



## **PROPOSED INVERCARGILL CITY DISTRICT PLAN**

**Report No. 5**

**Tangata Whenua**

**9 June 2014, 9.00 am  
DRAWING ROOM  
CIVIC THEATRE, TAY STREET, INVERCARGILL**

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# 1. EXECUTIVE SUMMARY

Tangata Whenua issues are addressed throughout the Proposed District Plan provisions, recognising the special status of Māori culture and traditions and reflecting the Council's obligations under s8 of the RMA, to take into account the principles of the Treaty of Waitangi when making resource management decisions. Iwi values and the role of tangata whenua in decision making processes are to be considered in all parts of the resource management processes. References to these values and this important role are found in numerous sections of the Proposed District Plan.

This report specifically focuses on Section 2.16 Tangata Whenua - Objectives, Policies and Methods of Implementation of the Plan, Section 3.19 Tangata Whenua Rule, Section 4 Definitions as they relate to Māori terminology and Appendix III Statutory Acknowledgements.

Sixteen points of submission have been lodged commenting on, supporting and suggesting amendments to the Tangata Whenua provisions covered in this report.

In general, the submissions are supportive of the approach adopted in the Proposed District plan to Tangata Whenua issues. The changes sought in the submissions relate mainly to minor details, such as spelling, updating of details, and correcting inaccuracies in citations.

The key issues raised in the submissions include discussion on the relationship with local iwi and their involvement in the resource management processes. It is recommended that the balance between landowners' rights and the roles and values of tangata whenua is addressed in an appropriate manner in the Proposed District Plan.

The recognition of "partnership" as one of the principles of the Murihiku Ngāi Tahu Treaty was missing in the introduction to the Tangata Whenua section. It is recommended that this oversight be remedied and that "partnership" be expressly highlighted in the Proposed District Plan.

In this report:

- Part 2 considers several key procedural issues.
- Part 3 provides general background to the proposed provisions.
- Part 4 summarises the various statutory provisions that apply to the consideration of the Proposed District Plan.
- Part 5 assesses the relevant issues raised by submitter and the effects of the relief sought.
- Part 6 includes an evaluation of the provisions in accordance with Section 32AA of the RMA.
- Part 7 sets out the overall conclusions.
- Appendix 1 sets out the recommendations on each of the submission points.
- Appendix 2 sets out the recommended changes to the text of the Proposed District Plan.

## **2. INTRODUCTION**

### **2.1 Report Author**

My name is Elizabeth Ann Devery. I am the Senior Planner – Policy at the Invercargill City Council, a position I have held since January 2003. I have over 14 years planning policy experience working in planning and regulatory roles in local government in New Zealand and the United Kingdom. These roles have focused on both developing and implementing District Plans and planning documents. I hold the qualifications of LLB/BA (Hons I) in Geography.

### **2.2 Peer Review**

This report has been peer reviewed by Dan Wells and John Edmonds, from John Edmonds and Associates Ltd. Both John Edmonds and Dan Wells are practising resource management planners with a variety of experience throughout the plan change preparation process. Dan Wells has a Bachelor of Resource and Environmental Planning (Hons) and a Post Graduate Diploma in Development Studies, both from Massey University. John Edmonds has a Bachelor of Regional Planning from Massey University.

### **2.3 How to Read this Report**

This report is structured as follows:

- Interpretation (an explanation of some of the terms used);
- Summary of the Hearing process;
- Background to the Tangata Whenua topic, and the provisions of the Proposed Invercargill City District Plan 2013;
- Description of the statutory framework within which the proposed provisions have been developed;
- Analysis of the submissions, including a discussion of the key issues raised through the submissions and further submissions received;
- Assessment of the proposed changes under Section 32AA of the RMA.
- Concluding comments;
- Appendix 1 detailing recommendations on individual submissions;
- Appendix 2 detailing the recommended changes of the Proposed District Plan provisions relating to Tangata Whenua

To see recommendations on an individual submission please refer to the table in Appendix 1. The table sets out the name and relevant submission number of those that submitted on the Tangata Whenua provisions; a brief summary of their submission and decisions requested, followed by my recommendation and the reasons for it.

### **2.4 Interpretation**

In this report, the following meanings apply:

“Council” means the Invercargill City Council

“Hearings Committee” means the District Plan Hearing Committee established by the Council under the Local Government Act

“FS” means further submission

“Operative District Plan” means the Invercargill City District Plan 2005

“Proposed District Plan” means the Proposed Invercargill City District Plan 2013

“Provisions” is a term used to collectively describe Objectives, Policies and Rules

“RMA” means the Resource Management Act 1991

## **2.5 The Hearing Process**

A number of hearings are to be held to consider the submissions lodged to the Proposed Invercargill City District Plan 2013. The hearings have been divided up to ensure that submissions on similar issues have been grouped together and to enable the Hearings Committee to make decisions on the provisions relating to those issues. This report applies to the Tangata Whenua provisions of the Proposed District Plan.

The Hearings Committee comprises of accredited Invercargill City Councillors, with the assistance of an Independent Hearings Commissioner. This Committee is to consider the Proposed Plan and the submissions and further submissions lodged. The Committee has full delegation to issue a decision on these matters.

This report is prepared pursuant to Section 42A of the Resource Management Act 1991 (the “RMA”). Section 42A provides for a report to be prepared prior to a hearing setting out matters to which regard should be had in considering a Proposed District Plan and the submissions lodged to it. This report highlights those matters that are considered appropriate by the author for the Hearings Committee to consider in making decisions on the submissions lodged. This report has been prepared on the basis of information available prior to the hearing.

While the Hearings Committee is required to have regard to this report, regard must also be given to the matters raised in submissions, and presentations made at the hearing. The comments and recommendations contained in this report are not binding on the Hearings Committee and it should not be assumed that the Hearings Committee will reach the same conclusions set out in the report having heard from the submitters and Council advisers.

