the well-being of tangata whenua through necessary recognition and protection of valued resources and places, and through improved visibility of the history and identity of Ngāi Tahu within the built environment and landscapes.

3.0 CONSULTATION PROCESS

Selwyn District Council undertook, at the recommendation of Mahaanui Kurataiao Ltd, First Schedule Consultation in accordance with the Resource Management Act 1991 after the first notification of the draft plan change. This was recommended because the Lincoln area has significant tangata whenua values. The consultation was undertaken with representatives of the Toitu Te Whenua unit at Te Rūnanga o Ngāi Tahu, the office of the Te Waihora Board, and Te Taumutu Rūnanga, on the 27th of November 2009. In addition, Selwyn District Council officers sought to address the matters identified in the consultation, through subsequent meetings. Although this was a valuable process, the late stage at which it occurred in the drafting of the policies and objectives in the Draft Plan and the Lincoln Outline Development Plans, meant that for Ngāi Tahu there are significant outstanding issues that arise with the plan change as notified. The minor suggested changes made as a result of these subsequent meetings are not adequate to address these issues.

The response of Selwyn District subsequent to the consultation has been very constructive, however, the draft plan change is deficient in how it addresses tangata whenua values because the involvement of Ngāi Tahu was at such a late stage, in particular the Lincoln ODPs were already designed. Ngāi Tahu remind Selwyn District as a planning authority that Clause 3(1)(d) of Part I of the First Schedule of the RMA states that 'iwi authorities' should be consulted when local authorities are preparing or changing plans [our emphasis] or regional policy statements. If such consultation is to be meaningful, Council's should allow enough time for proper consultation [Wellington International Airport Ltd v Air NZ (1991) 1 NZLR 671]:

The failure of Selwyn District Council to engage with Ngāi Tahu early on during the plan change process has meant the draft plan change fails to adequately incorporate tangata whenua values. By way of illustration,

there is no reference whatsoever to Ngāi Tahu and only one 'token' reference to cultural as including tangata whenua in one policy. Ngāi Tahu does not consider this satisfactory for a plan change that has such significant long term implications for the relationship of Ngāi Tahu with the Selwyn District.

It is also disappointing that the Council failed to take advantage of the guidance provided in the Urban Design Protocol, and the Te Aranga Maori Cultural Landscapes Strategy, which was funded by the Ministry for the Environment. This Strategy is seen as an important beginning of development of methods to address the invisibility of tangata whenua in urban design and is considered by Ngāi Tahu as an important guide for councils when addressing urban growth issues.

4 GENERAL SUBMISSION POINTS

Lack of inclusion of tangata whenua values and objectives

Notwithstanding the Ngāi Tahu concerns expressed above, it **supports in principle** the strategic, community approach of plan change 7 to better manage urban development, rather than leaving it to be determined by the market. However, in this draft plan change Ngāi Tahu **oppose** the lack of explicit reference to tangata whenua values, including in the Lincoln ODPs. Ngāi Tahu consider that, in its present state, Plan Change 7 fails to recognise and provide for the relationship between Ngāi Tahu and the Selwyn District. More particularly, the plan change leaves specific tangata whenua values open to lack of protection in residential development and urban land use, and could effectively result in the adverse effects on those values, as well as invisibility of Ngāi Tahu in the urban landscape. There is a lack of emphasis on kaitiakitanga and a lack of specific provision for wāhi taonga values.

Kaitiakitanga

The plan change includes substantial detail and focus on the urban design relating to housing, and the explicit adoption of the Low Impact Urban Design (LIUD) principles and techniques e.g., solar water heating, double glazing in windows, turf roofs, rainwater collection etc. This is commended by Ngāi Tahu as these are important tools to minimise the adverse effects of urban developments on the natural environment. However, while we agree with this focus, Ngāi Tahu seek greater recognition and protection of kaitiakitanga values in the plan change. This would mean greater acknowledgement and focus on the identification, protection, restoration and enhancement of biodiversity, native species, mahinga kai values, natural features, water quality, waterways, waipuna (springs), wetlands and riparian plantings.

Another particular concern for Ngāi Tahu is the requirement of council to achieve the target number of households within each township boundary – and the potential this might have to result in the reduction or minimisation of open, natural space and other natural features such as swales and riparian planting. There is concern that developers/landowners may reduce the area set aside for such natural and ecological features to meet the net density requirements within each ODP. Ngāi Tahu wish Selwyn District Council, through this plan change, to ensure that sufficient space is provided within the ODP areas to retain the open space and natural character and identity, to support provision for restored naturalised areas of open space and ecologically based methods such as swales, and riparian planting for protecting and enhancing the water ways etc.

Wāhi Taonga

Ngāi Tahu considers the draft plan change to be lacking meaningful reference to wāhi taonga values and wāhi taonga sites. Such values have not been identified in the Lincoln ODPs, despite the occurrence of these in several of the ODP areas.

