

MANA WHENUA ADVICE

J7153 – 80 Struie Road, Hororata (RC246059)

To: Selwyn District Council

Contact: Jonathan Gregg

1.0 Mana Whenua Statement

Ngāi Tahu holds and exercises rangatiratanga within the Ngāi Tahu Takiwā and has done so since before the arrival of the Crown. The rangatiratanga of Ngāi Tahu resides within the Papatipu Rūnanga. The Crown and Parliament have recognised the enduring nature of that rangatiratanga through:

- Article II of Te Tiriti o Waitangi (Te Tiriti);
- the 1997 Deed of Settlement (Deed of Settlement) between Ngāi Tahu and the Crown; and
- the 1998 Ngāi Tahu Claims Settlement Act (NTCSA) in which Parliament endorsed and implemented the Deed of Settlement.

The contemporary structure of Ngāi Tahu is set down through the Te Rūnanga o Ngāi Tahu Act 1996 (TRoNT Act). Article II of Te Tiriti o Waitangi (Te Tiriti), the TRoNT Act, Ngāi Tahu Claims Settlement Act (NTCSA) 1998, and the 1997 Deed of Settlement (Deed of Settlement) between Ngāi Tahu and the Crown sets the requirements for recognition of tangata whenua in Canterbury.

As recorded in the Crown Apology to Ngāi Tahu in the NTCSA, the Ngāi Tahu Settlement marked a turning point, and the beginning of a “new age of co-operation”. The Crown apologised for its “past failures to acknowledge Ngāi Tahu rangatiratanga and mana over the South Island lands within its boundaries” and confirmed that it “recognises Ngāi Tahu as the tāngata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui”.

Each Papatipu Rūnanga has their own respective takiwā, and each is responsible for protecting the tribal interests in their respective takiwā, not only on their own behalf of their own hapū, but again, on behalf of the entire tribe.

The following Rūnanga hold mana whenua over the project’s location, as it is within their takiwā:

- Te Ngāi Tūāhuriri Rūnanga
- Te Taumutu Rūnanga

2.0 Summary of Proposal

Rā Tuatahi No 1 Limited has applied for resource consent from Selwyn District Council (RC246059) to use land to establish and operate a solar farm.

The activity status is Discretionary.

3.0 Consultation Methodology

Mahaanui Kurataiao Limited review the application documents and undertake an assessment of the application against the Mahaanui Iwi Management Plan.

A briefing report is prepared for Kaitiaki representatives who have been mandated by the Papatipu Rūnanga they represent to speak on behalf of hapū on environmental issues.

A Mahaanui Kurataiao Limited staff member meets with Kaitiaki representatives to discuss the application and Kaitiaki provide feedback based on Mātauranga Māori.

Mana Whenua Advice is provided to outline the relevant policies in the Mahaanui Iwi Management Plan and the feedback provided by Kaitiaki representatives.

The relevant policies and Kaitiaki feedback for this application are provided in the following sections of this report.

4.0 Mahaanui Iwi Management Plan 2013

The Mahaanui Iwi Management Plan (IMP) is a written expression of kaitiakitanga, setting out how to achieve the protection of natural and physical resources according to Ngāi Tahu values, knowledge, and practices. The plan has the mandate of the six Papatipu Rūnanga, and is endorsed by Te Rūnanga o Ngāi Tahu, as the iwi authority.

Natural resources – water (waterways, waipuna (springs), groundwater, wetlands); mahinga kai; indigenous flora and fauna; ngā tūtohu whenua and land - are taonga to mana whenua and they have concerns for activities potentially adversely affecting these taonga. These taonga are integral to the identity of ngā rūnanga mana whenua and they have a kaitiaki responsibility to protect them. The policies for protection of taonga that are of high significance to ngā rūnanga mana whenua are articulated in the IMP.

The policies in this plan reflect what Papatipu Rūnanga support, require, encourage, or actions to be taken with regard to resolving issues of significance in a manner consistent with the protection and enhancement of Ngāi Tahu values, and achieving the objectives set out in the plan.