The hearing is open to the public, and any person may attend any part of the hearing. Those persons who lodged a submission have a right to speak at the hearing. They may appear in person, or have someone speak on their behalf. They may also call evidence from other persons in support of the points they are addressing.

At any time during or after the hearing, the Hearings Committee may request the preparation of additional reports. If that is done, adequate time must be provided to the submitters, to assess and comment on the report. The Hearings Committee may determine that:

- the hearing should be reconvened to allow responses to any report prepared, or
- any responses be submitted in writing within a specified timeframe.

At the conclusion of the hearing process, the Hearings Committee will prepare a written decision. The decision is sent to all persons who lodged a submission. If not satisfied with the decision the submitters have a right of appeal to the Environment

Court. If an appeal is lodged, the RMA requires a copy to be served on all submitters with an interest in that matter. Any submitter served may, if they wish, become a party to the appeal either in support or opposition to it.

If there is an appeal, the Environment Court will provide an opportunity for mediation between the parties. If mediation is not accepted, or does not resolve the issues, a further hearing will take place before a Judge and Court appointed Commissioners. Except on points of law, the decision of the Environment Court is final.



### 3. BACKGROUND

In the Proposed District Plan “tangata whenua” is defined as:

*“the “people of the land”, local owner-occupier, the people who hold the tūrangawaewae and the manawhenua in an area, according to tribal and hapu custom.”*

Pursuant to the Council’s obligations under the Treaty of Waitangi and the RMA, efforts have been made in the Proposed District Plan to promote the involvement of tangata whenua in resource management decision making processes and to recognise the special relationship between tangata whenua and the natural and physical resources of the district.

Ngāi Tahu is the tangata whenua of the area in which the Invercargill City District is located. Within the Ngāi Tahu Tribal Council, there are four Murihiku paptipu rūnanga:

- A. Te Rūnanga O Awarua
- B. Hokonui Rūnanga
- C. Te Rūnanga o Oraka-Aparima
- D. Waihopai Rūnanga

The four Murihiku papatipu rūnanga have created an entity, Te Ao Marama Incorporated, which is mandated to provide input into RMA processes (as well as processes under other legislation). Members of Te Ao Marama Inc have been involved in the development of the Proposed District Plan from the start as members of the Council’s Plan Group.

The approach adopted in the Proposed District Plan is to set out distinct Tangata Whenua Issues, Objectives and Policies, and to also recognise that tangata whenua issues are woven throughout the entire Proposed District Plan. Iwi values and the role of tangata whenua in decision making processes are considered in all parts of the resource management processes. There are specific tangata whenua policies throughout the Proposed Plan in sections like Biodiversity and Heritage. There are methods of implementation throughout the Proposed District Plan that advocate for consultation or collaboration with Iwi and consideration of tangata whenua values. In a number of the Rules in the Proposed District Plan effects on iwi and cultural values are expressly identified as matters to be considered in the resource consent process.

This report specifically focuses on Section 2.16 Tangata Whenua – Issues, Objectives, Policies and Methods of Implementation, Section 3.19 Tangata Whenua, Section 4 Definitions (as they relate to Māori terminology), and Appendix III Statutory Acknowledgements.

#### 3.1 Proposed Objectives and Policies

Section 2.16 of the Proposed District Plan includes five objectives and six policies relating to tangata whenua issues. These cover a range of topics. There is a greater emphasis in the objectives and policies of the Proposed District Plan on enhancing the involvement of tangata whenua in the resource management decision making process. There is also more specific provision for the environmental and cultural values of tangata whenua than in the Operative District Plan.

The first two objectives address the incorporation of the Treaty of Waitangi and the Iwi Management Plans into resource management processes and decisions. There are two objectives addressing potential effects on Māori values and sites of cultural

significance and one objective that seeks to enable tangata whenua to develop and use their land and resources in a sustainable manner.

The policies address these objectives in greater depth and in more specific terms than the Objectives. There is also a policy that acknowledges that land disturbance as part of the subdivision, use and development of land has the potential to impact on sites of cultural value and sets out how these effects should be considered.

### **3.2 Proposed Rule**

In the Operative District Plan, the consultation and written approval process for resource consents for activities within, adjacent to, or impacting upon a statutory authority are found in Appendix VI. In the Proposed District Plan, the requirements for Te Rūnanga o Ngāi Tahu's written approval are also spelt out in the Rules section of the Plan as a note, 3.19. The reason for this change was to highlight the obligations by bringing the issue further to the front of the Plan.

## 4. STATUTORY CONTEXT / LEGISLATIVE REQUIREMENTS

In developing the Proposed District Plan there are a number of statutory requirements guiding the process and outlining what must be considered. This section of the report details the statutory context.

### 4.1 Resource Management Act 1991

In reviewing the District Plan, Council must follow the process outlined in Schedule 1 of the RMA.

The First Schedule procedure includes notification for submissions (clause 5) and further submissions (clause 8), holding a hearing into submissions (clause 8(b)), and determining whether those submissions are accepted or rejected and giving reasons for the decisions (clause 10).

Clause 29(4) of the First Schedule to the RMA states that after considering a plan the local authority may decline, approve, or approve with modifications, the plan, and shall give reasons for its decisions.

Under Section 74 of the RMA, in relation to changes to the District Plan, Council must consider Part 2 of the Act (purposes and principles), Section 32 (alternatives, benefits and costs), and relevant regional and district planning documents.

#### 4.1.1 Part 2 of the RMA

Part 2 of the RMA (ss5-8) sets out its purpose and principles of the Act.

The purpose of the RMA is set out in Section 5. I confirm that the Tangata Whenua provisions in the Proposed District Plan fall within the purpose of the Act. In particular, the provisions are designed to sustain the potential of natural and physical resources (excluding minerals) in order to meet the reasonably foreseeable needs of future generations (Section 5(2)(a)), and to avoid, remedy, or mitigate any adverse effects of activities on the environment (s5(2)(c)).