Of particular concern for Ngāi Tahu in the ODP areas, is the lack of recognition and provision for waipuna (springs). Waipuna are a wāhi taonga to Ngāi Tahu, *"they play an integral role in the natural environment as well as cultural practices of tangata whenua"*. Traditionally they had various uses, including mahinga kai and sometimes were used for water burial sites. Today they form important high quality water for streams, and can contain important taonga species (Ngāi Tahu Claims Settlement Act, 1996).

In order to recognise and provide for the Ngāi Tahu relationship with the waipuna located within the ODP areas, it will be necessary for the location of existing springs to be clearly identified on the ODPs themselves

and Ngāi Tahu request provision is made for a "waipuna (springs) reserve") in the ODP areas (see section 6 below). In some locations, existing waipuna will need active protection and restoration.

5 STATUTORY REQUIREMENTS RELEVANT TO THIS DRAFT PLAN CHANGE

Ngāi Tahu consider that the lack of recognition and provision for tangata whenua values and objectives in the proposed plan change does not fulfil the requirements of the following relevant legislative provisions. 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 mahinga 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 mahinga 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.

Proposed Change No. 1 to the Canterbury Regional Policy Statement

Plan change 7 particularly Outline Development Plans have to give effect to Proposed Change No. 1 to the Canterbury Regional Policy Statement and therefore must be consistent with the following provisions.

Policy 7: Development Form and Design

Greenfields Development, intensification, and development of Key Activity Centres should give effect to urban design best practice. The principles of the Urban Design Protocol (Ministry for the Environment, 2005) shall be observed when preparing or assessing any urban development and the following matters shall be provided for:

- e) provision for the **protection of surface and groundwater quality**, including appropriate stormwater management facilities to avoid down stream flooding and to preserve or enhance water quality;
- (g) protection and enhancement of significant **natural, ecological, landscape, cultural and historic heritage features**;
- (h) demonstration of how other **adverse effects on the environment** are to be avoided, remedied or mitigated,

Methods

7.1 Territorial authorities and developers will apply the Urban Design Protocol (Ministry for the Environment, 2005).

7.2 Territorial authorities will ensure that **Outline Development Plans and any Urban Intensification Plans** are completed in accordance with **Policies 7 and 8**.

Policy 8

Outline Development Plans shall:

- (b) Be prepared in accordance with the matters set out in Policy 7 (Development Form and Design);
- (c) Show indicative land uses, including;
- (vii) land reserved or otherwise set aside from development for **environmental or landscape protection or enhancement**;
- (viii) land reserved or otherwise set aside from development for any other reason, and the reasons for its protection from development;
- (e) identify significant **cultural, natural and historic or heritage features and values and show how they are to be protected and/or enhanced**;
- (j) Show how other potential adverse effects on the environment, including adverse effects on **surface and groundwater quality**, are to be avoided, remedied or mitigated;
- (k) Include any other information which is relevant to an understanding of the development and its proposed zoning.

A key aspect of Proposed Change No. 1 to the Canterbury Regional Policy Statement is for Outline Development Plans to give effect to the principles of the Urban Design Protocol (Ministry for the Environment, 2005) and to **provide a mechanism for ensure that all 'environmental', 'cultural', and 'natural' constraints associated with the development of an area are investigated, addressed, protected and enhanced**. Importantly, the Urban Design Protocol of which Selwyn District Council is a signatory, advocates the enhancement of the sustainability and quality of urban environments recognises that **"patterns of previous Maori settlement and the relationship of tangata whenua with the land remain important aspects of urban design"** and that **"our towns and cities are important expressions of New Zealand's cultural identity including our unique Maori heritage"**.

The Urban Design Protocol identifies seven essential design qualities that create quality urban design: Context, Character, Choice, Connections, Creativity, Custodianship and Collaboration. These are a combination of design processes and outcomes. The relevant aspects of these principles to tangata whenua concerns are outlined below:

Context

- understands the **social, cultural and economic context** as well as physical elements and relationships
- celebrates **cultural identity** and recognises the heritage values of a place

Character

- protects and enhances **distinctive landforms, water bodies and indigenous plants and animals**
- creates locally appropriate and inspiring architecture, spaces and places

- celebrates **cultural identity** and recognises the heritage values of a place
- Creativity*
- incorporates different **cultural perspectives**
- Custodianship*
- includes the concept of **kaitiakitanga**.
 - protects landscapes, **ecological systems and cultural heritage values**
 - manages the use of resources carefully, through **environmentally responsive and sustainable design solutions**
 - utilises **'green' technology** in the design and construction of buildings and infrastructure
- Collaboration*
- uses a **collaborative approach** to design that acknowledges the contributions of many different disciplines and perspectives
 - involves **communities in meaningful decision-making processes**

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 mahinga kai sites.

Accordingly, Ngāi Tahu recommends that plan change 7 builds on this Objective by providing specific policy guidance and requirements for ODPs about the need for residential growth and urban growth to occur in a manner that is consistent with these tangata whenua values.