The relevant Policies of the IMP to this proposal have been identified as:

5.3 WAI MĀORI

WM1.1 Ngāi Tahu, as tāngata whenua, have specific rights and interests in how freshwater resources should be managed and utilised in the takiwā.

CHANGING THE WAY WATER IS VALUED

WM2.1 To consistently and effectively advocate for a change in perception and treatment of freshwater resources: from public utility and unlimited resource to wāhi taonga.

WM2.3 To require that decision making is based on intergenerational interests and outcomes, mō tātou, ā, mō kā uri ā muri ake nei

Controls on land use activities to protect water quality.

WM6.17 To require the development of stringent and enforceable controls on the following activities given the risk to water quality.

- (a) Intensive rural land use (see Issue WM.7);
- (b) Subdivision and development adjacent to waterways;
- (c) Discharge to land activities associated with industry; 82
- (d) Activities in the bed and margins of waterways, including gravel extraction; and
- (e) Upper catchment activities such as forestry and vegetation clearance.

WATER QUALITY

WM6.2 To require that water quality in the takiwā is of a standard that protects and provides for the relationship of Ngāi Tahu to freshwater. This means that:

- (a) The protection of the eco-cultural system (see Box - Eco-cultural systems) is the priority, and land or resource use, or land use change, cannot impact on that system; and
- (b) Marae and communities have access to safe, reliable, and untreated drinking water; and
- (c) Ngāi Tahu and the wider community can engage with waterways for cultural and social well-being; and
- (d) Ngāi Tahu and the wider community can participate in mahinga kai/food gathering activities without risks to human health.

WM6.5 To require that water quality standards in the takiwā are set based on “where we want to be” rather than “this is the point that we can pollute to”. This means restoring waterways and working toward a higher standard of water quality, rather than establishing lower standards that reflect existing degraded conditions.

Discharges

WM6.8 To continue to oppose the discharge of contaminants to water, and to land where contaminants may enter water.

ACTIVITIES IN THE BEDS AND MARGINS OF RIVERS AND LAKES

Riparian areas

WM12.2 To require the protection and restoration of native riparian vegetation along waterways and lakes in the takiwā as a matter of priority, and to ensure that this can occur as a permitted activity.

Use and enhancement of river margins in the built/ urban environment.

WM12.5 To require that all waterways in the urban and built environment have buffers or set back areas from residential, commercial or other urban activity that are:

- (a) At least 10 metres, and up to 30 metres; and
- (b) Up to 50 metres where there is the space, such as towards river mouths and in greenfield areas.

WETLANDS, WAIPUNA AND RIPARIAN MARGINS

Riparian margins

WM13.7 To recognise the protection, establishment, and enhancement of riparian areas along waterways and lakes as a matter of regional importance, and a priority for Ngāi Tahu.

Comment: *The effects of an activity on tāngata whenua values may be significant despite the activity having been assessed as having only minor ecological effects. While the direct discharges can more easily be avoided, addressing non-point source pollution requires changing the way land use occurs.*

5.4 PAPATŪĀNUKU

SUBDIVISION AND DEVELOPMENT

Basic principles and design guidelines

P4.3 To base tāngata whenua assessments and advice for subdivision and residential land development proposals on a series of principles and guidelines associated with key issues of importance concerning such activities, as per Ngāi Tahu subdivision and development guidelines (Appendix 2).

EARTHWORKS

P11.1 To assess proposals for earthworks with particular regard to:

- (a) Potential effects on wāhi tapu and wāhi taonga, known and unknown;
- (b) Potential effects on waterways, wetlands and waipuna;
- (c) Potential effects on indigenous biodiversity;
- (d) Potential effects on natural landforms and
- (e) Proposed erosion and sediment control measures; and
- (f) Rehabilitation and remediation plans following earthworks.

Indigenous vegetation

P11.7 To require that indigenous vegetation that is removed or damaged as a result of earthworks activity is replaced.