Section 6 of the RMA sets out matters of national importance which must be recognised and provided for. The proposed tangata whenua provisions cover a number of matters outlined in Section 6, in particular:

- (e) *The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*

Section 7 of the RMA sets out “other matters” for which particular regard shall be had. It is considered that the provisions relating to Water in the Proposed District Plan demonstrate particular regard to these matters.

- (a) *Kaitiakitanga:*
- (aa) *The ethic of stewardship:*
- (b) *The efficient use and development of natural and physical resources:*
- (d) *Intrinsic values of ecosystems:*
- (f) *Maintenance and enhancement of the quality of the environment:*
- (g) *Any finite characteristics of natural and physical resources:*
- (h) *The protection of the habitat of trout and salmon:*

Section 8 of the RMA obliges persons exercising functions and powers under the Act to take account of the principles of the Treaty of Waitangi. The issues covered in this report directly relate to values and beliefs of tangata whenua. Representatives from Te Ao Marama Inc have been part of the Plan Review process as members of the Council's Plan Group that worked on developing the Proposed District Plan. Consultation with representatives of local Iwi has also occurred. The local Iwi Management Plan has also informed the approach to the issues covered on tangata whenua issues in the Proposed District Plan.

#### **4.1.2 Functions of Territorial Authorities under the RMA**

Section 31 of the RMA states the functions of a territorial authority under that Act. One of the functions, set out in Section 31(1)(b) is:

*“the control of any actual or potential effects of the use, development, or protection of land ...”*

The Tangata Whenua provisions in the Proposed District Plan include objectives, policies, and methods that intend to manage the actual or potential effects of land use and subdivision on Tangata Whenua values. These provisions fall within the Council's functions under the RMA.

#### **4.1.3 Consideration of alternatives, benefits, and costs**

Section 32 of the RMA states the Council's obligations in assessing the alternatives, benefits and costs.

Whilst a Section 32 report was released at the time of notification of the Proposed District Plan, the Council is required to carry out a further evaluation through the hearing, consideration and deliberation process before making its decision on the Plan Change. Section 6 of this report includes my evaluation of any recommended changes to the Proposed District Plan provisions in accordance with Section 32AA.

## **4.2 Relevant Planning Policy Documents**

The RMA specifies a number of documents that need to be considered in a decision on a plan change and the weight that should be given to these. These are addressed in the following section.

### **4.2.1 New Zealand Coastal Policy Statement**

Section 75 of the RMA requires that a District Plan must give effect to any New Zealand coastal policy statement . The New Zealand Coastal Policy statement is relevant to this topic, mainly because there are a number of sites of cultural value within the coastal environment in the Invercargill City District.

Policy 2 of the New Zealand Coastal Policy Statement details methods of addressing the Treaty of Waitangi and tangata whenua issues. These refer to acknowledging the importance of the relationship of tangata whenua with the coastal environments, methods of involvement, as well as detailing matters that should be considered in resource management processes.

The approach to the coastal environment in the Proposed District Plan requires consideration of cultural values in resource consent processes. The approach to Tangata Whenua throughout the Proposed District Plan also gives effect to the

New Zealand Coastal Policy Statement policy in terms of the involvement of tangata whenua in the resource management processes and acknowledging the importance of the relationship of tangata whenua with the District's resources.

#### **4.2.2 National Policy Statements**

In accordance with Section 75 of the RMA, a District Plan must give effect to National Policy Statements.

The National Policy Statement for Freshwater Management 2011 has a section specifically focussed on tangata whenua roles and interests. The Objective and Policy covers the involvement of iwi and hapu and their values and interests in the management of freshwater and decision-making.

Policy 8 of the National Policy Statement on Electricity Transmission states that in rural environments, planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities.

The National Policy Statement for Renewable Electricity Generation 2011 has no express mention of tangata whenua, apart from the preamble which notes that there can be potential conflicts with the relationship of Māori with their taonga and the role of kaitiaki.

The approach to tangata whenua issues in the Proposed District Plan gives effect to the National Policy Statements in that the role of iwi and their values are recognised throughout the provisions of the Proposed District Plan, and expressly provided for in the Tangata Whenua Section of the Proposed District Plan.

#### **4.2.3 National Environmental Standards**

Section 44A of the RMA prescribes how District Plans must be amended if a rule conflicts with a National Environmental Standard.

Although Treaty of Waitangi and tangata whenua values should be considered in the development and implementation of all NZ planning documents, the National Environmental Standards do not expressly require specific provisions relating to tangata whenua to be included in district plans. Rule 3.19 does not conflict with a National Environmental Standard.

#### **4.2.4 Regional Policy Statement**

Under Section 75 of the RMA, A District Plan must give effect to an operative Regional Policy Statement.

Section 5.1 of the Southland Regional Policy Statement (1997) focuses specifically on matters relevant to "*Takata Whenua O Murihiku*". This includes four Objectives and two Policies.

*Objective 1.1*

*To protect wahi tapu from the adverse effects of resource use activities.*

*Objective 1.2*

*To recognise the importance of wahi tapu, wahi taoka, mahika kai and the customary use of water to Kai Tahu.*

*Objective 1.3*

*To incorporate Maori cultural and traditional spiritual values where appropriate into resource management decision making processes.*

*Objective 1.4*

*To have particular regard to the concept of kaitiakitanga in relation to managing the use, development and protection of natural and physical resources.*

*Policy 1.1*

*Prepare and implement an Accord between the local authorities and the takata whenua o Murihiku which sets out a process for consultation.*

*Policy 1.2*

*Recognise "Te Whakatau Kaupapa O Murihiku" as a Kai Tahu resource management reference planning document for the Region.*

The Proposed District Plan gives effect to the Objectives set out in the Operative Southland Regional Policy Statement. However, the Proposed District Plan does not give effect to policy 1.2 because *Te Tangi A Taurira* is now the most current Iwi Management Plan for the Invercargill City District. The Proposed District Plan recognises this document, rather than *Te Whakatau Kaupapa O Murihiku* as the relevant iwi management plan in resource management decision making.

