

**IN THE ENVIRONMENT COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY**

**I TE KŌTI TAIAO
ŌTAUTAHU ROHE**

BETWEEN

KĀTI HUIRAPA RŪNAKA KI PUKETERAKI

TE RŪNANGA O ŌTĀKOU

Appellants

AND

DUNEDIN CITY COUNCIL

Respondent

NOTICE OF APPEAL

Under clause 14(1) of the Resource Management Act 1991

Solicitor Acting: S M Chadwick

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NOTICE OF APPEAL

Under clause 14(1) of the Resource Management Act 1991

To: The Registrar
Environment Court
Christchurch

- 1 Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (“Ngā Rūnanga”) appeal decisions of the Dunedin City Council (“Council”) on the Proposed Second Generation Dunedin City District Plan (“2GP”).
- 2 Ngā Rūnanga made submissions on the Manawhenua and other provisions in the 2GP. Ngā Rūnanga received notice of the decisions on 7 November 2018.
- 3 The Respondent publicly notified the decisions on the 2GP on 7 December 2018.
- 4 Ngā Rūnanga are not trade competitors for the purposes of section 308D of the RMA.
- 5 The decisions were made by the Council’s 2GP Hearings Panel.

Issue 1: Provision for assessment of Manawhenua values

- 6 The decisions on this issue that are appealed are:
 - 6.1 The omission of provisions necessary to ensure the effects of land use, development and subdivision on Manawhenua values are properly considered and assessed when consent is sought for any restricted discretionary, discretionary or non-complying activity within a wāhi tūpuna mapped area, where that activity that has been identified in Appendix A4 as a threat to wāhi tūpuna values.
 - 6.2 The omission of provisions that are necessary to ensure the effects of land use, development and subdivision on Manawhenua values are properly considered and assessed when consent is sought for any discretionary or non-complying activity in the district of Dunedin.
- 7 The reasons for the appeal on this issue are:
 - 7.1 The 2GP must provide Manawhenua to have adequate opportunity to properly consider and have input on certain proposed activities within a wāhi tūpuna mapped area.

- 7.2 The 2GP must provide for Manawhenua to have adequate opportunity to properly consider and have input on all proposed discretionary or non-complying activities within the district of Dunedin.
- 7.3 Activities within wāhi tūpuna commonly include effects that require careful management in relation to Manawhenua values.
- 7.4 Many discretionary and non-complying activities where a land use, development or subdivision activity create effects that require careful management in relation to Manawhenua values.
- 7.5 Proper provision for assessment of Manawhenua values and the inclusion of additional notification requirements where written approval has not been obtained is consistent with kaitiakitaka, both within and outside wāhi tūpuna mapped areas.
- 8 In respect of this issue, Ngā Rūnanga seek the following relief:
- 8.1 That the appeal is allowed;
- 8.2 That:
- a For any restricted discretionary, discretionary and non-complying activity within a wāhi tūpuna mapped area, where that activity is listed in Appendix A4; and
- b For all discretionary or non-complying activities;
- 8.3 The necessary linkages, additional rules and other clauses be added to the 2GP to provide for the proper consideration and assessment of Manawhenua values; and
- 8.4 Where written approval from Manawhenua has not been obtained for these activities, provision is made for the application to be notified to Manawhenua as appropriate.
- 8.5 Such other relief as the Court sees fit; and
- 8.6 Costs.

Issue 2: Restoration of mine and landfill sites

9 The decisions on this issue that are appealed are:

9.1 The wording of policy 16.2.3.4 and related assessment matters which change the requirements from 'restoration' of mine and landfill sites, to the lesser requirement that mines and landfills be restored or rehabilitated to an acceptable standard only.

9.2 The addition of further guidance for the assessment matters at 16.11.2 for restoration or rehabilitation of mine and landfill sites which are imprecise and inappropriate.

10 The reasons for the appeal on this issue are:

10.1 The reduced standard of restoration of mine and landfill sites is inappropriate and inadequate.

10.2 A higher standard of restoration should be preferred and is more consistent with Manawhenua values and the expression of kaitiakitaka.

11 In respect of this issue Ngā Rūnanga seek the following relief:

11.1 That the appeal is allowed;

11.2 That Policy 16.11.2 and the related rule and assessment matters are amended to require that all mine and landfill sites be restored to a high standard;

11.3 The reference to rehabilitation to an acceptable standard in these provisions is deleted;

11.4 Such other relief as the Court sees fit; and

11.5 Costs.

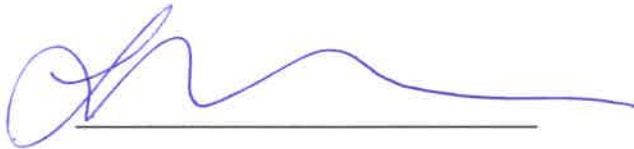
12 **Attached** to this Notice of Appeal are the following documents:

12.1 A copy of the submissions of Ngā Rūnanga.

12.2 A copy of the relevant parts of the decisions.

12.3 A list of the parties served with a copy of this appeal.

DATED this 19th day of December 2018



S Chadwick

Counsel for Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou

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Advice to recipients of copy of notice

How to become a party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the subject matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

All further documents relating to the 2GP and this appeal can be found on the Council's 2GP website <https://2gp.dunedin.govt.nz/>



SUBMISSION	
TO:	Dunedin City Council
DATE:	24 November 2015
PLAN CHANGE:	Dunedin City Council Proposed District Plan
KĀI TAHU KI OTAGO PAPATIPU RŪNAKA	Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou (Manawhenua)
Manawhenua support the Proposed District Plan for Dunedin (2GP). Manawhenua do wish to be heard in support of this submission at a hearing, and request an opportunity to expand on this submission. If others make a similar submission, we will consider presenting a joint case with them.	

1. Introduction

- 1.1 Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou are Manawhenua within the Dunedin district.
- 1.2 The takiwā of Kāti Huirapa ki Puketeraki centres on Karitane and extends from Waihemo to Purehurehu and includes an interest in Otepoti and the greater harbour of Ōtākou. The takiwā extends inland to the Main Divide sharing an interest in the lakes and mountains to Whakatipu-Waitai with Rūnanga to the south.
- 1.3 The takiwā of Te Rūnanga o Ōtākou centres on Ōtākou and extends from Purehurehu to Te Matau and inland, sharing an interest in the lakes and mountains to the western coast with Rūnanga to the North and to the South.¹
- 1.4 Manawhenua have assessed the 2GP and recommend amendments to provide for their cultural values, rights and interests within the region. Manawhenua support the 2GP provisions except where we ask for specific amendments or additions as listed.

2.0 Consultation with Manawhenua

- 2.1 Staff from KTKO Ltd, on behalf of Manawhenua, worked with Council over two years to develop the proposed 'Manawhenua' chapter and related provisions prior to notification.

¹Te Rūnanga o Ngāi Tahu (Declaration of Membership) Order 2001

Manawhenua have greatly valued the constructive and open approach taken by Council staff, particularly planner Emma Christmas, to recognising and providing for their values, rights and interests in the 2GP.

3.0 Introduction

- 3.1 Manawhenua acknowledge the provisions that have been included in the 2GP that seek to recognise and protect their ancestral relationship and their culture and traditions with their lands, water, culturally significant sites, wāhi tapu and other taonga and the willingness of the Dunedin City Council to incorporate those matters in the 2GP.
- 3.2 Limited further amendments and additions to this plan are sought to better incorporate the broader interests and aspirations of Manawhenua in the management of natural and physical resources within the Dunedin district. These changes are considered necessary to:
- (a) Better achieve the purpose of the Resource Management Act 1991 (RMA), including the matters of national importance under section 6, the requirement to have particular regard to kaitiakitaka under section 7, and the requirement to take into account the principles of Te Tiriti o Waitangi (Treaty of Waitangi) under section 8 of the Act; and
 - (b) Take into account the relevant iwi management plan, the Kāi Tahu ki Otago Natural Resource Management Plan 2005, as required under s61(2A) of the RMA; and
 - (c) Restore the social, economic, cultural, and environmental wellbeing of Manawhenua within the Dunedin district.
- 3.3 The specific decisions sought are listed in Appendix 1. Text to be deleted is shown as ~~striketrough~~. Replacement text is shown underlined. We also seek any consequential amendments necessary to give effect to the decisions sought.