P11.8 To require the planting of indigenous vegetation as an appropriate mitigation measure for adverse impacts that may be associated earthworks activity.

Erosion and sediment control

P11.9 To require stringent and enforceable controls on land use and earthworks activities as part of the resource consent process, to protect waterways and waterbodies from sedimentation, including but not limited to:

- (a) The use of buffer zones;
- (b) Minimising the extent of land cleared and left bare at any given time; and
- (c) Capture of run-off, and sediment control.

ENERGY

P17.4 To require that local authorities develop and implement effective policies requiring the use of renewable energy and energy saving measures in residential, commercial, industrial and other developments.

P17.5 To support in principle the use of wind and solar energy generation in the region (see Section 5.7, Issue TAW1).

Comment: Land use and development activities in the takiwā must be managed in way that works with the land and not against it. Activities such as subdivision and land use change can increase the sensitivity of a site with regard to effects on sites of significance.

5.5 TĀNE MAHUTA

INDIGENOUS BIODIVERSITY

Ecosystem services

TM2.10 To require that indigenous biodiversity is recognised and provided for as the natural capital of Papatūānuku, providing essential and invaluable ecosystem services.

Comment: The relationship between tāngata whenua and indigenous biodiversity has evolved over centuries of close interaction and is an important part of Ngāi Tahu culture and identity. Restoring indigenous biodiversity values is one of the most important challenges for the future management in the takiwā.

5.8 NGĀ TŪTOHU WHENUA

WĀHI TAPU ME WĀHI TAONGA

CL3.1 All taonga within the takiwā of Ngāi Tahu, accidental discovery or otherwise, belong to the Papatipu Rūnanga/ Te Rūnanga o Ngāi Tahu.

CL3.8 To require, where a proposal is assessed by tāngata whenua as having the potential to affect wāhi tapu or wāhi taonga, one or more of the following:

(a) Low risk to sites:

(i) Accidental discovery protocol (ADP)

(b) High risk to sites:

(i) Cultural Impact Assessment (CIA);

(ii) Site visit;

(iii) Archaeological assessment, by a person nominated by the Papatipu Rūnanga;

(iv) Cultural monitoring to oversee excavation activity, record sites or information that may be revealed, and direct tikanga for handling cultural materials;

(v) Inductions for contractors undertaking earthworks;

(vi) Accidental discovery protocol agreements (ADP); and/or

(vii) Archaeological Authority from the New Zealand Historic Places Trust.

Comment: Cultural landscapes are a culturally meaningful and effective framework for the identification, protection and management of sites and places of significance, the multiple values associated with those sites and places, and the relationship of tāngata whenua to them.

4.1 Guidance to Moderate Impacts on Mana Whenua Values

The above policies from the Mahaanui Iwi Management Plan provide a framework for assessing the potential negative impacts of the proposed activity on Mana Whenua values and provide guidance on how these effects can be moderated.

Air, water, and soil are taonga as they provide a vast array of essential ecosystem services. Although these services are often taken for granted, they have immense value to cultural, social, and economic wellbeing. If appropriate measures are not in place, earthworks can cause contamination of ground and surface waters. An Erosion and Sediment Control Plan (ESCP) in accordance with *Environment Canterbury's Erosion and Sediment Control Guidelines* must be prepared and implemented on-site during all earthwork activities.

It is important that discharge to land proposals assess how the activity may affect Ngāi Tahu values, including the relationship of Ngāi Tahu to ancestral lands, water, sites, wāhi tapu and other taonga. Any activity that involves land disturbance has the potential to uncover or damage previously unrecorded Māori artefacts or taonga. To ensure the protection of taonga and Māori archaeological sites, an Accidental Discovery Protocol (Appendix 1) should be in place during all future earthwork activities required to give effect to this consent. This protocol outlines the procedures to be followed if culturally sensitive material is uncovered.

Indigenous biodiversity, landscapes and ecosystems, are a fundamental part of the culture, identity and heritage of Ngāi Tahu. Indigenous vegetation provides a range of benefits such as increasing indigenous habitat throughout the takiwā, binding/stabilising soil, nutrient uptake, and carbon sequestration – all of which help support a healthy environment and enhance the cultural value of a landscape. Consent Condition 3 and Advice Note 1 are provided to ensure indigenous planting is included.