#### **4.2.5 Proposed Regional Policy Statement**

In accordance with Section 74 of the RMA, regard need to be given to any proposed Regional Policy Statement. The Proposed Southland Regional Policy Statement was notified in May 2012.

Chapter 3 of the Proposed Southland Regional Policy Statement covers Tangata Whenua issues. This includes five Objectives and five Policies. The Proposed Southland Regional Policy Statement also includes methods that territorial authorities are required to do and that local authorities are encouraged to do.

The Policies cover the involvement of tangata whenua in resource management decision-making processes; the fostering of partnerships and relationships between local authorities and tangata whenua; reference to Iwi Management Plans; recognition of tangata whenua values in resource management processes; and enabling the use of Māori land and resources in a sustainable manner.

Regard has been had to the Proposed Southland Regional Policy Statement in the development of the Proposed District Plan. The provisions in the Proposed District Plan cover the matters raised in the proposed Objectives and Policies of Chapter 3 of the Proposed Southland Regional Policy Statement.

#### **4.2.6 Regional Plans**

In accordance with Section 74 of the RMA, a District Plan must not be inconsistent with a Regional Plan. Local tangata whenua values are integrated into all Southland Regional Plans. It is my opinion that the Proposed District Plan is not inconsistent with any of the Regional Plans in its approach to tangata whenua issues.

#### **4.2.7 Iwi Management Plans**

Section 74 of the RMA requires that a local authority must take into account any relevant planning relevant planning document recognised by an iwi authority and lodged with the territorial authority. Ngāi Tahu has lodged an Iwi Management Plan with the Council. The relevant document is the *Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 – The Cry of the People - Te Tangi a Taurira*.

The issues and policies of the Iwi Management Plan have been had regard to in the development of the Proposed District Plan provisions in the objectives, policies and methods of implementation. The Iwi Management Plan is referenced throughout the Proposed District Plan and specifically in Section 2.16 Policy 2.

#### **4.2.8 Management Plans and Strategies Prepared under other Acts**

A District Plan is required to have regard to management plans and strategies prepared under different Acts.

The Council has a formal relationship with Te Rōpū Taiao, a joint management committee comprising of the southern territorial and regional councils and tangata whenua. A Charter of Understanding relationship agreement has been entered into between the Council and tangata whenua, which covers consultation, shared decision-making, joint management agreements, capacity building and resourcing for iwi to contribute in decision-making. A number of protocols have also been developed, to assist with iwi consultation under the RMA. This relationship is referred to in the introduction to section 2.16 of the Proposed District Plan and has informed the process involved in the development of the Proposed District Plan.

## 5. ANALYSIS OF SUBMISSIONS

Sixteen points of submission have been lodged commenting on, supporting and suggesting amendments to the Tangata Whenua provisions covered in this report. These submissions are summarised in table format, along with recommended responses, in **Appendix 1** to this report.

In general, the submissions are supportive of the approach adopted in the Proposed District plan to Tangata Whenua issues. The changes sought in the submissions relate mainly to minor details, such as spelling, updating of details, and correcting inaccuracies.

The key issues raised in the submissions are:

1. The relationship with local iwi and their involvement in the resource management processes
2. Recognition of “partnership” as one of the principles of the Murihiku Ngāi Tahu Treaty

### 5.1 Relationship with local iwi and their Involvement in the resource management processes

Two submission points are generally supportive of Council’s liaison with local iwi and the approach in the Tangata Whenua section and the Proposed District Plan to continue this. However, in Federated Farmers submission point 88.18 concerns were raised about landowners’ control over access to and reasonable use of their land where natural resources, areas, places and landscapes of value to tangata whenua are located on private property.

The Proposed District Plan acknowledges that landowners have rights. However, pursuant to the Treaty of Waitangi and the RMA, it is important to recognise the role of tangata whenua and their values in resource management processes. It is good practice to ensure that the effects of activities on cultural values are considered.

The Proposed District Plan does not take landowners’ rights away, however they ensure that all interested parties and their views are considered throughout resource management processes.

There are references throughout the Proposed District Plan that encourage collaboration and consultation with iwi. It is hoped that enhanced involvement of iwi in the resource management processes will lead to better understanding and improved relationships between parties.

It is my opinion that the balance between landowners’ rights and the roles and values of tangata whenua is addressed in an appropriate manner in the Proposed District Plan.

### 5.2 Recognition of “partnership” as one of the principles of the Murihiku Ngāi Tahu Settlement Treaty

Two submission points identify that one of the keystone principles of the Murihiku Ngāi Tahu Settlement Treaty is missing from the Introduction to the Tangata Whenua Issues, Objectives and Policies section. This omission of “partnership” from the Introduction is regretted and should be introduced into the Proposed District Plan text.



“Partnership” is one of the principles of the Treaty of Waitangi and is one of the guiding principles behind the approach to tangata whenua issues in the Proposed District Plan. Acknowledging the values from the Iwi Management Plan in the Proposed District Plan and resource management processes; enhancing the relationship between the Council, Iwi and other interested parties; and enhancing the role of iwi in decision-making processes are some of the ways that the principle of “partnership” is incorporated through the Proposed District Plan.

## 6. DISCUSSION OF SECTION 32 MATTERS

Section 32 of the RMA establishes the framework for assessing objectives, policies and rules proposed in a Plan. This requires the preparation of an Evaluation Report. This section of the RMA was recently amended (since the notification of the Proposed District Plan) and the following summarises the current requirements of this section.

The first step of Section 32 requires that objectives are assessed to determine whether they are the most appropriate way to achieve the purpose of the RMA (as defined in Section 5).