4.0 General Submissions

Integration of Manawhenua Values

- 4.1 We support the inclusion of all provisions of the plan which provide for consideration of the effects of land use, development and subdivision on Manawhenua values.

Wāhi Tūpuna

- 4.2 We support the inclusion of the mapped wāhi tūpuna areas in the plan and protection of these areas with appropriate policies, objectives and rules requiring consideration of the effects of land use, development and subdivision in and near to these areas on Manawhenua values.

Notification provisions

- 4.3 We support the inclusion of the standard notification provision providing for Manawhenua to be notified for all restricted discretionary activities noting effects on Manawhenua values as a matter of discretion; and for all discretionary and non-complying activities in a wāhi tūpuna mapped area where the activity is identified as a threat in Appendix A4.
- 4.4 It is requested that Council verify that all threats to wāhi tūpuna, regardless of the activity status, are provided for in the rules and notification provisions.
- 4.5 It is submitted and requested that the standard notification provision providing for Manawhenua to be notified for all restricted discretionary activities noting effects on Manawhenua values as a matter of discretion; and for all discretionary and non-complying activities in a wāhi tūpuna mapped area where the activity is identified as a threat in Appendix A4, also be incorporated to the notification sections throughout the Major Facilities Zones section of the 2GP.

Chapter 14

- 4.5 We support the inclusion of the Manawhenua section in the City wide provisions of the plan.
- 4.6 It is submitted that the alignment of the tables in chapter 14 with the other parts of the plan is very important to ensure the rules operate as they are intended to.
- 4.7 It is requested that the Council ensure the tables within chapter 14 and the remainder of the plan are linked so that any amendments through the plan development process do not create inconsistencies and weaken the rules providing for consideration of Manawhenua values.

Restricted Discretionary activities

- 4.8 We support the inclusion of all provisions requiring consideration of the effects of restricted discretionary activities on Manawhenua values.

Discretionary activities and non-complying activities

- 4.9 We support the inclusion of all provisions requiring consideration of the effects of discretionary and non-complying activities on Manawhenua values.

Guidance on the assessment of resource consents

- 4.10 We refer to the various ways that each rule table provides 'guidance on the assessment of resource consents' in relation to the effects of discretionary and non-complying activities on Manawhenua values.
- 4.12 It is submitted that the more specific guidance provided in each rule table should only state:

'Refer chapter 14, including rule 14.4'

(or 14.5 or 14.6 depending on the nature of the activity), for guidance on the assessment of resource consents, and effects on the cultural values of Manawhenua.

- 4.13 This will ensure that the plan user considers the matters in chapter 14 more broadly. This amendment is requested across all relevant rule tables.

Papakāika

- 4.14 The provisions providing for Papakāika are fully supported. Special provision to enable Papakāika development is important and has been appropriately managed in the 2GP.

Indigenous species

- 4.15 It is submitted that provisions should be incorporated to encourage and require land use, development and subdivision proposals to incorporate indigenous species in planting plans as much as possible. It is requested that the plan be amended to effect this.

Cemeteries, crematorium and landfills

- 4.16 Activities which may result in contaminants entering the air, land or water, and ultimately the food chain, are considered significant by Manawhenua wherever they are located. It is submitted that effects on Manawhenua should be a matter for consideration as part of any consent application proposing these activities.
- 4.17 It is submitted that the District Plan must include rules that ensure Manawhenua values are considered particularly where (although not limited to) the proposed activity is close to or on wāhi tūpuna, customary use areas and Native Reserves.

Plan maps

- 4.18 There have been no hardcopy maps provided with the notified 2GP. While it is useful to be able to view the maps online when viewing specific sites, it has been less helpful when trying to conduct a general review of the plan maps and make a submission regarding mapped zones, mapped areas and scheduled features.
- 4.19 It is submitted that a hardcopy volume of maps should be notified in order to enable their provisions to be properly reviewed. The use of online maps may have opened this information up to some sections of the community, but for others it is difficult to use and less accessible. A volume of hardcopy maps should be produced and made available to the public at all Council hubs including libraries to enable all of the community to be notified of changes to the zones, areas and scheduled items in their neighbourhood.
- 4.20 Wāhi tūpuna sites that list 'adjacent' activities as a threat to the site's values, need to be mapped more broadly than the site itself to ensure a resource consent application on adjacent land that threatens the site triggers Manawhenua input.

Te Rūnanga o Ngāi Tahu submission

- 4.21 Manawhenua support the submission by Te Rūnanga o Ngāi Tahu regarding Huriawa and Māpoutahi. Manawhenua request that the Council make amendments to give effect to the submission of Te Rūnanga o Ngāi Tahu.
- 4.22 Manawhenua request Council to verify that the mapping of the wāhi tūpuna sites of Māpoutahi and Huriawa and the legal description of these sites in the Te Rūnanga o Ngāi Tahu submission are consistent, and that any new definition of the Huriawa site is not inconsistent with the Huriawa height restriction area.

5.0 Specific Submissions

- 5.1 Manawhenua request the specific amendments to the 2GP detailed in Appendix 1 and Appendix 2.

