



PROPOSED INVERCARGILL CITY DISTRICT PLAN

Decision No. 5

Tangata Whenua

Hearings Committee

Councillor Darren Ludlow (Chair)

Councillor Neil Boniface

Councillor Graham Sycamore

Keith Hovell

11 October 2016

[THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY]

INDEX

Introduction	1
The Hearing to Consider Submissions to the Proposed Plan	1
Section 42A Report	1
Submitters Attending the Hearing	2
Material Tabled at the Hearing	2
Matters Requiring Particular Consideration	2
Landowner Rights	2
Section 32 Matters	2
Requirements	2
Assessment.....	3
Appendix 1 Decisions on Submissions	5
General	5
2.16 Tangata Whenua - Issues, Objectives and Policies.....	6
3.19 Rule - General	6
2.16 Tangata Whenua - Introduction.....	6
2.16.1 Issue 3.....	8
Section Four Definitions	8
Section 5 Appendices.....	9
Appendix 2 Amended District Plan Provisions	11

[THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY]

INTRODUCTION

We have been appointed by the Invercargill City Council to consider and issue decisions on the submissions lodged to the Proposed Invercargill City District Plan. In this decision we consider the submissions lodged to those provisions dealing with Tangata Whenua.

The Resource Management Act 1991 sets out various matters that impact on our considerations and deliberations. The key provisions are sections 5 - 8, 32, 75 and 76 of the Act, and the Second Part of the First Schedule to the Act. The Section 42A Report prepared for the Committee considered these matters in detail and we have had regard to those matters. Where the statutory provisions are of particular significance we have referred to them within this Decision.

In this Decision, the following meanings apply:

“The Council” means the Invercargill City Council.

"FS" or "Further Submitter" means a person or organisation supporting or opposing a submission to the Proposed Plan.

“Hearings Committee” or "Committee" means the District Plan Hearings Committee established by the Council under the Local Government Act.

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

“Proposed District Plan” or "Proposed Plan" means the Proposed Invercargill City District Plan 2013.

“RMA” means the Resource Management Act 1991.

"Submitter" means a person or body lodging a submission to the Proposed Plan.

At the commencement of the hearings, Crs Boniface and Ludlow declared an interest as Directors of PowerNet Limited, Cr Sycamore declared an interest as a Director of Invercargill City Holdings Limited and Commissioner Hovell declared a conflict of interest in relation to submissions lodged by Cunningham Properties Limited. The Councillors and Commissioner took no part in deliberations in relation to the submissions of the submitters referred to.

THE HEARING TO CONSIDER SUBMISSIONS TO THE PROPOSED PLAN

The hearing to consider the submissions lodged to the matters set out in this decision was held in the Drawing Room of the Civic Centre, Tay Street, Invercargill, on 9 June 2014.

Section 42A Report

The Committee received a report from Liz Devery, Senior Policy Planner with the Invercargill City Council. In her report, Mrs Devery outlined that tangata whenua issues are considered throughout the Proposed Plan, recognising the special status of Māori culture and traditions and reflecting the Council's obligations under Section 8 of the RMA, to take into account the principles of the Treaty of Waitangi when making resource management decisions. She noted that in general, the submissions are supportive of the approach adopted in the Proposed Plan to tangata whenua issues with changes sought in submissions relating mainly to minor details, such as spelling, updating of contact details, and correcting inaccuracies in citations.

In responding to a submission from Federated Farmers on the relationship with local iwi and their involvement in the resource management processes, Mrs Devery considered the balance between landowners' rights and the roles and values of tangata whenua is dealt

with in an appropriate manner in the Proposed Plan. She did however accept in response to submissions from Environment Southland and Te Runaka o Waihopai and Te Runaka o Awarua that recognition of “partnership” as one of the principles of the Murihiku Ngāi Tahu Treaty was missing in the Introduction to the Tangata Whenua section.

Submitters Attending the Hearing

No persons appeared at the hearing.

Material Tabled at the Hearing

No material was tabled at the hearing.

MATTERS REQUIRING PARTICULAR CONSIDERATION

Landowner Rights

Federated Farmers in Submission 88.18 expressed concern about private landowners’ rights where natural resources, areas, places and landscapes of value to Iwi are located on private land. They urged the Council to foster an approach that encouraged 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.