6 SPECIFIC SUBMISSION POINTS

6.1 Lincoln Outline Development Plans

Ngāi Tahu have focused on the proposed Lincoln Outline Development Plans in this submission as the key planning mechanism which can appropriately recognise and provide for the protection and enhancement of tangata whenua values. Ngāi Tahu considers it critical that tangata whenua values and wāhi taonga are identified in the preparation of ODPs. No wahi tapu sites are in the development area.

The Lincoln ODPs are a critical planning tool, and the area of the ODPs include some locations with significant tangata whenua values. Given that this identification had not occurred prior to the First Schedule Consultation with Ngāi Tahu, discussion with a SDC planning officer on the most effective approach to address at the late stage of development was discussed. It was apparent that despite the state of development of the ODPs, identification of the values for the area was needed to enable consideration of the values in the consideration of draft plan change 7. Mahaanui Kurataiao Ltd conducted a hui with representatives from Te Taumutu Rūnanga to seek their agreement to this approach, to identify any values within the area of the ODPs and to consider what approaches could be incorporated to recognise, protect and enhance any values in the ODP areas.

The key outcome from this hui was that waipuna (springs) and the waterways were the primary taonga and no known cultural heritage sites were present in the areas. A map (effectively a tangata whenua layer) was prepared to identify these areas in a form that was more directly relatable to the ODPs (this map is attached, and more detail on the taonga for each area is discussed below).

At the hui consideration was given to development of practical and pragmatic recommendations that would enable development to proceed in these areas, whilst recognising and providing for these values in the proposed ODPs. Two approaches were agreed: firstly to ensure that existing springs were retained, and secondly that new springs that commonly arise in the area during construction works, and in response to rising ground water levels, were provided for in each development area.

The concept of a "waipuna (springs) reserve" in each ODP was agreed as a practical and achievable mechanism to off-set the adverse effects of the development on waipuna (springs) that could not be

otherwise mitigated in development areas. This was specifically to acknowledge and provide an offset for new springs that might arise in the ODP area, that due to being incorporated in developed areas, could not be addressed in a way that would satisfy Ngāi Tahu, i.e., when such springs arise, the response would likely be capping, or diversion into the stormwater network.

A "waipuna (spring) reserve" was seen as easily being able to be incorporated into proposed blue and green networks within the ODP, and could be provided for existing springs, and an acknowledgement and offset for springs in other ODP areas. It would be important for waipuna (spring) reserves to be upstream of stormwater infrastructure and for any springs to be able to flow directly to waterways, rather than flow through stormwater networks stormwater as mixing of these different waters undermines the mauri of the waipuna.

This concept as proposed is a way to acknowledge the significance of waipuna to tangata whenua, and the loss of naturally occurring springs due to the overlay of built development. It is also a mechanism that would recognise and provide for the policies in the Te Taumutu Rūnanga Natural Management Plan and the Te Rūnanga o Ngāi Tahu Freshwater Policy Statement as providing for the mauri of water and for the connectivity of freshwater, as well as providing an opportunity to enhance mahinga kai within such reserves.

Ngāi Tahu Position re: Lincoln ODPs

Ngāi Tahu support in principle the concept of ODPs as a planning method as they are an effective tool for identifying tangata whenua values and areas for protection. Ngāi Tahu also support the 'provision for open space', and that the 'blue network' objectives aim to protect water quality through the design of stormwater treatment systems according to LIUD techniques and principles in the ODPs for Areas 1, 2 and 3.

However, Ngāi Tahu must oppose the Lincoln ODPs as notified in the draft plan change due to the lack of identification of tangata whenua values in the preparation of the ODPs, and the lack of recognition and protection of waipuna and waterways as a wahi taonga. This is a particularly strongly held concern in ODP Area 2, where Ngāi Tahu identified a significant conflict between the proposed use in the ODP, and the wahi taonga.

A critique of, and recommendations for, the ODPs is described in detail below and is explained in more detail in the attached Table 1 (Assessment of ODPs according to tangata whenua values) and shown in Map 1 (Tangata Whenua Layer).

ODP Area 1

In ODP Area 1, Ngāi Tahu consider there is a lack of recognition and provision for kaitiakitanga through the absence of the protection of L1 with riparian planting. Ngāi Tahu seek that riparian margin and appropriately planted buffer at least 20 metres in width is provided along the L1 to buffer the river, better provide for water quality in the river, and through this provide for restoration and enhancement of tangata whenua values. While Ngāi Tahu support the landscape buffer areas proposed, it is vital that appropriate riparian and marginal planting is used, and that only locally sourced indigenous species including mahinga kai species are used.

A significant concern for Ngāi Tahu is the lack of protection of waipuna (springs) on the southern boundary. To address this, Ngāi Tahu recommends the creation of a 'spring reserve' to protect the existing springs that are located on the southern boundary. The planting of mahinga kai species e.g. harakeke and the re-introduction of tuna for customary use are tangata whenua objectives that would be worked toward in the management of this 'spring reserve'.