Nahaku noa, Nā



Chris Rosenbrock

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Chapter / Provision		Amendment Sought	Reasons for the Amendment Sought
The amendments sought are listed below. Text to be deleted is shown as strikethrough. Replacement text is shown <u>underlined</u>. We also seek any consequential amendments necessary to give effect to the amendments sought.			
General Submissions			
References to 'Manawhenua'		It is submitted that all references to <u>Manawhenua</u> should be capitalised.	This reflects standard practice.
References to 'Kāi Tahu'		It is submitted that all references to ' <u>Kāi Tahu</u> ' require a macron.	This reflects standard practice.
Papakāika		Manawhenua strongly support the provisions in the Second Generation District Plan that provide for the development of papakāika housing. While Kāi Tahu have an ancestral connection to land across the entire Dunedin district, the plan provides for papakāika housing only on Māori Freehold and General land within the original Native Reserves. Papakāika housing and associated ancillary activities located on original Native Reserve land will enable Kāi Tahu to provide for their social, economic and cultural wellbeing, and for their relationship with the land. The provisions are enabling, in recognition of the constraints on the development of Māori land, including small sites sizes and multiple ownership. The provisions require the effects of papakāika housing on the site and the surrounding area to be adequately managed.	
References to 'pā'		It is submitted that all references to ' <u>pā</u> ' require a macron.	This reflects standard practice.
References to Ōtākou		It is submitted that all references to ' <u>Ōtākou</u> ' require macrons.	This reflects standard practice.
References to wāhi tūpuna		All references to wāhi tūpuna require macrons.	This reflects standard practice.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Part A: Plan Overview and Strategic Directions		
Section 1.3.2.3	Amend heading and following text to read: Kāi Tahu ki Otago Natural Resource Management Plan.	Typographical error.
Section 1.4 Outcomes sought by Kāi Tahu	Issues Table – amend 9. Land Use to read: The relationship of <u>Kāi Tahu</u> with their ancestral land. Manawhenua supports the inclusion of the Table ‘Outcomes Sought By Kāi Tahu’.	Typographical error. The Table sets out the matters of importance to Kāi Tahu in the management of the district’s lands and resources.
1.5 Definitions	Manawhenua support the definition of ‘Papakāika’.	This definition is consistent with Manawhenua aspirations for the development of Papakāika.
Section 1.5.2 Other definitions	Manawhenua support the definitions of the following terms: Customary Descendent of an original grantee Marae Marae atea Marae-related activities Manawhenua Native Reserve Original Grantee Rūnaka Sensitive activities Takata whenua Wāhi tūpuna	These definitions provide for Manawhenua interests in the Plan.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Section 1.5.2 Other definitions	The heading 'Licence to Hunt' is clearly incorrect. This heading should read 'Licence to Park'.	Plan error.
Section 1.5.2 Other definitions	Amend the definition of Māori Freehold Land: Any land given the status of Māori freehold land pursuant to Te Ture Whenua Māori Act 1993 or subsequent legislation.	This is required to provide for subsequent amendments to Te Ture Whenua Māori Act.
Chapter 2. Strategic Directions		
Section 2.2 Dunedin is Environmental Sustainable and Resilient		
Objectives 2.2.1 to 2.2.5	Kāi Tahu is generally supportive of the objectives and policies that provide for: • Energy resilience • Management of risks from natural hazards • Retaining, enhancing and restoring indigenous biodiversity; • Dunedin staying a compact and accessible city; and • Development that is designed to reduce environmental costs and adverse effects on the environment. It is submitted that the provision for the development of papakāika housing on native reserve land is an exception to the provision for a compact city. Papakāika housing is required to provide for Manawhenua cultural wellbeing. The Papakāika provisions are intended to manage effects on the surrounding environment.	These objectives and policies are consistent with the Kāi Tahu ki Otago Natural Resource Management Plan 2005.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Section 2.3, Section 2.4	Kāi Tahu supports these strategic directions	These strategic directions are consistent with Manawhenua aspirations.
Section 2.5	Dunedin is a City that Gives Effect to the Principles of the Treaty of Waitangi, Protects Kāi Tahu Values, Culture and Traditions, and Enables Kāi Tahu to Express Kaitiakitaka	
	Kāi Tahu worked closely with the Dunedin City Council on developing this strategic direction. Kāi Tahu wholeheartedly supports the strategic direction.	This strategic direction is consistent with Manawhenua aspirations.
Policy 2.5.3.1:	Add 'natural hazard mitigation activities' and 'subdivision' to the list of threats to wāhi tūpuna: <u>Identify wāhi tūpuna and protect them from identified threats through rules that manage:</u> a. <u>buildings, structures, forestry, network utility structures, roading, mining and earthworks on the upper slopes and peaks of hills and mauka, natural hazard mitigation activities and subdivision; and</u> b. <u>earthworks in areas where there is high likelihood of archaeological remains.</u>	Natural hazard mitigation activities and subdivision are a threat to the values of wāhi tūpuna.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Policy 2.5.4.1	Add to paragraph a. 'earthworks' and 'natural hazard mitigation activities' <u>Identify wāhi tūpuna that have mahika kai areas and manage activities that have the potential to adversely affect those values, or adversely affect access to them, including:</u> a. <u>buildings, structures, and development activities, earthworks and natural hazard mitigation activities adjacent to waterways and the coastal environment; and</u> b. <u>vegetation clearance.</u>	Earthworks and natural hazard mitigation activities are a threat to mahika kai values.
Section 2.6 Section 2.7	Kāi Tahu supports these strategic directions	These strategic directions are consistent with Manawhenua aspirations.
Part B: City-wide Activities		
Policy 3.2.1.3	Amend the provision to read: Only allow public toilets and public display boards where significant adverse effects on surrounding sites and <u>wāhi tūpuna</u> will be avoided.	Public toilets and display boards need to be sensitively located to avoid adverse effects on the values of wāhi tūpuna.
Policy 3.2.1.4	Add a further subparagraph: c. it has positive effects on wāhi tūpuna values.	The development of public artwork provides an opportunity to recognise and enhance the Manawhenua values of wāhi tūpuna.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Chapter 5: Network Utilities and Energy Generation		
Section 5.1 Introduction	In the third paragraph of the introduction include reference to the potential for network utilities and energy generation to have adverse effects on Manawhenua values.	The location of network utilities and energy generation may adversely affect the values of wāhi tūpuna.
Policy 5.2.1.11	Add a further subparagraph: c. Effects on Manawhenua values in wāhi tūpuna.	The location of network utilities and energy generation may adversely affect the values of wāhi tūpuna.
Rule 5.4 Notification	The notification of Manawhenua for resource consent applications where effects on cultural values are an assessment matter, or where the activity is within mapped wāhi tūpuna areas, is supported.	The notification provisions are consistent with kaitiakitaka.
Rule 5.8.3 Assessment of restricted discretionary network utilities activities	The effect of network utilities within mapped wāhi tūpuna areas on Manawhenua cultural values is a restricted discretionary assessment matter. This is strongly supported by Manawhenua.	Provides for kaitiakitaka within mapped wāhi tūpuna areas.
Rule 5.9.2 Assessment of discretionary network utilities	The assessment of Manawhenua values as part of the assessment resource consents, as set out in subparagraph e, is supported. Manawhenua support the inclusion of an assessment of Manawhenua values within and outside of the mapped wāhi tūpuna areas.	Provides for kaitiakitaka within mapped wāhi tūpuna areas, and recognises the linkages between these areas and the broader landscape.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Rule 5.9.2 Assessment of discretionary network utilities	The provision for Manawhenua values is supported.	Provides for kaitiakitaka within mapped wāhi tūpuna areas.
Subparagraph 9		
Rules 5.10.2 and 5.10.3 Assessment of Non-Complying Activities	The provision for Manawhenua values is supported.	Provides for kaitiakitaka within mapped wāhi tūpuna areas.
Chapter 6: Transportation		
Rule 6.4 Notification	The notification of Manawhenua for resource consent applications where effects on cultural values are an assessment matter, or where the activity is within mapped wāhi tūpuna areas, is supported.	The notification provisions are consistent with kaitiakitaka.
Rule 6.11.3 Assessment of discretionary transportation activities	The assessment of Manawhenua values as part of the assessment resource consents is supported. Manawhenua support the inclusion of an assessment of Manawhenua values within and outside of the mapped wāhi tūpuna areas.	Provides for kaitiakitaka within mapped wāhi tūpuna areas, and recognises the linkages between these areas and the broader landscape.
Chapter 8: Natural Hazard Mitigation		
Rule 8.4 Notification and Rule 8.5.2 Assessment of discretionary natural hazard mitigation activities	The assessment of Manawhenua values as part of the assessment resource consents is supported. Manawhenua support the inclusion of an assessment of Manawhenua values within and outside of the mapped wāhi tūpuna areas.	Provides for kaitiakitaka within mapped wāhi tūpuna areas, and recognises the linkages between these areas and the broader landscape.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Part C: City-wide Provisions		
Chapter 9: Public health and safety		
Rule 9.4.3 Assessment of performance standard contraventions:		
2. Density (papakāika) in residential zones	Manawhenua support the provisions for wastewater and stormwater in unserviced areas. The provisions recognise that it is appropriate to provide on-site services to support papakāika, provided that adverse effects on surrounding sites are insignificant.	The provisions support the development of papakāika housing while avoiding adverse effects on the environment.
Rule 9.6.4 Assessment of Discretionary Performance Standard Contraventions	Manawhenua agree that the provision for papakāika will not lead to future pressure for unplanned expansion of the wastewater network or water supply.	The papakāika provisions provide a limited exception for the development of housing that supports Manawhenua social, cultural and economic wellbeing.
3. Density (papakāika) in rural zones.		