The second step is for policies and rules to be examined to determine whether they are the most appropriate way to achieve the objectives. In this instance, the objectives are those proposed by the District Plan. This assessment includes requirements to:

- Identify the costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions (including effects on employment and economic growth)
- Identify other reasonably practicable options for achieving the objectives; and
- Assess the efficiency and effectiveness of the provisions in achieving the objectives.

Section 32AA of the RMA requires a further evaluation to be released with the decision. This further evaluation is to outline the costs and benefits of any amendments made after the Proposed District Plan was notified.

Section 32 states that Evaluation Reports need to contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal. This means that if in its decision the Hearings Committee recommends minor changes from what was in the Proposed Plan, a further evaluation can be relatively brief.

### 6.1 Relevant Section 32AA Matters

This section of the report evaluates the recommended changes to the Demolition and Removal provisions. The following is a summary of the changes recommended to the policies and rules:

- Correcting spelling of Māori terms throughout the Proposed District Plan, including definitions, to ensure consistency with the Iwi Management Plan
- Amend the Introduction of 2.16 to tidy up references to the Murihiku Ngāi Tahu Treaty and the parties involved in Te Rōpū Taiao
- Amend the Introduction of 2.16 to include reference to the principle of “partnership”
- Amend the definition of “Murihiku” to accurately reference the legislation
- Amend Appendix III to update contact address details for Te Rūnanga O Ngāi Tahu

The detail of the proposed changes to which this evaluation refers is set out in **Appendix 2**.

## **6.2 Section 32AA Further Evaluation**

The Tangata Whenua section of the original Section 32 report is relevant to this report. The changes proposed are within the scope of the original evaluation findings and do not raise any significant matters outside of that report.

Apart from minor spelling amendments no changes to objectives, policies, methods of implementation or rules are recommended.

The recommended changes will only affect the Tangata Whenua Introduction and the definitions of tangata whenua terms. The recommendations on the Introduction are intended to ensure that the Proposed District Plan accurately portrays the background to the tangata whenua provisions in order to set the scene for District Plan users. Amendments to definitions are of a minor nature correcting inaccuracies in references to legislation and inaccuracies in spelling. These recommended amendments will have no impact on the interpretation of the Proposed District Plan.

Due to the minor nature of the recommended changes it is not necessary or practical to evaluate in detail or quantify the economic, social, cultural, environmental and employment effects of the changes. It is sufficient to state that a more accurate and easily interpretable plan can aid efficient and effective regulation, which can result in positive effects with respect to these matters. For this reason, the recommended approaches are considered to be preferable to the alternatives of adopting the provisions as notified.

## **7. CONCLUDING COMMENTS**

The provisions as proposed reflect the importance of the involvement of tangata whenua and their values throughout the Invercargill City District. The proposed provisions meet the requirements of the RMA. Recognition of the role of tangata whenua and their values are spread throughout the Proposed District Plan. This report addresses only section 2.16 Tangata Whenua – Issues, Objectives, Policies and Methods of Implementation, Section 3.19 Tangata Whenua Rule, Section 4 Definitions as they relate to Māori terminology and Appendix III Statutory Acknowledgements.

Submissions on these provisions are generally supportive of the approach to Tangata Whenua issues in the Proposed District Plan and the amendments recommended in this report will not affect this. However, the recommendations are made to tidy up the wording within the Proposed District Plan to ensure that it is easily interpreted, accurate and consistent with other planning documents within the wider Southland region.

## APPENDIX 1 - Recommendations in response to submissions

Submitter	Submission	Recommendation
<b>General</b>		
<b>18.1 Environment Southland</b>	<p>Some Māori words in the District Plan are missing macrons – e.g. Ōreti, Ngāi Tahu, Ōmaui and Rūnanga, and others.</p> <p>Council should give consideration to including macrons on relevant Māori words, to assist with pronunciation.</p> <p><b>RELIEF SOUGHT:</b> That the Council amend the entire District Plan (including Appendices and Planning Maps) by including macrons on relevant Māori words consistent with Te Tangi a Tauria Iwi Management Plan and the Proposed Southland Regional Policy Statement 2012 [PSRPS 2012].</p>	<p><b>Accept</b></p> <p>It is recommended that a review of the spelling of the Māori words in the Proposed District Plan be carried out to identify words missing macrons, and that the use of macrons in these words be amended to be consistent with Te Tangi a Tauria.</p>
<b>56.29 Jenny Campbell</b>	<p>The submitter supports the continuation of an increase in liaison with local Iwi and Māori entities as tangata whenua, along with other cultural groups, to ensure they have their special cultural and environmental needs and concerns met.</p> <p><b>RELIEF SOUGHT:</b> Not stated</p>	<p><b>Accept</b></p> <p>No specific relief is sought. However, it is noted that the provisions within the Proposed District Plan do state the intention to continue enhancing the involvement of tangata whenua and their values in the resource management processes</p>
<b>117.22 Southern District Health Board</b>	<p>The submitter endorses the existing consultation process with Te Ao Marama Inc and is supportive of the content of this section</p> <p><b>RELIEF SOUGHT:</b> Not stated</p>	<p><b>Accept</b></p> <p>No specific relief is sought.</p> <p>The submitter's support of the approach to tangata whenua issues is noted. No significant changes to the Tangata Whenua provisions are recommended in this report.</p>