It is recognised that this area is the land owned by Lincoln Land Developments for which the property owner has undertaken robust and ongoing consultation with Ngāi Tahu. We consider that the points made in this submission do not conflict with the objectives of Ngāi Tahu through the Lincoln Land Developments engagement and advice for ODP Area 1.

ODP Area 2

ODP Area 2 holds the greatest concern for Ngāi Tahu with a direct conflict between tangata whenua values and waipuna, and the siting of the proposed stormwater treatment area. Ngāi Tahu therefore **strongly oppose** the location of the stormwater treatment in this area. The protection of these waipuna is sought by Ngāi Tahu. Ngāi Tahu request that the Council redesign the location of the proposed wetland stormwater treatment area to a site which does not contain existing springs.

An approach that would allow for residential development to proceed was discussed at the hui, and the creation of a 'spring corridor' or naturalised stream connecting the springs, and then into the Ararira/L2. This would acknowledge significance of springs, the mauri of the springs and connect the natural waters with the waterways. Ngāi Tahu consider this would potentially restore mahinga kai to these springs, and would also provide an amenity benefit for properties in the area. It is important to again note that the spring corridor should be separated from the stormwater system of the developed area, and consider that this would form the 'waipuna (springs) reserve' for this ODP area.

Ngāi Tahu **support** the creation of esplanade reserves along L1 and Ararira /L2 to protect the rivers. However, they **recommend** that there be an explicit requirement for the width of the esplanade reserves along these rivers to be at least 20m.

The lack of protection of the existing drain/race that runs from Ellesmere Rd to Ararira /L2 is also **opposed** and is **recommended** as requiring riparian planting. As stated in the Te Taumutu Rūnanga Resource Management Plan, all drains are often draining water that was already there in some form such as a creek or wetland area.

Ngāi Tahu also **oppose** the location of the "swale routes" and possibly the "potential alternative stormwater treatment and storage facility" along Ellesmere Rd where there is a significant remnant bush/wetland area (cabbage trees & associated vegetation). Ngāi Tahu **request** (as stated above) that Selwyn District Council redesigns the location of the proposed stormwater system in the ODP Area 2.

ODP Area 3

ODP Area 3 does not raise the same concerns as Area 2, because there are no existing springs in this area. Ngāi Tahu wish to see the establishment of a 'springs reserve' as discussed above, and seek that the area be given specific plantings to support customary use by the local whanau and hapū. As discussed, it is important that this area be separated and upstream of any stormwater collection and treatment systems.

Ngāi Tahu consider there is a lack of protection given to the existing drain/race that runs off Birches Rd, and Ngāi Tahu seek that the Council include riparian planting as a buffer along this drain/race.

The planting of streets and reserves with special trees and landscaping in ODP Area 3 is **supported** but Ngāi Tahu **request** that specific reference is made to planting locally sourced *indigenous* species in particular especially where streets are adjacent to springs and waterways.

ODP Area 4

As for Area 3, there is less of concern for Ngāi Tahu and tangata whenua values in this area. Ngāi Tahu **support** the protection of races through the incorporation of the races within the reserves, however Ngāi Tahu seek that all races are explicitly identified as requiring protection with riparian planting within the reserves. And that the planting criteria refer to locally sourced *indigenous* species.

As with the previous areas, Ngāi Tahu request that Council specifically include provision for establishment of a 'spring reserve' as an acknowledgement of the significance of waipuna (springs) to tangata whenua and to this area. This spring reserve should include appropriate locally sourced indigenous species, and as with the other spring reserves, include appropriate mahinga kai species.

ODP Area 6

The lack of protection of Liffey Stream with riparian planting is a concern to Ngāi Tahu. To address this a 20 metre planted buffer and riparian margin is requested to be incorporated for the L1. This buffer should include appropriate indigenous plantings (as per the areas above).

Summary Position for Lincoln ODPs

Overall Ngāi Tahu seek amendment to the ODPs to more explicitly recognise and provide for tangata whenua values and wahi taonga, and in particular to alter the ODP for Area 2 ensure the existing springs are maintained and enhanced. Ngāi Tahu also seek more explicit recognition of tangata whenua outcomes at this level through the specific recommendations set-out above to achieve this. In taking up these recommendations, they must also be reflected in Policy B4.3.56 which lists specific matters relevant to each ODP Area number.

However, Ngāi Tahu **oppose** in general the ODPs for their lack of provision for protection of tangata whenua values, and request the Council include the recommended measures above to address this.

In particular Ngāi Tahu **oppose ODP Area 2**, and request that re-assessment of the proposed stormwater network in this area is made, to provide for the existing waipuna (springs).

6.2 Objectives and policies

Objective and supporting policies for ODPs under the Township Volume

Perhaps most importantly, while Ngāi Tahu support the creation of a new objective for ODPs, Objective B4.3.3, Ngāi Tahu oppose the lack of expanding on this objective and creating new supporting policies that directly flowed on from that objective for requirements of ODPs for greenfield development which includes new medium density residential development and subdivision development. This would include the provision of ODPs with supporting green and blue network objectives. An explicit "tangata whenua" objective would also be included with supporting policies.