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Chapter 10: Natural Environment		
10.1 Introduction	Amend Paragraph 2 to include the following sentence: The natural environment of Dunedin is also important for the social, cultural and economic wellbeing of people and communities in Dunedin, and the life-supporting capacity of air, water, soil and ecosystems. <u>For Manawhenua good quality natural resources underpin their ability to gather mahika kai, a cornerstone of their cultural practice and identity.</u> It is further submitted that a cross-reference should be provided to Chapter 14: Manawhenua to recognise the importance of the natural environment to Manawhenua.	The amendment recognises the importance of high-quality natural resources to Manawhenua. It is a relevant matter for the natural environment chapter, and links to the provisions for mahika kai in Chapter 14.
Chapter 13: Heritage		
Section 13.1 Archaeological Sites	There is increased potential for archaeological sites to be disturbed within the mapped wāhi tūpuna areas. This should be noted in this introduction and in the advice notes for each zone.	Alerts landowners to the potential for the accidental discovery of archaeological sites within the mapped wāhi tūpuna.
Chapter 14: Manawhenua		
14.1 Introduction	Amend 'Te Rūnaka o Ngāi Tahu' to Te Rūnanga o Ngāi Tahu throughout the introduction. Amend 'Te Rūnaka o Ōtākou' to 'Te Rūnanga o Ōtākou' throughout the introduction.	Typographical errors.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
14.1 Introduction Section 14.1.5.9: Wāhi tūpuna	Amend Kāika Nohoaka to two words 'Kāika Nohoaka'	Typographical error
14.2 Objectives and Policies	Objective 14.2.1 and the supporting policies that provide for the maintenance and enhancement of wāhi tūpuna and mahika kai, and the development of papakāika, are supported.	This objective and supporting policies provide for Manawhenua social, cultural and economic wellbeing.
Policy 14.2.1.6	Amend this policy to directly provide for the development of papakāika in Native Reserve areas: "Enable Manawhenua to live in develop and occupy papakāika in Native Reserve areas where any adverse effects on the relevant zone can be adequately managed. in line with the objectives and policies of the relevant zone. "	The provisions should recognise that it is appropriate to develop papakāika housing, provided that adverse effects on the site and the surrounding area are adequately managed. The provisions provide a limited exemption for the development of housing that supports Manawhenua social, cultural and economic wellbeing. A requirement to mitigate all or any adverse effects in line with the objective and policies of the relevant zone is contrary to the enabling direction of these provisions.
Rules 14.3 to 14.7	Manawhenua support these provisions.	These provisions are consistent with Manawhenua aspirations and were developed in collaboration with Council.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Part D: Management Zones		
Chapter 15 – Residential Zones		
Note 15.3B General Advice	Manawhenua support the inclusion of this advice note.	The advice note provides guidance to plan users on the Papakāika provisions, and the development of new marae.
Rule 15.4 Notification	The notification of Manawhenua for resource consent applications where effects on cultural values are an assessment matter, or where the activity is within mapped wāhi tūpuna areas, is supported.	Provides for the expression of kaitiakitaka.
Rule 15.7.6 Subdivision performance standard: Shape	It is submitted that resultant sites must provide for a waste disposal area that is located at least 50m from any water body and MHWS: 3. For unreticulated areas, resultant sites must provide for a waste disposal area to be located at least 50m from any water body and MHWS.	Discharges from waste disposal areas into the coastal marine area adversely affect Manawhenua cultural values and practices, including the safe gathering of kaimoana.
Rule 15.9.3 Assessment of land use performance standard contraventions Performance Standard 2: Density – Papakāika	Manawhenua support the provisions.	The provisions provide for the development of papakāika while managing effects on cultural values, health and safety and the transportation network.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Rule 15.9.6 Assessment of restricted discretionary performance standard contraventions: Activities 3 and 5	Manawhenua support: • The Huriawa height restriction mapped area, and • Effects on cultural values of Manawhenua as a matter of discretion.	This protects views of Huriawa Peninsula from Coast Rd coming into Karitane from the north, and from Puketeraki Marae, and provides for an assessment of the effects of activities on the cultural values of Manawhenua.
Rule 15.10.2 Assessment of restricted discretionary land use activities: Activity 2 – Cemeteries	Manawhenua support an assessment of effects on cultural values of Manawhenua as a matter of discretion for the development of cemeteries.	This provides for an assessment of the effects of developing cemeteries on the cultural values of Manawhenua, and is consistent with Rule 14.6.2.
Rule 15.10.5 Assessment of restricted discretionary activities Activity 10	Manawhenua support an assessment of the effect on cultural values of subdivision and large scale earthworks in wāhi tūpuna.	This provides for an assessment of the effects of subdivision and earthworks on the cultural values of Manawhenua.
Rule 15.12 Assessment of Non-complying Activities Guidance	Amend subparagraph b.iv of the General assessment guidance: “The customary use of <u>mahika kai</u> (Objective 14.2.1)” Manawhenua support the inclusion of this assessment guidance.	Typographical error. The assessment guidance assists plan users to understand Manawhenua values.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Chapter 16: Rural Zone		
Policy 16.2.1.5	Manawhenua support limits on residential activity in the rural zone, with the exception of papakāika.	Manawhenua aspire to develop papakāika within the Native Reserves, which are predominately located in the Rural Zone.
Policy 16.2.4.1	Manawhenua are supportive of the requirement to require earthworks to retain high class soils on-site.	Manawhenua do not want to see a policy that impedes the development of papakāika housing due to the presence of high class soils within Native Reserves.
Rule 16.3.3 Activity status – land use activities	Manawhenua support the development of papakāika as a controlled activity in the Rural Zone.	Controlled activity status enables the development of papakāika within the Rural Zone.
Note 16.3B – General Advice	Manawhenua support the inclusion of this advice note.	The advice note provides guidance to plan users on the Papakāika provisions, and the development of new marae.
Objective 16.2.4		
Rule 16.4 – Notification Subparagraph 4.	The notification of Manawhenua for resource consent applications where effects on cultural values are an assessment matter, or where the activity is within mapped wāhi tūpuna areas, is supported. Manawhenua submit that they are an affected party for all applications to develop cemeteries, crematorium and landfills.	Provides for kaitiakitaka within mapped wāhi tūpuna areas, and recognises that these sensitive activities have potential to affect Manawhenua values.
Rule 16.4 – Notification Subparagraph 5.	Manawhenua support this provision.	The provisions should enable papakāika housing, without adverse effects on the site and the surrounding rural area.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Rule 16.5.2 – Density Subparagraph 1.h.	Manawhenua support the provision for papakāika to be developed at a density of 6 residential units or 15 habitable rooms per site.	Manawhenua aspire to develop papakāika within the Native Reserves, which are predominately located in the Rural Zone. This density rule enables the development of papakāika in the Rural Zone.
Rule 16.5.2 – Density Subparagraph 3.a	Manawhenua support the development of papakāika that contravene the performance standard for density being a discretionary activity.	The provisions should enable papakāika housing, without adverse effects on the site and the surrounding rural area.
Rule 16.7.5 Subdivision Performance Standard: Shape	It is submitted that resultant sites must provide for a waste disposal area that is located at least 50m from any water body and MHWS: 3. <u>For unreticulated areas, resultant sites must provide for a waste disposal area to be located at least 50m from any water body and MHWS.</u>	Discharges from waste disposal areas into the coastal marine area adversely affect Manawhenua cultural values and practices, including the safe gathering of kaimoana.
Rule 16.8.2 – Assessment of controlled land use activities	Manawhenua support the matters of control for the development of papakāika in the Rural Zone.	Manawhenua aspire to develop papakāika within the Native Reserves, which are predominately located in the Rural Zone. The matters of control enable the development of papakāika housing, without adverse effects on the site and the surrounding rural area.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Rule 16.9.6 – Assessment of restricted discretionary performance standard contraventions Activity 7	Manawhenua support these provisions that safeguard cultural values within the wāhi tūpuna.	These matters, including the setback of activities from ridgelines, the coast and waterbodies, controls on vegetation clearance, and the provision of access through esplanade reserves and strips provide for Manawhenua values.
Rule 16.10.2 Assessment of restricted discretionary activities Activity 1	Manawhenua support an assessment of the effects of cemeteries and crematoriums on cultural values as a matter of discretion.	These sensitive activities require careful management to avoid adverse effects on Manawhenua values.
Rule 16.10.5 – Assessment of restricted discretionary activities Activity 6	Manawhenua support these provisions that safeguard cultural values within the wāhi tūpuna.	These activities require careful management to avoid adverse effects on Manawhenua values.
Rule 16.11.2 – Assessment of discretionary land use activities Activity 1	Manawhenua support the general assessment guidance. The assessment of Manawhenua values as part of the assessment resource consents is supported. Manawhenua support the inclusion of an assessment of Manawhenua values within and outside of the mapped wāhi tūpuna areas.	Provides for kaitiakitaka within mapped wāhi tūpuna areas, and recognises the linkages between these areas and the broader landscape.
Rule 16.11.2 – Assessment of discretionary land use activities Activity 4	Manawhenua support the inclusion of priority considerations for mining and landfills within wāhi tūpuna mapped areas.	This provision provides for Manawhenua values within wāhi tūpuna mapped areas.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Rule 16.11.3 – Assessment of discretionary performance standard contraventions Performance Standard 2	Manawhenua support the priority considerations for the development of papakāika housing.	Manawhenua aspire to develop papakāika within the Native Reserves, which are predominately located in the Rural Zone. The priority considerations support the development of papakāika housing, while managing the adverse effects on the site and the surrounding rural area.
Rule 16.12.2 – Assessment of all non-complying activities	Manawhenua support the general assessment guidance. The assessment of Manawhenua values as part of the assessment of non-complying resource consents is supported. Manawhenua support the inclusion of an assessment of Manawhenua values within and outside of the mapped wāhi tūpuna areas.	Provides for kaitiakitaka within mapped wāhi tūpuna areas, and recognises the linkages between these areas and the broader landscape.
Rule 16.12.3 – Assessment of non-complying land use activities Activity 3	Manawhenua support the assessment guidance.	These sensitive activities require careful management to avoid adverse effects on Manawhenua values.
Rule 16.12.3 – Assessment of non-complying land use activities Activity 8	Manawhenua support the assessment guidance.	Forestry and mining within mapped wāhi tūpuna areas require careful management to avoid adverse effects on Manawhenua values.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Rule 16.12.4 – Assessment of non-complying development activities Activity 3	Manawhenua support the assessment guidance.	New buildings and structures, and earthworks ancillary to forestry, within mapped wāhi tūpuna areas require careful management to avoid adverse effects on Manawhenua values.
Rule 16.13.1 Special Information Requirements Papakaika – ownership and occupation	Manawhenua support this rule.	The intention is for the papakaika provisions to be applied by descendants of the original grantees or their spouse, a management structure, or a Rūnaka.
Chapter 17 Rural Residential Zone		
Rule 17.4 – Notification Subparagraph 4.	The notification of Manawhenua for resource consent applications where effects on cultural values are an assessment matter, or where the activity is within mapped wāhi tūpuna areas, is supported.	Provides for the expression of kaitiakitaka.
Rule 17.4 – Notification Subparagraph	Manawhenua support this provision.	The provisions should enable papakaika housing, without adverse effects on the site and the surrounding rural area.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Rule 17.7.6 Subdivision Performance Standard: Shape	It is submitted that resultant sites must provide for a waste disposal area that is located at least 50m from any water body and MHWS: 3. For unreticulated areas, resultant sites must provide for a waste disposal area to be located at least 50m from any water body and MHWS.	Discharges from waste disposal areas into the coastal marine area adversely affect Manawhenua cultural values and practices, including the safe gathering of kaimoana.