Submitter	Submission	Recommendation
<b>SECTION 2.16 – ISSUES, OBJECTIVES AND POLICIES</b>		
<b>General</b>		
<b>18.81 Environment Southland</b>	Support Objectives, Policies and Methods of Implementation  <b>RELIEF SOUGHT:</b> Retain	<b>Accept</b>  It is recommended that this submission be accepted, subject to minor amendments as set out in recommendations to submissions relating to the Tangata Whenua Objectives, Policies and Methods of Implementation as set out in the table Below.
<b>115.1 (part thereof) New Zealand Historic Places Trust</b>	In this part of submission 115.1 - the submitter supports sections 2.16.1(3), 2.16.2(4), 2.16.3(3)  The submitter notes the Council's obligations under the RMA, in particular s6(f).  The submitter notes that in addition to the specific heritage provisions, the consideration of heritage values is embedded throughout the Plan.  The submitter considers the approach recognises that not all important heritage values are listed in the District Plan Heritage Record or covered by the heritage rules of the Plan. The submitter believes it is appropriate that the Council has the opportunity to consider effects on heritage values even where such values are not particularly identified for protection in Appendix II.  <b>RELIEF SOUGHT:</b> Adopt these provisions as they relate to heritage values: 2.16.1(3), 2.16.2(4), 2.16.3(3)	<b>Accept that part of Submission Point 115.1 that relates to the Tangata Whenua provisions</b>  It is considered that heritage values are relevant in this section of the Proposed District Plan due to many strong links between cultural values, archaeological sites and heritage values.  The relationship between heritage issues and tangata whenua are inherent throughout the RMA. For example, the definition of Historic Heritage in s2 of the RMA includes references to cultural values as well as sites of significance to Māori. This relationship is recognised in the drafting of the Tangata Whenua Issues, Objectives and Policies.

Submitter	Submission	Recommendation
<b>Introduction</b>		
<p><b>18.79</b> <b>Environment</b> <b>Southland</b></p>	<p>Support Introduction in part.</p> <p>The submitter believes the word “Settlement” used in the second paragraph of the Introduction appears to be out of context, given the paragraph is dealing with Treaty of Waitangi principles.</p> <p>Furthermore, the submitter points out that the principle of “partnership” is missing from the list of Murihiku Ngāi Tahu Treaty principles.</p> <p><b>RELIEF SOUGHT:</b></p> <p>Amend the second paragraph of Section 2.16 as follows:</p> <p>“The Treaty requirements in Section 8 of the RMA, encompass guiding principles for the engagement of local authorities with Māori in resource management decision-making processes. The Murihiku Ngāi Tahu <del>Settlement</del> <u>Treaty</u> principles include representation, <u>partnership</u>, building capacity, shared decision-making, active protection and shared initiatives.”</p>	<p><b>Accept</b></p> <p>For the reasons set out by the submitter, it is recommended that the Introduction be amended. There was an oversight in the drafting of the text and the suggested amendments will result in a more accurate introduction.</p> <p>Amend the second paragraph of the introduction to Section 2.16 as follows:</p> <p>“The Treaty requirements in Section 8 of the RMA, encompass guiding principles for the engagement of local authorities with Māori in resource management decision-making processes. The Murihiku Ngāi Tahu <del>Settlement</del> <u>Treaty</u> principles include representation, <u>partnership</u>, building capacity, shared decision-making, active protection and shared initiatives.”</p>
<p><b>18.80</b> <b>Environment</b> <b>Southland</b></p>	<p>Support Introduction in part.</p> <p>The submitter notes an inaccuracy in the wording of the seventh paragraph of Section 2.16 of the Proposed District Plan which refers to “Southland territorial and regional councils”.</p> <p>The submitter points out that Te Rōpū Taiao is however made up of Council’s of both Southland <u>and</u> Otago [i.e., Queenstown Lakes District Council, Clutha District Council], as well as tangata whenua.</p> <p>The submitters believe the term “Southern territorial and regional councils and tangata whenua” would more accurately reflect the parties represented on Te Rōpū Taiao.</p>	<p><b>Accept</b></p> <p>For the reasons set out by the submitter, it is recommended that the Introduction be amended. There was an oversight in the drafting of the text and the suggested amendments will result in a more accurate introduction. The involvement of the Otago local authorities should be acknowledged to accurately detail who is involved in Te Rōpū Taiao.</p> <p>Amend the seventh paragraph of the introduction to Section 2.16 as follows:</p> <p>“Partnerships are an important way of giving effect to the principles of the Treaty. The Council has a formal relationship with Te Rōpū Taiao, a joint management committee comprising</p>

Submitter	Submission	Recommendation
	<p><b>RELIEF SOUGHT:</b> Amend the seventh paragraph of Section 2.16 as follows:</p> <p>“Partnerships are an important way of giving effect to the principles of the Treaty. The Council has a formal relationship with Te Rōpū Taiao, a joint management committee comprising of the <del>Southland</del> <u>Southern</u> territorial and regional councils and tangata whenua.”</p>	<p>of the <del>Southland</del> <u>southern</u> territorial and regional councils and tangata whenua.”</p>
<p><b>77.47 Te Runaka o Waihopai and Te Runaka o Awarua</b></p>	<p>Support Introduction in part.</p> <p>The submitter notes that the Murihiku Ngāi Tahu Treaty principles include “partnership”</p> <p><b>RELIEF SOUGHT:</b> Add: “Partnership”</p>	<p><b>Accept</b></p> <p>As per recommendation for submission 18.79 above.</p> <p>Amend the second paragraph of the Introduction to section 2.16 to read:</p> <p>The Treaty requirements in Section 8 of the RMA, encompass guiding principles for the engagement of local authorities with Māori in resource management decision-making processes. The Murihiku Ngāi Tahu <del>Settlement</del> <u>Treaty</u> principles include representation, <u>partnership</u>, building capacity, shared decision-making, active protection and shared initiatives.”</p>
<p><b>88.18 Federated Farmers</b></p>	<p>Support in part.</p> <p>The submitter is concerned about private landowners’ rights where natural resources, areas, places and landscapes of value to Iwi are located on private land.</p> <p>The submitter strongly urges the Council to foster an approach that encourages positive relationships between landowners and tangata whenua to ensure the land owner retains appropriate control as to access over and reasonable use of their land.</p> <p><b>RELIEF SOUGHT:</b> Adopt the introduction as proposed but ensure appropriate consideration is also given to private landowner’s rights.</p>	<p><b>Accept in concept</b></p> <p>No changes to the Proposed District Plan are recommended in response to this submission.</p> <p>It is considered that the balance between landowners’ rights and the roles and values of tangata whenua is addressed in an appropriate manner in the Proposed District Plan.</p> <p>Whilst acknowledging that landowners do have rights, pursuant to the Treaty of Waitangi and the RMA, it is important to recognise the role of tangata whenua and their values throughout the Proposed District Plan. It is best practice to ensure that the effects of any activity on cultural values are considered.</p>