ODPs are a significant new planning tool and warrant separate objectives and policies rather than been slotted into existing provisions for 'Quality of the Environment' and 'Residential and Business Development – Town Form Policies'. For example, design principles for medium density developments identified in ODPs are inserted into Policy 3.4.3 as mere bullets.

Ngāi Tahu therefore **recommend** the inclusion of additional provisions for Objective B4.3.3 relevant to Ngāi Tahu and supporting policies for this objective for ODPs both of which are modelled on that of Christchurch City Council's Plan Change 61 for greenfield development. This would either be in place of or in addition to the lack of tangata whenua values in 'Quality of the Environment' Policy 3.4.3 in the last bullet point and also the 'token' reference to tangata whenua values in 'Residential and Business Development – Town Form Policies', Policy B4.3.7 (iv) (p.44).

Recommended wording as follows:

"General Tangata Whenua Objective"

Outline Development Plans to recognise, provide and protect land, water (including waipuna), sites, wahi tapu and other taonga of cultural significance to tangata whenua".

Policies: Tangata Whenua

Protect Ngāi Tahu cultural values and features and places of cultural significance, including natural habitats and mahinga kai, from the adverse effects of development and create opportunities to enhance or restore these values, features and places where possible.

Incorporate Ngāi Tahu values in the design of green and blue networks through the restoration and creation of natural habitat and mahinga kai and use of best practice stormwater conveyance and treatment mechanisms that avoid adverse effects on natural waters.

That the design reflects and incorporates tangata whenua values such as mahinga kai, wahi tapu and wahi taonga, and kaitiakitanga.

That relevant iwi management plans, in particular the Taumutu Rūnanga Natural Resources Management Plan and the Te Waihora Joint Management Plan, be taken into account.

Reference to ODPs in Draft Plan Change 7

Residential Density – Policies and Methods, Policy B4.1.13 (p.16)

This policy lists relevant urban design considerations for medium density developments without any mention of tangata whenua values. Ngāi Tahu would seek an additional consideration be included to ensure that tangata whenua values are given visibility in urban design. Additional urban design principles are suggested:

"That where appropriate the design reflects and incorporates tangata whenua values such as kaitiakitanga, mahinga kai, wahi tapu and wahi taonga".

"That relevant iwi management plans in particular the Taumutu Rūnanga Natural Resources Management Plan and the Te Waihora Joint Management Plan be taken into account".

Residential and Business Development – Town Form Policies , Policy B4.3.7 (p.44).

The 'token' use of the term 'cultural including tangata whenua' in Policy B4.3.7 (iv) *"Identify any cultural, natural and historic or heritage features and values..."* does not adequately convey the importance of tangata whenua values and interests. This policy, importantly, lists factors that Outline Development Plans should include, and is therefore a very important mechanism through which impacts on Ngāi Tahu values can be mitigated and/or restored. Therefore a separate point explicitly reflecting tangata whenua values in Policy B4.3.7 is recommended as follows:

"(x) Provide for tangata whenua values such as kaitiakitanga, mahinga kai, wahi tapu and wahi taonga and show how they are to be enhanced, maintained and restored".

Other provisions

While there is a strong focus on the physical aspects of design in the new objectives and policies there generally lacks specific principles referring to tangata whenua and a lack of emphasis on kaitiakitanga values. Given that these objectives and policies determine and/or guide the design outcomes and the ODPs it is critical that they are inclusive of tangata whenua values. Ngāi Tahu recommend new additional objectives and policies for the following provisions in the draft plan change:

Quality of the Environment –Objectives (p.4).

Given that the RMA requirements to take into account the Treaty of Waitangi, recognise and provide for the relationship of tangata whenua with their ancestral lands, waters and sites, and have particular regard to kaitiakitanga, Ngāi Tahu would seek that objectives related to this would also be included – recommendations as follows:

"Urban development protects, enhances and restores tangata whenua values, through riparian plantings, native species plantings, protection of water quality and quantity and waterways including waipuna (springs,) habitat restoration of mahinga kai species, adequate provision for open space"

"In managing urban development particular regard will be given to kaitiakitanga".

Quality of the Environment – Policies and Methods, Zones

Policy B3.4.3 (p.6)

In building on the recommendations for objectives above, Ngāi Tahu recommend seek the inclusion of two new bullet points to firstly ensure that general kaitiakitanga values are incorporated, and secondly to provide for the Ngāi Tahu philosophy of Ki Uta Ki Tai (from the mountains to the sea) to be taken into account to help ensure that residential growth occurs in a holistic manner and that the downstream impacts of urban growth are clearly factored in. Wording is as follows:

"Ensure that tangata whenua values such as kaitiakitanga, mahinga kai, wahi tapu and wahi taonga are recognised and provided for".

"Ensure that in addressing the effects of development, the Ngāi Tahu integrated approach of 'Ki Uta Ki Tai' (from the mountains to the sea) is taken into account".