Rule 17.10.5 – Assessment of restricted discretionary activities Activity 5	Manawhenua support these matters of discretion.	New buildings and structures, large scale earthworks, general subdivision, forestry, indigenous vegetation clearance and tree planting within mapped wāhi tūpuna areas require careful management to avoid adverse effects on Manawhenua values.
Rule 17.12.3 – Assessment of non-complying land use activities Activity 2	Manawhenua supports the assessment guidance.	These sensitive activities require careful management to avoid adverse effects on Manawhenua values.
Rule 17.12.3 – Assessment of non-complying land use activities Activity 5	Manawhenua supports the assessment guidance.	Forestry and mining within mapped wāhi tūpuna areas require careful management to avoid adverse effects on Manawhenua values.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Chapter 18 – Commercial and Mixed Use Zones		
Rule 18.4 - Notification	The notification of Manawhenua for resource consent applications where effects on cultural values are an assessment matter, or where the activity is within mapped wāhi tūpuna areas, is supported.	Provides for the expression of kaitiakitaka.
Rule 18.7.5	It is submitted that resultant sites must provide for a waste disposal area that is located at least 50m from any water body and MHWS:	Discharges from waste disposal areas into the coastal marine area adversely affect Manawhenua cultural values and practices, including the safe gathering of kaimoana.
Subdivision Performance Standard: Shape	3. For unreticulated areas, resultant sites must provide for a waste disposal area to be located at least 50m from any water body and MHWS.	
Rule 18.10.5 – Assessment of restricted discretionary activities	Manawhenua support the matters of discretion.	Large scale earthworks within mapped wāhi tūpuna areas require careful management to avoid adverse effects on Manawhenua values.
Chapter 19 – Industrial Zones		
Rule 19.4 Notification Subparagraph 4	The notification of Manawhenua for resource consent applications where effects on cultural values are an assessment matter, or where the activity is within mapped wāhi tūpuna areas, is supported.	Provides for the expression of kaitiakitaka.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Rule 19.7.5 Subdivision Performance Standard: Shape	It is submitted that resultant sites must provide for a waste disposal area that is located at least 50m from any water body and MHWS: 3. For unreticulated areas, resultant sites must provide for a waste disposal area to be located at least 50m from any water body and MHWS.	Discharges from waste disposal areas into the coastal marine area adversely affect Manawhenua cultural values and practices, including the safe gathering of kaimoana.
Rule 19.10.3 – Assessment of restricted discretionary activities Activity 2	Manawhenua support the matters of discretion and guidance.	Crematoriums require careful management to avoid adverse effects on Manawhenua values.
Rule 19.12.3 – Assessment of non-complying activities Activity 3	Manawhenua support the assessment guidance.	Cemeteries and landfills require careful management to avoid adverse effects on Manawhenua values.
Chapter 20 – Recreation Zone		
Rule 20.4 – Notification Subparagraph 4	The notification of Manawhenua for resource consent applications where effects on cultural values are an assessment matter, or where the activity is within mapped wāhi tūpuna areas, is supported.	Provides for the expression of kaitiakitaka.
Rule 20.10.2 – Assessment of restricted discretionary land use activities Activity 3	Manawhenua support the assessment guidance.	Cemeteries require careful management to avoid adverse effects on Manawhenua values.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Rule 20.10.5 – Assessment of restricted discretionary activities Activity 10	Manawhenua support the matters of discretion.	Forestry, buildings and structures, large scale earthworks, and indigenous vegetation clearance within mapped wāhi tūpuna areas require careful management to avoid adverse effects on Manawhenua values.
Rule 20.11.2 Assessment of discretionary land use activities Activity 3	Manawhenua supports the assessment guidance.	Mining within mapped wāhi tūpuna areas requires careful management to avoid adverse effects on Manawhenua values.
Rule 20.12.2 – Assessment of all non-complying activities Activity 1	Manawhenua supports the assessment guidance for activities within and outside wāhi tūpuna mapped areas.	Non-complying activities within and outside wāhi tūpuna mapped areas require careful management to avoid adverse effects on Manawhenua values.
Rule 20.12.3 – Assessment of non-complying land use activities Activities 3 and 4	Manawhenua supports the assessment guidance.	Cemeteries, crematoriums and landfills require careful management to avoid adverse effects on Manawhenua values.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
E. Major Facilities Zones		
30. Port		
Rule 30.4 Notification	Port activities take place within wāhi tūpuna of significance to Manawhenua. It is submitted that Manawhenua should be notified of Port activities, as follows: <u>With respect to resource consent applications for the following activities, Manawhenua will be considered an affected person in accordance with section 95B of the RMA where their written approval is not provided:</u> i. <u>all restricted discretionary activities that list 'effect on cultural values of Manawhenua' as a matter for discretion;</u> <u>and</u> ii. <u>discretionary and non-complying activities in a wāhi tūpuna mapped area where the activity is identified as a threat in Appendix A4.</u>	There are five wāhi tūpuna that are potentially affected by Port activities, namely: A4.23 Ōtākou Harbour A4.24 Otaheiti (Acheron Point) A4.25 Rakiriri (Goat Island) A4.26 Kamau Taurua (Quarantine Island) A4.27 Koputai (Port Chalmers) The threats to the values of these wāhi tūpuna include: • Reclamation, including by road widening or work on the rock walls • Activities affecting water quality • Sedimentation - impact on the sea bed fauna and flora • Activities that affect access to the coastal marine area.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Objective 30.2.3	It is submitted that the adverse effects of earthworks on Manawhenua cultural values should be avoided, or adequately mitigated: <u>Earthworks necessary for permitted or approved land use and development are enabled, while avoiding, or adequately mitigating, any adverse effects on:</u> a. <u>visual amenity and character;</u> b. <u>the stability of land, buildings, and structures; and</u> c. <u>surrounding properties; and</u> d. <u>cultural values of Manawhenua.</u>	The earthworks necessary for approved port land use and development require careful management to avoid, or adequately mitigate, any adverse effects on Manawhenua cultural values.
Policy 30.2.3.2	It is submitted that earthworks and any associated retaining structures should be designed and located to avoid sediment run-off into the coastal marine area: <u>Require earthworks and any associated retaining structures to be designed and located to minimise adverse effects on surrounding sites and the wider area, including by:</u> a. <u>limiting the scale of earthworks that are provided for as a permitted activity; and</u> b. <u>requiring earthworks to avoid sediment run-off, including onto any property, or into any stormwater pipes, drains, channels or soakage systems, or into the coastal marine area.</u>	Sediment run-off into the coastal marine area adversely affects Manawhenua cultural values.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Policy 30.2.3.2	It is submitted that earthworks and any associated retaining structures should be designed and located to avoid sediment run-off into the coastal marine area: Require earthworks and any associated retaining structures to be designed and located to minimise adverse effects on surrounding sites and the wider area, including by: c. <u>limiting the scale of earthworks that are provided for as a permitted activity; and</u> d. <u>requiring earthworks to avoid sediment run-off, including onto any property, or into any stormwater pipes, drains, channels or soakage systems, or into the coastal marine area.</u>	Sediment run-off into the coastal marine area adversely affects Manawhenua cultural values.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Policy 30.2.3.3	It is submitted that the adverse effects of earthworks on Manawhenua cultural values should be avoided, or adequately mitigated: <u>Only allow earthworks that exceed the scale thresholds (earthworks - large scale) and any associated retaining structures, where all of the following effects will be avoided or, if avoidance is not possible, adequately mitigated:</u> <u>adverse effects on visual amenity and character;</u> <u>adverse effects on the amenity of surrounding properties, including from changes to drainage patterns; and</u> <u>adverse effects on the stability of land, buildings, and structures; and</u> - adverse effects on cultural values of Manawhenua.	The earthworks necessary for approved port land use and development require careful management to avoid, or adequately mitigate, any adverse effects on Manawhenua cultural values.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Rule 30.8. Assessment of Restricted Discretionary Activities (Performance Standard Contraventions) Performance Standard 4 Matter of Discretion 4a. Effects on surrounding sites	Amend the guidance notes for consistency with Policy 30.2.3.2.b: <u>Relevant objectives and policies:</u> i. <u>Objective 30.2.3</u> ii. <u>Earthworks and any associated retaining structures are designed and located to minimise adverse effects on surrounding sites and the wider area by managing earthworks to avoid sediment run-off, including on to any property, or into any stormwater pipes, drains, channels or soakage systems, or into the coastal marine area (Policy 30.2.3.2.b).</u>	Sediment run-off into the coastal marine area adversely affects Manawhenua cultural values.
Rule 30.8. Assessment of Restricted Discretionary Activities (Performance Standard Contraventions) Performance Standard 4	It is submitted that the effects of sediment on Manawhenua cultural values should be added as an assessment matter for contraventions of Performance Standard 4: <u>Matters of Discretion</u> <u>Guidance on the Assessment of Resource Consents</u> d. <u>Effects on cultural values of Manawhenua</u> <u>See Rule 14.4</u>	The earthworks necessary for approved port land use and development require careful management to avoid, or adequately mitigate, any adverse effects on Manawhenua cultural values.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
Rule 30.9.2 Assessment of restricted discretionary development activities Activity 1 and Activity 2	It is submitted that the effects of large scale earthworks on Manawhenua cultural values should be added as an assessment matter for Activities 1 and 2, with an associated guidance note:	Large scale earthworks and earthworks within 5m of a water body or MHWS may adversely affect Manawhenua cultural values within mapped wāhi tūpuna areas.
	<u>Matters of Discretion</u>	
	<u>Effects on cultural values of Manawhenua.</u>	
30.11.2 Assessment of all non-complying activities Activity 1	It is submitted that general guidance on the effects of non-complying port activities on Manawhenua values should be added to Activity 1: e. <u>In assessing the significance of effects, consideration will be given to:</u> i. <u>Manawhenua values and the relationship between manawhenua and the natural environment is maintained, including cultural values and traditions associated with:</u> a. <u>wāhi tūpuna; and</u> b. <u>the customary use of mahika kai (Objective 14.2.1).</u> ii. <u>If located outside a wāhi tūpuna mapped area, Kāi Tahu may advise the Council if it considers that the granting of the consent would affect the integrity of the broader environment within which the wāhi tūpuna is located, or the linkages between wāhi tūpuna.</u>	Non-complying port activities may have adverse effects on Manawhenua values and practices, and on the relationship between Manawhenua and the natural environment.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
34. Campus		
34.7.5 Subdivision Performance Standard: Shape	It is submitted that resultant sites must provide for a waste disposal area that is located at least 50m from any water body and MHWS: 3. <u>For unreticulated areas, resultant sites must provide for a waste disposal area to be located at least 50m from any water body and MHWS.</u>	Discharges from waste disposal areas into the coastal marine area adversely affect Manawhenua cultural values and practices, including the safe gathering of kaimoana.
Part F. Appendices		
A2. Heritage Precinct Values		
A2.2.5 Princes Street – Exchange Commercial Heritage Precinct		
A.2.2.5.1 Description of the Area	Include a reference to the Kāi Tahu values of the Precinct: <u>The Toitū tauraka waka, now located under the Exchange Plaza, was one of several Kāi Tahu landing places in the Otago harbour at the time of colonial settlement of the Otago region. Situated beside the Toitū creek as it emptied into the harbour, the tauraka waka site provided a softly sloped beach for landing waka, a good point of entry to the surrounding bush and māhika kai, as well as access to fresh water.</u>	The precinct description should reference both the Kāi Tahu and the Colonial heritage of the Exchange. Kāi Tahu ki Ōtākou recall the history and importance of the site and hold it to be a wāhi tūpuna representing people, place and events that form a significant marker in their tribal history.
A.2.2.5.2 Values to be protected or enhanced	Add Kāi Tahu values in Paragraph b. as a characteristic to be enhanced: <u>iv. Kāi Tahu values</u>	The development of the Princes Street – Exchange precinct provides an opportunity to recognise and enhance the Kāi Tahu heritage of this area.