Mrs Devery in her Section 42A Report advised that the Proposed Plan acknowledges that landowners have rights, however, pursuant to the Treaty of Waitangi and the RMA, it is important to recognise the role of the tangata whenua and their values in resource management processes. She also noted that the Proposed Plan does not take landowners’ rights away, but rather seeks to ensure that all interested parties and their views are considered throughout resource management processes. She referred to references throughout the Proposed Plan that encourage collaboration and consultation with Iwi. The Committee agreed with Mrs Devery 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 and endorsed her view that enhanced involvement of Iwi in the resource management processes will lead to better understanding and improved relationships between parties.

The Committee noted that Federated Farmers did not present any additional material on this issue at the hearing.

SECTION 32 MATTERS

Requirements

The Committee was advised by Mrs Devery that Section 32 of the RMA establishes the framework for assessing objectives, policies and rules proposed in a Plan, and that a Report was released at the time of notification of the Proposed Plan in compliance with those provisions. The Committee was also advised that Section 32AA of the RMA requires a further evaluation to be released with decisions outlining the costs and benefits of any amendments made after the Proposed Plan was notified, with the detail of the assessment corresponding with the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the changes made to the Proposed Plan.

As the Committee understands its obligations, it is required to:

- (i) Assess any changes made to objectives to determine whether they are the most appropriate way to achieve the purpose of the RMA.
- (ii) Examine any changes made to the policies and rules to determine whether they are the most appropriate way to achieve the objectives of the Proposed Plan. This includes:
 - Identifying 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)
 - Identifying other reasonably practicable options for achieving the objectives; and
 - Assessing the efficiency and effectiveness of the provisions in achieving the objectives.

The Committee however, is not required to assess in accordance with Section 32 of the RMA any changes to the issues and/or explanatory text of provisions.

Assessment

This decision makes minor changes to the text of Section 2.16 Tangata Whenua, Section 2.16.1 Issue 3, corrects errors in several definitions and the spelling of māori words, and updates contact details. We consider the amendments made are only of a minor nature and do not raise any significant matters outside of the original evaluation report and the assessment included in the Section 42A Report.

Mrs Devery in her Section 42A Report advised the Committee as follows:

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.

The Committee agrees with that approach and adopts it.

Dated at Invercargill this 11th day of October 2016



Councillor Darren Ludlow (Chair)



Councillor Neil Boniface

A handwritten signature in blue ink, appearing to read 'G Sycamore', written in a cursive style.

Councillor Graham Sycamore

A handwritten signature in blue ink, appearing to read 'K Hovell', written in a cursive style.

Keith Hovell

APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
GENERAL	
<p>18.1 - Environment Southland Some Māori words in the District Plan are missing macrons – e.g. Ōreti, Ngāi Tahu, Ōmaui and Rūnanga, and others. Council should give consideration to including macrons on relevant Māori words, to assist with pronunciation.</p> <p><u>Decision Sought:</u> 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>Decision 5/1 This submission is accepted.</p> <p>Amendments to District Plan Māori words in the Proposed Plan be amended in their spelling and use of macrons to be consistent with Te Tangi a Tauria Iwi Management Plan and the Proposed Southland Regional Policy Statement 2012.</p> <p>Reason It is appropriate to adopt the accepted spelling and presentation of Māori words to reflect the style used by the tangata whenua.</p>
<p>56.29 - Jenny Campbell 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>Decision 5/2 This submission is noted.</p> <p>Amendments to District Plan No amendments are required to the Proposed Plan.</p> <p>Reasons</p> <ol style="list-style-type: none"> 1. The submitter supports the provisions within the Proposed Plan which seek to continue enhancing the involvement of tangata whenua and their values in the resource management processes and seeks no change to that. 2. The RMA gives effect to the Crown's obligations under the Treaty of Waitangi and the provisions relating to Māori do not extend to other cultural groups. However, in considering the social impacts of development regard is given to all cultural groups and any identifiable impacts on them.
<p>117.22 - Southern District Health Board The submitter endorses the existing consultation process with Te Ao Marama Inc and is supportive of the content of this section</p>	<p>Decision 5/3 This submission is noted.</p> <p>Amendments to District Plan No amendments are required to the Proposed Plan.</p> <p>Reason The submitter supports the approach and requests no change to it.</p>

APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
SECTION 2.16 – ISSUES, OBJECTIVES AND POLICIES SECTION 3.19 – RULE General	
<p>18.81 - Environment Southland Support Objectives, Policies and Methods of Implementation. Retain.</p> <p>115.1A - New Zealand Historic Places Trust The submitter supports Sections 2.16.1(3), 2.16.2(4), 2.16.3(3) noting the Council’s obligations under the RMA, in particular Section 6(f). The submitter notes that in addition to the specific heritage provisions, the consideration of heritage values is embedded throughout the Plan.</p> <p>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.</p> <p><u>Decision Sought:</u> Adopt 2.16.1(3), 2.16.2(4), 2.16.3(3) as they relate to heritage values.</p> <p>77.49, 77.50, 77.66 - Te Runaka o Waihopai and Te Runaka o Awarua Support Objectives 1-5, Policies 1 – 6 and Section 3.19. Retain.</p>	<p>Decision 5/4 These submissions are noted.</p> <p>Amendments to District Plan No amendments are required to the Proposed Plan.</p> <p>Reasons</p> <ol style="list-style-type: none"> 1. The submitters support the provisions referred to. 2. While minor changes are made to several of the provisions referred to, the intent is being retained.
SECTION 2.16 – TANGATA WHENUA Introduction	
<p>18.79 - Environment Southland Support Introduction in part. 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. Furthermore, the submitter points out that the principle of “partnership” is missing from the list of Murihiku Ngāi Tahu Treaty principles.</p> <p><u>Decision Sought:</u> 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</p>	<p>Decision 5/5 These submissions are accepted.</p> <p>Amendments to District Plan Amend the second and seventh paragraphs 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 Settlement <u>Treaty</u> principles include representation, <u>partnership</u>, building capacity, shared decision-making, active protection and shared</p>

APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
<p>management decision-making processes. The Murihiku Ngāi Tahu Settlement <u>Treaty</u> principles include representation, <u>partnership</u>, building capacity, shared decision-making, active protection and shared initiatives.</p> <p>18.80 - Environment Southland Support Introduction in part. 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”. The submitter points out that Te Rōpū Taiao is however made up of Councils 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><u>Decision Sought</u>: 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 Southland <u>Southern</u> territorial and regional councils and tangata whenua.</p> <p>77.47 - Te Runaka o Waihopai and Te Runaka o Awarua Support Introduction in part. The submitter notes that the Murihiku Ngāi Tahu Treaty principles include “partnership”. Add “Partnership”.</p>	<p>initiatives.</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 Southland <u>southern</u> territorial and regional councils and tangata whenua.</p> <p>Reasons</p> <ol style="list-style-type: none"> 1. The submitters support the intent of the Introduction. 2. Minor changes are appropriate to correct errors and an omission.
<p>88.18 - Federated Farmers Support in part. The submitter is concerned about private landowners’ rights where natural resources, areas, places and landscapes of value to Iwi are located on private land. 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><u>Decision Sought</u>: Adopt the introduction as proposed but ensure appropriate consideration is also given to private landowners’ rights.</p>	<p>Decision 5/6 This submission is noted.</p> <p>Amendments to District Plan No amendments are required to the Proposed Plan.</p> <p>Reason</p> <ol style="list-style-type: none"> 1. As discussed on Page 2 of this Decision, the balance between landowners’ rights and the roles and values of tangata whenua is addressed in an appropriate manner in the Proposed Plan. 2. The submitter does not seek any specific changes to the Introduction.

APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
2.16.1 – ISSUE 3	
<p>77.48 - Te Runaka o Waihopai and Te Runaka o Awarua Support Issue 3 subject to minor amendment. Add “<u>of land</u>” after development.</p>	<p>Decision 5/7 This submission is accepted.</p> <p>Amendments to District Plan Amend 2.16.1 Issue 3 to read:</p> <p>Inappropriate subdivision, use and development of <u>of land</u> can lead to the destruction, damage and modification of wāhi tapu, wāhi taonga and other sites of significance to iwi ...</p> <p>Reason The amendment corrects a drafting error.</p>
SECTION FOUR DEFINITIONS	
<p>65.119 - ICC Environmental and Planning Services Support definition of “Murihiku” subject to amendment of drafting error.</p> <p><u>Decision Sought</u>: Amend definition of Murihiku as follows:</p> <p>Means the area of the four Murihiku Runanga Papatipu of Ngāi Tahu Whanui as identified in Te Runanga o Ngāi Tahu Act <u>1996 4992</u>.</p>	<p>Decision 5/8 This submission is accepted.</p> <p>Amendments to District Plan Amend the definition of “Murihiku” to read:</p> <p>Means the area of the four Murihiku Runanga Papatipu of Ngāi Tahu Whanui as identified in Te Runanga o Ngāi Tahu Act <u>1996 4992</u>.</p> <p>Reason The amendment corrects a drafting error.</p>
<p>65.120 - ICC Environmental and Planning Services Support definition of “rohe” subject to drafting error.</p> <p><u>Decision Sought</u>: Replace “pootae” with “pōtae” in the definition of rohe</p>	<p>Decision 5/9 This submission is accepted.</p> <p>Amendments to District Plan Amend the definition of “rohe” to read:</p> <p>Means boundary, district, as for rohe <u>pōtae pōtae</u> (Rohe is a word used by Māori to describe the territory or boundaries of tribal groups).</p> <p>Reason The amendment corrects a drafting error.</p>

APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
SECTION FIVE APPENDICES Appendix III – Statutory Acknowledgements	
<p>77.67 Te Runaka o Waihopai and Te Runaka o Awarua</p> <p>Support subject to amendment of 1.6 More Information but the address details need updated.</p> <p><u>Decision Sought:</u> Amend address to:</p> <p>Toitu Te Whenua Te Rūnanga o Ngāi Tahu 71 Corsair Drive Wigram PO Box 13046 Christchurch 8141</p>	<p>Decision 5/10</p> <p>This submission is accepted.</p> <p>Amendments to District Plan</p> <ol style="list-style-type: none"> Amend the contact details in Section 1.6 of Appendix 3 to read: <p style="margin-left: 20px;"> <u>Kaitiaki Taiao (Natural Resources) Unit</u> <u>Office of Te Runanga o Ngāi Tahu</u> <u>P O Box 13 046</u> <u>Armagh</u> <u>Christchurch – 8144</u> <u>Toitu Te Whenua</u> <u>Te Rūnanga o Ngāi Tahu</u> <u>71 Corsair Drive</u> <u>Wigram</u> <u>PO Box 13046</u> <u>Christchurch 8141</u> </p> Include the following website details in Section 1.6 after the contact details for each: <p style="margin-left: 20px;"> <u>Te Rūnanga o Ngāi Tahu</u> <u>www.ngaitahu.iwi.nz</u> </p> <p style="margin-left: 20px;"> <u>Environment Southland</u> <u>www.es.govt.nz</u> </p> <p style="margin-left: 20px;"> <u>Invercargill City Council</u> <u>www.icc.govt.nz</u> </p> <p style="margin-left: 20px;"> <u>Ministry for the Environment</u> <u>www.mfe.govt.nz</u> </p> <p>Reason</p> <p>The amendments update contact details and recognise the accepted practice of including website details to allow electronic information sharing and communication.</p>

[THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY]

APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

ENTIRE DISTRICT PLAN

Māori terminology throughout the Proposed District Plan to be amended where necessary to ensure that the use of macrons is consistent with the Iwi Management Plan.¹

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 kaāwanatanga (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.²

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 taiaāpure resources.

The Ngāi 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 Ngāi Tahu which encompasses the Southland region. *Te Tangi a Tauira* is based around the Ngāi 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

¹ Decision 5/1

² Decision 5/5

Note: Underline indicates additions, strikethrough indicates deletions.

APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

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.³

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:

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.⁴

SECTION FOUR – DEFINITIONS

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~~ 1992.⁵

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).⁶

³ Decision 5/5

⁴ Decision 5/7

⁵ Decision 5/8

⁶ Decision 5/9

Note: Underline indicates additions, strikethrough indicates deletions.

APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

SECTION FIVE - APPENDICES

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

1.6 *More Information* (Page 5-28)⁷

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
Aragh
Christchurch 8141~~

Toitu Te Whenua
Te Rūnanga o Ngāi Tahu
71 Corsair Drive
Wigram
PO Box 13046
Christchurch 8141
www.ngaitahu.iwi.nz

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

Planning Division
Invercargill City Council
Civic Administration Building
101 Esk Street
Invercargill 9810
www.icc.govt.nz

Ministry for the Environment
Environment House
23 Kate Sheppard Place
Thorndon
PO Box 10362
Wellington 6143
www.mfe.govt.nz

Environment Southland
Private Bag 90116
Invercargill 9840⁸
www.es.govt.nz

⁷ Decision 5/10

⁸ Minor change under Clause 16 of the First Schedule

Note: Underline indicates additions, strikethrough indicates deletions.