Subdivision of Land - Objectives, Objective B4.2.3 (p.20).

Objective B4.2.3 in the 'Subdivision of Land' section fails to give recognition of tangata whenua values as a factor 'to maintain and enhance through subdivision design and layout'. While 'cultural heritage resources' is mentioned in the 'explanation and reasons', not including something in the Objective does not adequately provide for tangata whenua values such as wahi tapu sites, mahinga kai values and kaitiakitanga. Ngāi Tahu would seek the explicit inclusion of tangata whenua values as a vital factor in contributing to subdivision design. Ngāi Tahu would consider that there needs to a stronger emphasis on kaitiakitanga through not only 'maintenance and enhancement or retention' but also '**restoration**' of natural waterways, wetlands, springs and mahinga kai values. Below is the recommended re-wording of the objective B4.2.3 to achieve this.

*"The maintenance, enhancement and **restoration** of the amenities of the existing natural and built environment **and tangata whenua values** through subdivision design and layout".*

'Explanation and Reasons'

*".....Subdivision design should also pay close regard to important natural features, **tangata whenua values such as mahinga kai and wahi tapu or wahi taonga sites**, cultural heritage resources, waterways and public linkages".*

Subdivision of Land - Policy B4.2.4 (p.23)

Policy B4.2.4 also needs to incorporate tangata whenua values as an important factor to be retained in subdivision design. The following wording is recommended (in bold):

*"Encourage the retention, **enhancement and restoration** of natural, **tangata whenua, historic and other values and features** within the subdivision and for allotment boundaries to follow natural or physical features where it maintains the amenity of the area".*

'Explanation and Reasons'

*"It is desirable to maintain, enhance **and restore** natural, **tangata whenua, or other values and features historical within the subdivision area**, including the retention of mature trees or other characteristic features".*

6.3 Design outcomes

The 'Subdivision of Land – Anticipated Environmental Results' (p.29) section outlines environmental results that should occur from implementing the policies and objectives of Section B4.2. The draft plan change includes subdivision outcomes identified within the 'Design Guide for Residential Subdivisions' to this list. The subdivision outcomes from this guide however need to also include outcomes as best practice that reflects tangata whenua values in the design and creation of new developments. As such, Ngāi Tahu recommend a new additional outcome to address the inclusion of tangata whenua values:

Subdivision of Land – Anticipated Environmental Results (p.30).

"Subdivision outcomes that incorporate the design, form and function characteristics identified within the Design Guide for Residential Subdivisions in Living zones including:

- **Retention, enhancement and restoration of tangata whenua values such as kaitiakitanga, mahinga kai, wahi tapu and wahi taonga**".*

6.4 'Subdivision Design Guide' and the 'Medium Density Design Guide'

The 'Subdivision Design Guide' and the 'Medium Density Design Guide' and are frequently referred to in the draft plan change under 'Methods' for Policies B3.4.2, B3.4.3, B4.1.13, B4.2.2, B4.2.4, B4.2.9, B4.2.10, B4.2.11, and B4.3.6 -9 and are the basis for design principles in Policies B3.4.3, B4.1.13 and 'Subdivision of Land – Anticipated Environmental Results'. As such, the Design Guides are a significant mechanism for implementing the new provisions of the draft plan change. There is however, largely an absence of inclusion of tangata whenua values in the 'Subdivision Design Guide' apart from a cursory mention that 'early consultation with tangata whenua is advised' under "Contextual Analysis" and various reference to kaitiakitanga values such as

'ecosystems and biodiversity', 'ecological and cultural values of water bodies', 'encourage biodiversity' etc. The 'Medium Density Design Guide' however lacks any reference to tangata whenua. This absence of explicit tangata whenua values in these pivotal methods will most likely result in the invisibility of Ngāi Tahu values in the Selwyn district urban landscape.

Therefore, Ngāi Tahu recommend a more explicit detailed and comprehensive inclusion of tangata whenua values to be explicitly articulated in these design guides. These would then also provide a more comprehensive reference for the new recommended additions of principles and outcomes of urban design reflecting tangata whenua values in the draft plan change provisions above.

Following are recommend principles or requirements for inclusion in the design guides, and are important for design in culturally significant areas.