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
A2.2.5.4 Features and characteristics to be incorporated into design	Promote engagement with Kāi Tahu in the design of public spaces as an ‘other matter’:	The development of the Princes Street – Exchange precinct provides an opportunity to recognise and enhance the Kāi Tahu heritage of this area through the design of public spaces.
	Collaborate with Kāi Tahu in the design of public spaces, including planting, use of Kāi Tahu place names, public art works, and interpretive material.	
A2.2.6 South Princes Commercial Heritage Precinct		
A.2.2.6.1 Description of the Area	Include a reference to the Kāi Tahu values of the Precinct: <u>In 1852, after being petitioned by Māori, Walter Mantell, Commissioner of Crown Lands wrote to Governor Grey asking him to grant “a small portion of land” in Dunedin and Port Chalmers for the building of houses. The “small portion of land” in Dunedin became known as the Princes Street Reserve. The loss of the reserve formed part of the Ngāi Tahu Waitangi Tribunal claim.</u>	The precinct description should reference both the Kāi Tahu and the Colonial heritage of South Princes Street. Kāi Tahu ki Ōtākou recall the history and importance of the Princes Street Reserve.

Chapter / Provision	Amendment Sought		Reasons for the Amendment Sought
A2.2.6.4 Features and characteristics to be incorporated into design	Promote engagement with Kāi Tahu in the design of public spaces as an 'other matter':		The development of the South Princes Street Commercial Heritage Precinct provides an opportunity to recognise and enhance the Kāi Tahu heritage of this area through the design of public spaces.
	Collaborate with Kāi Tahu in the design of public spaces, including planting, use of Kāi Tahu place names, public art works, and interpretive material.	Preferred	
Chapter / Provision	Amendment Sought		Reasons for the Amendment Sought
A2.2.8 Port Chalmers Commercial Heritage Precinct			
A2.2.8.1 Description of Area	Include a reference to the Kāi Tahu values of the Precinct: In 1852, after being petitioned by Māori, Walter Mantell, Commissioner of Crown Lands wrote to Governor Grey asking him to grant "a small portion of land" in Dunedin and Port Chalmers for the building of houses. The "small portion of land" in Port Chalmers became known as the Koputai Native Reserve now on Beach Street. Refer to A4.27 Koputai (Port Chalmers).		The precinct description should reference both the Kāi Tahu and the Colonial heritage of the Port Chalmers Commercial Heritage Precinct. Kāi Tahu ki Ōtākou recall the history and importance of the Koputai Native Reserve.