Kaitiaki are concerned about the risk of potential contaminants leaching from the solar panels into land. Contaminated land can have adverse effects on the environment, including the potential for contaminants to leach into groundwater and nearby water races. This can also have effects on Ngāi Tahu cultural associations, such as mahinga kai, wāhi tapu, or historical associations. To reduce the risks associated with contaminated materials, Consent Condition 4 and Advice Note 3

Waste minimisation as an approach to waste management is consistent with protecting cultural values and achieving optimum outcomes for tangata whenua. Reducing the volume of solid waste and wastewater produced in the takiwā will reduce pressure on existing infrastructure, and on the environment and cultural values. Advice Note 2 is provided regarding concerns to recycling or disposing of the solar panel material at the end of their useful estimated lifespan.

5.0 Rūnanga – Affected Party or Not

In terms of this response, Mahaanui Kurataiao has taken a targeted approach and only addresses matters of fundamental concern to Te Ngāi Tūāhuriri Rūnanga and Te Taumutu Rūnanga. The fact that Mahaanui Kurataiao has not commented on any particular matter should not be taken as support thereof and Te Ngāi Tūāhuriri Rūnanga and Te Taumutu Rūnanga reserves the right to comment on additional matters at a hearing or in the future.

The Kaitiaki representatives of Te Ngāi Tūāhuriri Rūnanga and Te Taumutu Rūnanga have reviewed this application and provided the consent conditions and advice notes outlined in Section 6.0 to align this proposal more closely with the provisions in the Mahaanui IMP.

If the consent conditions are provided for, the Rūnanga will not consider themselves to be an adversely affected party.


6.0 Consent Conditions and Advice Notes

If a resource consent is granted, the following conditions must be included to moderate effects of this proposed activity on mana whenua values:

1. An Accidental Discovery Protocol (ADP) must be in place during all earthworks required to give effect to this consent to deal with archaeological finds and protect the interests of mana whenua. This condition does not constitute a response under the Heritage New Zealand Pouhere Taonga Act (HNZPT 2014).
2. A site-specific Erosion and Sediment Control Plan for any earthworks required to give effect to this consent must be prepared, inspected, and maintained in accordance with Environment Canterbury's Erosion and Sediment Control Toolbox for Canterbury until such time the exposed soils have been stabilised. This plan must:
 - a. Ensure the protection of the surrounding environment including water soil and air.
 - b. Restrict sediment runoff and erosion from entering the drain.
3. Indigenous planting is required where landscaping strips are proposed to enhance the cultural landscape, increase indigenous habitat, filter sediment and sequester carbon.
4. The solar panels must be encapsulated with Glass Laminate Encapsulation to avoid chemical leakage.
 - a. The consent holder must undertake six monthly inspections of the solar panels for any signs of damage that could allow leakage of internal chemicals into the land.

The following advice notes must be included in the final decision:

1. Indigenous planting should be incorporated between the solar panels.
2. The consent holder should consider how solar panels can be re-used and recycled once they reach the end of their useful lifespan.
3. The consent holder should undertake soil testing to monitor how the runoff from solar panels impacts soil quality.



On behalf of Mahaanui Kurataiao Ltd, this report has been prepared by Tayla Cross | Mahaanui Kurataiao Ltd Environmental Advisor, and peer reviewed by Angela Burton | Mahaanui Kurataiao Ltd Environmental Advisor.

Date: 3 February 2025

Appendix 1: Accidental Discovery Protocol (ADP)

PRIOR TO COMMENCEMENT OF ANY WORKS, A COPY OF THIS ADP SHOULD BE MADE AVAILABLE TO ALL CONTRACTORS WORKING ON SITE.