- *Provide for effective participation particularly in the early stages, of Ngāi Tahu as kaitiaki, in urban planning and design including Outline Development Plans;*
- *Protect, enhance, and restore kaitiakitanga values, including but not limited to: riparian plantings; habitat restoration for mahinga kai species; native species plantings; protection of water quality and quantity in all water ways including springs and wetlands; adoption of LIUD techniques and principles and protection and adequate provision for open space;*
- *Provide for whanaungatanga (social relationships) and tangata whenua cultural identity in urban design such that tangata whenua identity and social relationship values can be reflected in places (work, street/place names, public spaces, artworks, leisure facilities, neighbourhoods and residences) in the community ;*
- *Protect and restore wahi tapu and wahi taonga management areas /values including known spring sites from development including but not limited to: protection and restoration of sites and access from disturbance, earthworks and contamination; archaeological surveys and Accident Discovery Protocols;*
- *Implement the Te Aranga Maori Cultural Landscapes Strategy;*
- *Utilise cultural sustainability indicators for monitoring such as those identified in "The Cultural Sustainability review for the House of Tahu" (2006), and "The Cultural Health Assessment of the Avon Heathcote Estuary and its Catchment (2007);*
- *Develop wastewater and stormwater treatment systems that that protect and improve water quality;*
- *Take into account the Ngāi Tahu holistic, integrated management approach of 'Ki Uta Ki Tai' (from the mountains to the sea) so that the downstream effects of development on the environment are addressed;*
- *Ensure that street lights have upper shields or suppression rings to reduce the impact of new residential development on natural night time darkness; and*
- *Take into account relevant iwi management plans in particular the Taumutu Rūnanga Natural Resources Management Plan and the Te Waihora Joint Management Plan.*

6.5 Rules

This submission has not addressed the next level of detail required to implement the plan change, but Ngāi Tahu seek that the Council ensure that rules for subdivision, landuse and earthworks reflect the protection and restoration matters described in the ODP and policy sections of this submission. In other words, the inclusion of the matters to address tangata whenua concerns must be taken throughout the plan.

6.6 Integrated Stormwater Management Plan (ISMP)– Lincoln

The reference to the design of the stormwater treatment system being within accordance with the proposed Integrated Stormwater Management Plan (ISMP) for Lincoln in the Lincoln ODPs highlights the significance of the ISMP for the draft plan change. Ngāi Tahu commend the Council on the commissioning of an impact

assessment for this proposal, but note that the significant impacts on tangata whenua values could have been avoided if they had been identified and provided for in the design phase for the ODPs.

7 CLOSING COMMENTS

While Ngāi Tahu support in principle the approach, some of the ODPs are significantly lacking in their implementation of the protection of waipuna (springs), which are significant wahi taonga to Ngāi Tahu, and also in other values such as kaitiakitanga, appropriate indigenous plantings, mahinga kai restoration, protection of existing wetlands, and water races. As such, Ngāi Tahu considers the draft is deficient in reflecting the significance of waipuna to Ngāi Tahu and the mana of Ngāi Tahu as kaitiaki of their taonga and resources, and **oppose** the Lincoln ODPs in their current form. Ngāi Tahu consider this a significant deficiency in the development of the Lincoln ODPs and request that any future ODP planning involves early identification of wahi taonga and wahi tapu.

Ngāi Tahu also hold general concern for the lack of explicit recognition of tangata whenua values in proposed plan change 7, including proposed objectives and policies, and consider this reflects a lack of early consultation Ngāi Tahu in the development of the draft ODPs. Ngāi Tahu do acknowledge the work done at the time of the Lincoln Structure Plan, but note that this did not go into sufficient detail to highlight the potential risks to values. Ngāi Tahu are concerned that this deficiency means the proposed plan change is not adequately providing for the protection of tangata whenua values, Ngāi Tahu consider this could be addressed by re-assessment of the proposed stormwater network in ODP Area 2, the provision of waipuna (springs) reserves in each ODP area and the provision, restoration and enhancement of waterway buffers, with appropriate riparian, indigenous and in some cases mahinga kai plantings. As well as ensuring the inclusion of appropriate objectives, policies, and rules for implementation. The plan attached to this submission identifies values and places of significance that are relevant to each ODP area.

Ngāi Tahu thank Selwyn District Council for the consultation and follow-up discussions that have been undertaken to date on the draft plan change, as it has enabled the preparation of one of the most comprehensive planning submissions made to a district plan by Ngāi Tahu.

8 HEARING

Because of the significance of some of these matters to tangata whenua, Ngāi Tahu request that a Ngāi Tahu commissioner be appointed by Selwyn District Council to any hearings panel for this plan change.

Ngāi Tahu also request an opportunity to discuss the submission in more detail with planning officers, prior to the hearing, to enable greater understanding of the issues raised.

Ngāi Tahu wish to be heard with respect to this submission at the Council hearings on this plan.

Please address any correspondence to:

Paul Horgan, Te Rūnanga o Ngāi Tahu, PO Box 13046, Christchurch 8141.
Jason Arnold, Te Rūnanga o Ngāi Tahu, PO Box 13046, Christchurch 8141
Te Taumutu Rūnanga, PO Box 13-0079, Christchurch
and
cc. To Mahaanui Kurataiao Ltd, PO Box 3246, Christchurch

F. Zygadlo

Prepared by: Franla Zygadlo, Mahaanui Kurataiao Ltd on behalf of Te Taumutu Rūnanga with contributions from Paul Horgan, Te Rūnanga o Ngāi Tahu; and Jason Arnold, Te Waihora Management Board.