Chapter / Provision	Amendment Sought		Reasons for the Amendment Sought
A2.2.8.4 Features and characteristics to be incorporated into design	Promote engagement with Kāi Tahu in the design of public spaces as an 'other matter':		The development of the Port Chalmers Commercial Heritage Precinct provides an opportunity to recognise and enhance the Kāi Tahu heritage of this area through the design of public spaces.
	<u>Collaborate with Kāi Tahu in the design of public spaces, including planting, use of Kāi Tahu place names, public art works, and interpretive material.</u>	<u>Preferred</u>	
A3. Landscape Values			
A3.1.2 Blackhead Organ Pipes Outstanding Natural Feature	Manawhenua submit that the references to Makereatu should be deleted, and the feature is referred to only as Blackhead:		The use of the name 'Makereatu' is uncertain and may be inaccurate. The Māori name of Blackhead is not known.
A3.1.2.2 Values to be protected	b. Cultural/historic values: Blackhead is known as Makereatu, and was an important stone gathering site.		

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
A3.3.4.2 Maungatua Significant Natural Landscape	In Sections <u>A3.3.4.2 Values to be protected</u> and <u>A3.3.4.3 Principal threats to values</u> 'Maungatua' is incorrectly spelled as 'Maugatua'.	Typographical error
A4. Wāhi tūpuna Values		
Entire section	Manawhenua support the inclusion of the Wāhi tūpuna Values appendix.	The appendix details the sites and values of importance to Manawhenua and outlines the threats to these landscapes.
Additional wāhi tūpuna site: Otago Peninsula: Muaūpoko	There are thirteen mapped wāhi tūpuna on the Otago Peninsula from A4.29 Pukekura (Taiaroa Head) to A4.41 Upper Slopes and Peaks of Otago Peninsula, reflecting a density of occupation and association with tribal history over centuries. In reality, all of these sites were one integrated landscape. Therefore, Manawhenua submit that the entirety of Otago Peninsula ought to be a wāhi tūpuna site, to capture the importance of this landscape to Te Rūnanga o Ōtakou.	The remapping of Otago Peninsula as a wāhi tūpuna in its entirety provides certainty to Te Rūnanga o Ōtakou that the Manawhenua values of the many wāhi tūpuna on the peninsula, and the linkages between them, will be protected by the Plan.
Introduction	In paragraph 3, amend 'Te Waka a Aoraki' to read 'Te Waka o Aoraki'	Typographical error
A4.41 Upper Slopes and Peaks of Otago Peninsula	Amend 'Te Rūkaka o Ōtākou' to read 'Te Rūnanga o Ōtākou'	Typographical error

Chapter / Provision	Amendment Sought	Reasons for the Amendment Sought
A4.61 Pā site and Kaik at Omoua and Maitapapa (Henley)	Amend 'Kaik' to read "Kāika'	Typographical error.
A7 Rural Character Values		
A7.1 High Country Rural Zone Values	Replace 'Takata whenua values' with ' <u>Manawhenua values</u> '	Correction
A7.3 Taieri Plains Rural Zone Values	Add to sub paragraph b: ' <u>The Taieri River is also of significance to Manawhenua.</u> '	The Taieri River is a taoka to Manawhenua and this should be reflected in this section.
A7.7 Peninsula Coast Rural Zone Description	Add to the end of paragraph one: "The Peninsula is a highly valued wāhi tūpuna for Te Rūnanga o Ōtakou."	This addition reflects the importance of Otago Peninsula to Manawhenua.
A8. Heritage New Zealand Pouhere Taonga Accidental Discovery Protocol	Amend the spelling of 'koiwa' in paragraph one to ' <u>koiwi</u> '. Amend the spelling of 'kiwi' in subparagraph 5 to ' <u>iwi</u> '	Typographical error

Site Specific Submission of Kāti Huirapa Rūnaka ki Puketeraki

Property	Amendment Sought	Reasons for the Amendment Sought
135 Doctors Point Road, Waitati Property number: 5045632	These sites are zoned Township and Settlement Zone in the Second Generation District Plan. This zoning is opposed by Kāti Huirapa Rūnaka ki Puketeraki.	Kāti Huirapa Rūnaka ki Puketeraki is of the opinion that a significant increase in residential density in this unreticulated area is unsustainable. In particular, Te Rūnaka is concerned at the potential impact of stormwater and wastewater from residential activity on Blueskin Bay, a mapped wāhi tūpuna area. Water quality in Blueskin Bay is already degraded which impacts on the customary use of this area.
145 Doctors Point Road, Waitati Property number: 5045698	Kāti Huirapa Rūnaka ki Puketeraki submits that these sites should be zoned Large Lot Residential 2, consistent with the proposed residential zoning to the east. The minimum density in this zone is 1 house per 3500m².	

FURTHER SUBMISSIONS	
TO:	Dunedin City Council
DATE:	3 March 2016
PLAN CHANGE:	Dunedin City Council Proposed Second Generation Plan
KĀI TAHU KI OTAGO PAPATIPU RŪNAKA	Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou (Manawhenua)
These further submissions are in support or opposition to the original submissions on the Proposed Second Generation Dunedin City District Plan. Kāi Tahu has an interest in the proposal greater than the interest of the general public. We support or oppose the submission points set out in Schedule 1. Kāi Tahu does wish to be heard in support of these further submissions at a hearing, and requests an opportunity to expand on these submissions. If others make a similar submission, we will consider presenting a joint case with them.	

1. Particular points of the submissions which are supported or opposed
 - 1.1 The particular points of the original submissions that are either supported or opposed by Manawhenua are set out in Schedule 1 (attached).
2. Decision Sought
 - 2.1 That Council adopt or reject the amendments sought by original submitters, as discussed in Schedule 1.
3. Reasons for the Decision Sought
 - 3.1 The decisions sought by Manawhenua on the original submissions are considered necessary to:
 - (a) Better achieve the purpose of the Resource Management Act 1991 (RMA), including the sustainable management of natural and physical resources under section 5, the matters of national importance under section 6, the requirement to have particular regard to kaitiakitaka under section 7, and the requirement to take into account the principles of Te Tiriti o Waitangi (Treaty of Waitangi) under section 8 of the Act; and

- (b) Take into account the relevant iwi management plan, the Kāi Tahu ki Otago Natural Resource Management Plan 2005, as required under s61(2A) of the RMA; and
- (c) Restore the social, economic, cultural, and environmental wellbeing of Manawhenua within the Dunedin district.

Nahaku noa, Na



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NOTE: We note that a copy of this further submission must be served on the original submitters within five working days after making the further submission to the local authority in accordance with Schedule 1, Clause 8A(2) of the Resource Management Act 1991.