Purpose

This Accidental Discovery Protocol (ADP) sets out the procedures that must be followed in the event that taonga (Māori artefacts), burial sites/kōiwi (human remains), or Māori archaeological sites are accidentally discovered. The Protocol is provided by Te Ngāi Tūāhuriri Rūnanga and Te Taumutu Rūnanga. Te Ngāi Tūāhuriri Rūnanga and Te Taumutu Rūnanga are the representative body of the tangata whenua who hold mana whenua in the proposed area.

Background

Land use activities involving earthworks have the potential to disturb material of cultural significance to tangata whenua. In all cases such material will be a taonga, and in some cases such material will also be tapu. Accidental discoveries may be indicators of additional sites in the area. They require appropriate care and protection, including being retrieved and handled with the correct Māori tikanga (protocol).

Under the *Heritage New Zealand Pouhere Taonga Act 2014*, an archaeological site is defined as any place associated with pre-1900 human activity, where there is material evidence relating to the history of New Zealand. It is unlawful for any person to destroy, damage or modify the whole or any part of an archaeological site (known or unknown) without the prior authority of the Heritage New Zealand Pouhere Taonga (HNZPT). This is the case regardless of the legal status of the land on which the site is located, whether the activity is permitted under the District or Regional Plan or whether a resource or building consent has been granted. The HNZPT is the statutory authority for archaeology in New Zealand.

Note that this ADP does not fulfil legal obligations under the Heritage New Zealand Pouhere Taonga Act 2014 regarding non-Māori archaeology. Please contact the HNZPT for further advice.

Immediately following the discovery of material suspected to be a taonga, kōiwi or Māori archaeological site, the following steps shall be taken:

1. **All work on the site will cease immediately.**
2. Immediate steps will be taken to secure the site to ensure the archaeological material is not further disturbed.
3. The contractor/works supervisor/owner will notify the Kaitiaki Rūnanga and the Area Archaeologist of the HNZPT. In the case of kōiwi (human remains), the New Zealand Police must be notified.

4. The Kaitiaki Rūnanga and HNZPT will jointly appoint/advise a qualified archaeologist who will confirm the nature of the accidentally discovered material.
5. If the material is confirmed as being archaeological, the contractor/works supervisor/owner will ensure that an archaeological assessment is carried out by a qualified archaeologist, and if appropriate, an archaeological authority is obtained from HNZPT before work resumes (as per the *Heritage New Zealand Pouhere Taonga Act 2014*).
6. The contractor/works supervisor/owner will also consult the Kaitiaki Rūnanga on any matters of tikanga (protocol) that are required in relation to the discovery and prior to the commencement of any investigation.
7. If kōiwi (human remains) are uncovered, in addition to the steps above, the area must be treated with utmost discretion and respect, and the kōiwi dealt with according to both law and tikanga, as guided by the Kaitiaki Rūnanga.
8. Works in the site area shall not recommence until authorised by the Kaitiaki Rūnanga, the HNZPT (and the NZ Police in the case of kōiwi) and any other authority with statutory responsibility, to ensure that all statutory and cultural requirements have been met.
9. All parties will work towards work recommencing in the shortest possible time frame while ensuring that any archaeological sites discovered are protected until as much information as practicable is gained and a decision regarding their appropriate management is made, including obtaining an archaeological authority under the *Heritage New Zealand Pouhere Taonga Act 2014* if necessary. Appropriate management may include recording or removal of archaeological material.
10. Although bound to uphold the requirements of the Protected Objects Act 1975, the contractor/works supervisor/owner recognises the relationship between Ngāi Tahu whānui, including its Kaitiaki Rūnanga, and any taonga (Māori artefacts) that may be discovered.

IN DOUBT, STOP AND ASK; TAKE A PHOTO AND SEND IT TO THE HNZPT ARCHAEOLOGIST

Contact Details

HNZPT Archaeologist: (03) 357 9615 archaeologistcw@heritage.org.nz

HNZPT Southern Regional Office (03) 357 9629 infosouthern@heritage.org.nz

HNZPT Māori Heritage Advisor (03) 357 9620 pouarahisouth@heritage.org.nz

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