Submitter	Submission	Recommendation
		There are references throughout the Proposed District Plan that encourage collaboration and consultation with Iwi. It is hoped that enhanced involvement of Iwi in the resource management processes will lead to better understanding and improved relationships between all parties involved.
<b>Issues 2.16.1</b>		
<b>77.48 Te Runaka o Waihopai and Te Runaka o Awarua</b>	Support Issue 3 subject to minor amendment  <b>RELIEF SOUGHT:</b> Add: “of land” after development	<b>Accept</b>  It is recommended that the relief sought be accepted to correct a drafting error.  Amend 2.16.1 Issue 3 as follows: “Inappropriate subdivision, use and development of land can lead to the destruction, damage and modification of wāhi tapu, wāhi taonga and other sites of significance to iwi...”
<b>Objectives 2.16.2</b>		
<b>77.49 Te Runaka o Waihopai and Te Runaka o Awarua</b>	Support Objectives 1-5  <b>RELIEF SOUGHT:</b> Retain	<b>Accept</b>
<b>Policies 2.16.3</b>		
<b>77.50 Te Runaka o Waihopai and Te Runaka o Awarua</b>	Support Policies 1 – 6  <b>RELIEF SOUGHT:</b> Retain	<b>Accept</b>
<b>SECTION 3.19 RULES</b>		
<b>77.66 Te Runaka o Waihopai and Te Runaka o Awarua</b>	Support 3.19  <b>RELIEF SOUGHT:</b> Retain	<b>Accept</b>

Submitter	Submission	Recommendation
<b>SECTION FOUR DEFINITIONS</b>		
<b>65.119 ICC Environmental and Planning Services</b>	Support definition of “Murihiku” subject to amendment of drafting error.  <b>RELIEF SOUGHT:</b> Amend definition of Murihiku as follows:  “Means the area of the four Murihiku Runanga Papatipu of Ngai Tahu Whanui as identified in Te Runanga o Ngai Tahu Act <del>1996</del> <u>1992</u> .”	<b>Accept</b>  It is recommended that the relief sought be accepted to correct a drafting error.  Amend the definition of “Murihiku” as follows:  “Means the area of the four Murihiku Rūnanga Papatipu of Ngāi Tahu Whanui as identified in Te Rūnanga o Ngāi Tahu Act <u>1996</u> <del>1992</del> .”
<b>65.120 ICC Environmental and Planning Services</b>	Support definition of “rohe” subject to drafting error.  <b>RELIEF SOUGHT:</b> Replace “pootae” with “pōtae” in the definition of rohe	<b>Accept</b>  It is recommended that the relief sought be accepted to correct a drafting error.  Amend the definition of “rohe” as follows:  “Means boundary, district, as for rohe <del>pootae</del> <u>pōtae</u> (Rohe is a word used by Māori to describe the territory or boundaries of tribal groups).”

Submitter	Submission	Recommendation
<b>SECTION FIVE APPENDICES</b>		
<b>Appendix III – Statutory Acknowledgements</b>		
<b>77.67 Te Runaka o Waihopai and Te Runaka o Awarua</b>	<p>Support subject to amendment of 1.6 More Information</p> <p>The address details need updated</p> <p><b>RELIEF SOUGHT:</b>  Amend address to:  Toitu Te Whenua  Te Rūnanga o Ngāi Tahu  71 Corsair Drive  Wigram  P O Box 13046  Christchurch 8141</p>	<p><b>Accept</b></p> <p>It is recommended that the relief sought be accepted to ensure the Proposed District Plan has current and accurate contact details for Te Rūnanga o Ngāi Tahu.</p> <p>Amend address in Appendix III 1.6 More Information as follows:</p> <p><del>Kaitiaki Taiao (Natural Resources) Unit  Office of Te Runanga o Ngāi Tahu  P O Box 13-046  Armagh  Christchurch 8141</del></p> <p><u>Toitu Te Whenua  Te Rūnanga o Ngāi Tahu  71 Corsair Drive  Wigram  P O Box 13046  Christchurch 8141</u></p>

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## APPENDIX 2 - Recommended Changes to the Proposed District Plan

(Underline indicates recommended additions, strikethrough indicates recommended deletions.)

### General

Review of Māori terminology throughout the Proposed District Plan and subsequent amendments where necessary to ensure that the use of macrons is consistent with the Iwi Management Plan

## SECTION TWO – ISSUES, OBJECTIVES AND POLICIES

### 2.16 Tangata Whenua

The Treaty of Waitangi (the Treaty) is a founding document of New Zealand, which established a special relationship between Māori people and the Crown. The Treaty provided for the exchange of kawanatanga (governance) for the protection of tino rangatiratanga (including tribal self-management). The Crown, exercising governance, has established a system of delegated authority with the functions delegated to Regional Councils and Territorial Authorities set out in Sections 30 and 31 of the Resource Management Act 1991 (the RMA).

The Treaty requirements in Section 8 of the RMA, encompass guiding principles for the engagement of local authorities with Māori in resource management decision-making processes. The Murihiku Ngāi Tahu ~~Settlement~~ Treaty principles include representation, partnership, building capacity, shared decision-making, active protection and shared initiatives

Manawhenua is the customary authority or title over the land, and the rights of ownership and control of usage of resources on the land which is held by iwi rather than individuals. This concept incorporates the relationship of iwi with their culture and traditions, ancestral lands, wāhi tapu, wāhi taonga, tauranga waka, mahinga kai sites and taiapure resources.