Reviewed by: Andrea Lobb, Mahaanui Kurataiao Ltd

Date: 13 April 2010

Table 1
ASSESSMENT OF LINCOLN ODPs ACCORDING TO TANGATA WHENUA VAUES

	WAHI TAPU	WAHI TAONGA and KAITIAKITANGA		
ODP Area		river, streams, groundwater, races/drains	waipuna (springs)	indigenous flora and fauna and mahinga kai
1	N/A	<p><u>1. Oppose:</u> The lack of protection of L1 with riparian planting etc.</p> <p><u>Recommendation:</u> Riparian planting along the L1 of 20m width so buffer along river and appropriate native planting to stop weed growth especially as potential location for future stormwater management area.</p>	<p><u>1. Oppose:</u> The lack of protection of springs on southern boundary.</p> <p><u>Recommendation:</u> Create a tangata whenua 'springs reserve' area on southern boundary where existing springs are located as an acknowledgement of the significance to tangata whenua of springs in the area. Mahinga kai species to be planted e.g. harakeke and the re-introduction of tuna for customary use.</p>	<p><u>1. Support:</u> The creation of landscape buffer areas.</p> <p><u>Recommendation:</u> Locally sourced indigenous species planted including mahinga kai species in landscape buffer areas ; in 'springs reserve' and in subdivision lots.</p>

2	N/A	<p><u>1. Support:</u> The esplanade reserve along L1 and Ararira /L2 to protect rivers.</p> <p><u>Recommendation:</u> Riparian planting of esplanade reserve along the Ararira/L2 and L1 to be width of 20m.</p> <p><u>2. Oppose:</u> The lack of protection of existing Drain/Race that runs from Ellesmere Rd to Ararira /L2.</p> <p><u>Recommendation:</u> Riparian planting of drain/race that runs from Ellesmere Rd to Ararira /L2.</p>	<p><u>1. Oppose:</u> The location of the stormwater treatment along Ararira /L2 as this is where numerous existing springs.</p> <p><u>Recommendation:</u> Protect springs with a spring corridor' by creating a natural stream so can have subdivision lots (added value) in this location. Change location of stormwater treatment area to another location. This would also acknowledge significance of springs and in place of a 'springs reserve' for ODP.</p>	<p><u>1. Oppose:</u> The location of the "naturalized swale routes" and possibly the "potential alternative stormwater treatment and storage facility" along Ellesmere Rd where there is a significant remnant bush/wetland area (cabbage trees & associated vegetation).</p> <p><u>Recommendation:</u> Change location of "potential alternative stormwater treatment" (if relevant) and "naturalized swale routes" to protect, restore and enhance wetland/remnant bush area and species. (if wetland then re-introduce eel, planted for customary use)</p>
3	N/A	<p><u>1. Oppose:</u> The lack of protection of existing Drain/Race that runs off Birches Rd.</p> <p><u>Recommendation:</u> Riparian planting as a buffer along drain/race that runs that runs off Birches Rd.</p>	<p><u>Recommendation:</u> Creation of a 'springs reserve' as an acknowledgement of the significance to tangata whenua of springs in the area. One or part of proposed reserves could be a 'springs reserve'.</p>	<p><u>1. Support :</u> The planting of streets with special tree and landscape and reserves but no specific reference to planting locally sourced <i>indigenous</i> species in particular mahinga kai species in landscape areas.</p>

			<p>Springs reserve would not be located near overflow of stormwater as mixing of these different waters undermines the mauri of the waipuna. Mahinga kai species to be planted and re-introduced for customary use.</p>	<p><u>Recommendation:</u> locally sourced indigenous species planted including mahinga kai species in landscape areas ; in stormwater reserve; springs reserve and in streets.</p>
4	N/A	<p><u>1.Support:</u> Support protection of races to be incorporated within reserves.</p> <p><u>Recommendation:</u> That the races are protected with riparian planting.</p>	<p><u>Recommendation:</u> Creation of 'spring reserve' as acknowledgement of the significance to tangata whenua of springs in the area.</p>	<p><u>1.Support :</u> The creation of reserves but no specific reference to planting locally sourced <i>indigenous</i> species in particular mahinga kai species etc</p> <p><u>Recommendation:</u> Locally sourced indigenous species planted including mahinga kai species in reserves ; in stormwater reserve and springs reserve.</p>

6	N/A	<p>1. <u>Oppose</u>. The lack of protection of Liffey Stream with riparian planting etc.</p> <p><u>Recommendation</u> : Riparian planting along the L1 of 20m width so buffer along river and appropriate planting to stop weed growth especially as potential location for future stormwater management area</p>	<p>1. <u>Oppose</u>. The lack of specific reference to planting locally sourced <i>indigenous</i> species in particular mahinga kai species in streets etc</p> <p><u>Recommendation</u> : Locally sourced indigenous species planted in streets.</p>
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Outline Development Areas for Lincoln

TANGATA WĀHANGA CAIEK - DRAFT COPY.



seiwyn
COUNCIL

KEY

Spring
reserve

33

= rip-
margin
20m
- sign-
watering
unit

Spring
provision

Wetland
area
protection
& restoration