The Ngai Tahu Claims Settlement Act 1998 identifies Statutory Acknowledgments, which must be taken into account in addressing resource consent applications. An explanation of what role Statutory Acknowledgments have in the resource consent process and their location within the district is contained in Appendix III of the Plan.

*The Cry of the People - Te Tangi a Tauira* is an Iwi Management Plan recognised by Ngai Tahu which encompasses the Southland region. *Te Tangi a Tauira* is based around the Ngai Tahu philosophy of “ki uta ki tai” (mountains to the sea). Its objective is to ensure iwi connection and an holistic approach by embedding iwi values and policies throughout entire regional and district planning documents and Council decision-making processes.

Growth and development pressures have led to widespread destruction and degradation of places, sites and values of cultural, spiritual or historic significance to tangata whenua. Tangata whenua are increasingly seeking greater involvement in local government decision-making processes (e.g. resource consent proposals, plan/policy making and designations), to fulfil their role as kaitiaki and address adverse effects on Māori culture and traditions.

Partnerships are an important way of giving effect to the principles of the Treaty. The Council has a formal relationship with Te Rōpū Taiao, a joint management committee comprising of the ~~Southland~~ southern territorial and regional councils and tangata whenua. A Charter of Understanding relationship agreement has been entered into between the Council and tangata whenua, which covers consultation, shared decision-making, joint management agreements, capacity building and resourcing for iwi to contribute to decision-making. A number of protocols have also been developed, to assist with iwi consultation under the RMA.

Land use activities could significantly and adversely affect the relationship between the tangata whenua and the environment.

Involving tangata whenua throughout the resource management processes is an essential part of the sustainable management of the region's natural resources.

### 2.16.1 Issues (Page 2-57)

**The significant resource management issues for tangata whenua are:**

1. There can be limited understanding of iwi environmental and cultural values, and lack of capacity and resources to enable tangata whenua to effectively engage in resource management processes and decisions.
2. A lack of capacity and resources can limit tangata whenua's ability to effectively engage in resource management processes and decisions.
3. Inappropriate subdivision, use and development of land can lead to the destruction, damage and modification of wāhi tapu, wāhi taonga and other sites of significance to iwi, to the degradation of mauri and wairua of natural resources used for customary purposes, and to the loss of quality and access to mahinga kai.

**2.16.2 Objectives** (page 2-57) – No change

**2.16.3 Policies** (page 2-57 to 2-60) – No change

**2.16.4 Methods of Implementation** (page 2-60) – No change

## SECTION THREE - RULES

**3.19 Tangata Whenua** (page 3-36) – No change

## SECTION FOUR – DEFINITIONS

**Ahi kā:** (page 4-1) – No change

**Iwi:** (page 4-9) – No change.

**Kaitiaki:** (page 4-9) – No change.

**Kaitiakitanga:** (page 4-9) – No change

**Kaupapa:** (page 4-9) – No change

**Kōiwi o Nga Tūpuna:** (page 4-9) – No change.

**Mahinga Kai:** (page 4-10) – No change

**Manawhenua:** (page 4-11) – No change

**Mātauranga:** (page 4-11) – No change

**Mauri:** (page 4-11) – No change

**Murihiku:** (page 4-11) Means the area of the four Murihiku Rūnanga Papatipu of Ngāi Tahu Whanui as identified in Te Rūnanga o Ngāi Tahu Act 1996 ~~1992~~.

**Papakaiinga:** (page 4-13) – No change

**Rāhui:** (page 4-13) – No change

**Rohe:** (page 4-14) – Means boundary, district, as for rohe ~~pōtae, pōtae~~ (Rohe is a word used by Māori to describe the territory or boundaries of tribal groups).

**Rūnanga:** (page 4-14) – No change

**Taiāpure:** (page 4-16) – No change

**Tangata Whenua:** (page 4-16) – No change

**Taonga:** (page 4-16) – No change

**Tapu:** (page 4-16) – No change

**Tauranga Waka:** (page 4-16) – No change

**Tikanga:** (page 4-17) – No change

**Urupa:** (page 4-17) – No change

**Wāhi Tapu:** (page 4-18) – No change

**Wāhi Taonga:** (page 4-18) – No change

**Wairua:** (page 4-18) – No change

## **SECTION FIVE - APPENDICES**

### **APPENDIX III – Statutory Acknowledgements - Ngāi Tahu Claims Settlement Act 1998**

#### **1. INFORMATION FOR PLAN USERS, AND RESOURCE CONSENT APPLICANTS**

**1.1 Introduction** (page 5-27) – No change

**1.2 What are statutory Acknowledgements** (page 5.27) – No change

- 1.3** *What are the Purposes of Statutory Acknowledgements* (page 5.27) – No change
- 1.4** *Who May be Affected by Statutory Acknowledgements* (page 5.27) – No change
- 1.5** *What Happens When You Apply* (page 5.27) – No change
- 1.6** *More Information* (Page 5-28)

You can obtain further information on Statutory Acknowledgments from:

~~Kaitiaki Taiao (Natural Resources) Unit  
Office of Te Runanga o Ngāi Tahu  
P O Box 13 046  
Armagh  
Christchurch 8141~~

Toitu Te Whenua  
Te Rūnanga o Ngāi Tahu  
71 Corsair Drive  
Wigram  
PO Box 13046  
Christchurch 8141

Te Ao Marama Inc.  
PO Box 7078  
South Invercargill  
Invercargill 9844

Planning Division  
Invercargill City Council  
Civic Administration Building  
101 Esk Street  
Invercargill 9810

Ministry for the Environment  
Environment House  
23 Kate Sheppard Place  
Thorndon  
PO Box 10362  
Wellington 6143

**2. STATUTORY ACKNOWLEDGEMENTS WITHIN AND ADJOINING INVERCARGILL CITY** (pages 5-31 to 5-38) - No change