Schedule 1 – Further Submission of Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou

CHAPTER 14 MANAWHENUA

Submission point no.	Submitter name	Plan section or category	Plan sub section or category	Kāi Tahu supports/opposes/amends	Particular points supported or opposed	Reasons
OS458.58S	Saddle Views Estate Limited	1. Plan Overview and Introduction	1.4 Outcomes sought by Kāi Tahu	Oppose	Remove reference to minerals from Kāi Tahu Outcomes Sought table	Prospecting for minerals affects Kāi Tahu values in wāhi tūpuna. It is important to retain this reference in section 1.4 as it sets up and provides background to the wāhi tūpuna provisions in the plan.
OS248.10	Parata, Anthony	General Plan Terminology	Manawhenua general plan terminology	Oppose	Remove the terms 'native reserve' and 'half caste reserve' from the plan	These are the correct historical names of the reserves, as granted by the colonial government.
OS458.36; OS874.10; OS901.6	Saddle Views Estate Limited; Blackhead Quarries Ltd; Tussock Top Farm Ltd	2.5 Dunedin is a City that Gives Effect to the Principles of the Treaty of Waitangi...	Objective 2.5.3: Wāhi tūpuna	Oppose	Remove Objective 2.5.3 and associated policies	This wāhi tūpuna objective supports the rules relating to their protection, including the notification provisions. The objective gives effect to section 6e of the Resource Management Act 1991 (the Act). For Council to recognise and provide for the matters in section 6e, it needs to know exactly where the sites of importance to Kāi Tahu are.
OS458.16	Saddle Views Estate Limited	C. City-wide provisions:	14. Manawhenua	Oppose	Remove entire Manawhenua section or amend to acknowledge lawfully existing activities, while removing the requirement for discretionary consents.	The Manawhenua section recognises and provides for Kāi Tahu wellbeing and interests in Dunedin, pursuant to sections 5(2), 6(e), 7(a) and 8 of the Act.
OS806.51	Transpower New Zealand Limited	C. City-wide Provisions	14. Manawhenua	Oppose	Oppose Chapter 14 Manawhenua.	The Manawhenua section recognises and provides for Kāi Tahu wellbeing and interests in Dunedin, pursuant to sections 5(2), 6(e), 7(a) and 8 of the Act.

OS874.37	Blackhead Quarries Ltd	C. City-wide Provisions	14. Manawhenua	Oppose	Amend Section 14 to introduce an appropriate balance between existing lawfully established activities and the matters contained in Section 14, while removing the requirements for discretionary activities.	The Manawhenua section recognises and provides for Kāi Tahu wellbeing and interests in Dunedin, pursuant to sections 5(2), 6(e), 7(a) and 8 of the Act.
OS901.30	Tussock Farm Ltd	C. City-wide Provisions	14. Manawhenua	Oppose	Amend Section 14 to introduce appropriate balance between existing lawfully established activities and the matters contained in Section 14, while removing the requirements for discretionary activities.	The Manawhenua section recognises and provides for Kāi Tahu wellbeing and interests in Dunedin, pursuant to sections 5(2), 6(e), 7(a) and 8 of the Act.
OS1001.1	Wilson, Terry	C. City-wide Provisions	14. Manawhenua	Oppose	Remove Section 14 (Manawhenua) and Appendix A4 (wāhi tūpuna). The only areas to be given special restrictions and subject to the decisions of Kāi Tahu should be lands that are legally owned by Kāi Tahu and related groups.	The Manawhenua section recognises and provides for Kāi Tahu wellbeing and interests in Dunedin, pursuant to sections 5(2), 6(e), 7(a) and 8 of the Act. These sections of the Act require recognition and protection of Kāi Tahu values and interests throughout the wider Dunedin City area, and are not limited to areas in Kāi Tahu ownership.
OS874.43; OS901.36	Blackhead Quarries Ltd and Tussock Top Farm Ltd	Objective 14.2.1	Policy 14.2.1.4	Oppose	Amend Policy 14.2.1.4 so that it reads 'Only allow activities that are identified as a threat to wāhi tūpuna in Appendix A4, where adverse effects...are no more than minor except where these activities are already existing in the environment'.	Lawfully established activities, including quarrying, form part of the permitted baseline. An increase in the scale of an activity, over and above this permitted baseline, does require an assessment of the effects of the expanded activity on the values of wāhi tūpuna.

OS796.25	Waste Management (NZ) Limited	Objective 14.2.1	Policy 14.2.1.5	Oppose	Amend Policy 14.2.1.5 as follows: Only allow crematories, crematoriums and landfills where any adverse effects on Manawhenua values, including the relationship between Manawhenua and sites of cultural importance to them, are avoided or, if avoidance is not possible, are mitigated more than minor .	Kāi Tahu supports the notified policy. The adverse effects of crematories, crematoriums and landfills on Manawhenua values should be avoided or, if avoidance is not possible, are no more than minor.
OS790.3	Te Runanga o Ngai Tahu	Objective 14.2.1	Suggested new policy	Support	Add new policy under Objective 14.2.1 to read: 'Enable land use activities on Huriawa and Mapoutahi that comply with an Approved Management Plan.' Amend rules in the Manawhenua section to permit activities on Huriawa and Mapoutahi that comply with an approved management plan. Add new definition of Huriawa: 'Huriawa means the land described by that name in Section 142 of the Ngai Tahu Claims Settlement Act 1998.' Add new definition of Mapoutahi: 'Mapoutahi means the land described by that name in Section 143 of the Ngai Tahu Claims Settlement Act 1998.' Add new definition for Approved Management Plan: 'An Approved Management Plan means a management plan approved by Te Runanga o Ngai	This submission is consistent with the aspirations of Kāi Tahu Huirapa Rūnaka

OS796.23	Waste Management (NZ) Limited	Rule 14.5 Assessment of Discretionary Activities	14.5.2 Assessment of discretionary activities	Oppose	Tahu'. Amend 14.5.2.2 Assessment of discretionary activities (Crematoriums, Cemeteries and Landfills) to relate this assessment back to the mapped areas of wāhi tūpuna.	The location of waste management facilities is a sensitive matter for Manawhenua wherever they are located in the wider Dunedin City area. This matter is not confined to wāhi tūpuna.
OS790.5	Te Rūnanga o Ngāi Tahu	A4. Wāhi Tūpuna Values	A4.6 Huriawa Peninsula	Support	Amend A4.6.1 by inserting: Huriawa was vested fee-simple in Te Rūnanga o Ngāi Tahu under the Ngāi Tahu Claims Settlement Act 1998; Te Rūnanga o Ngāi Tahu and Kāti Huirapa Rūnaka ki Puketeraki are working with the Department of Conservation to prepare a management plan for Huriawa; Land use activities on Huriawa should be carried out in accordance with an Approved Management Plan.	This submission is consistent with the aspirations of Kāti Huirapa Rūnaka
OS790.6	Te Runanga o Ngāi Tahu	A4. Wāhi Tūpuna Values	A4.17 Mapoutahi and Mateawheawhe (Beach at Purakaunui Bay)	Support	Amend A4.17.1 by inserting: Mapoutahi was vested fee-simple in Te Rūnanga o Ngai Tahu under the Ngai Tahu Claims Settlement Act 1998; Te Runanga o Ngāi Tahu, Kāti Huirapa Rūnaka ki Puketeraki and the Department of Conservation are responsible for managing Mapoutahi; Land use activities on Mapoutahi should be carried out in accordance with an Approved Management Plan.	This amendment is consistent with the aspirations of Kāti Huirapa Rūnaka.

OS901.44	Tussock Farm Ltd	Top	A4. Wāhi Tūpuna Values	A4.54 Pukemakamaka/Turimakamaka (Saddle Hill / Jaffrays Hill)	Oppose	Delete A4.54: Pukemakamaka/Turimakamaka (Saddle Hill / Jaffrays Hill)	Pukemakamaka/Turimakamaka (Saddle Hill / Jaffrays Hill) remains a highly significant wāhi tūpuna for Kāi Tahu, despite the quarrying that has taken place there. The hills feature in important local creation stories.
OS1052.8	Scroggs Farm Limited	Hill	A4. Wāhi Tūpuna Values	A4.55 Upper Slopes and Peaks of Scroggs Hill and Saddle Hill	Oppose	Review A4.55 (Upper Slopes and Peaks of Scroggs Hill and Saddle Hill) on Appendix A4 (Wāhi Tūpuna Values) in terms of the level of information made available to affected landholders.	The information in Appendix 4 on A4.55 (Upper Slopes and Peaks of Scroggs Hill and Saddle Hill) provides a starting point for engagement between Kāi Tahu and affected landholders.
OS122.3	Tordoff, David		Mapping of 'Mapped Areas'	Wāhi Tūpuna Mapped Area	Oppose	Change the boundary of the wāhi tūpuna mapped area along Portobello Road to cover the harbour wall and identified sites only.	The mapped area in the notified plan reflects the correct extent of the wāhi tūpuna. The existence of private property within the wāhi tūpuna does not change its geographical extent.
OS458.30	Saddle Views Estate Limited	Views	Mapping of 'Mapped Areas'	Wāhi Tūpuna Mapped Area	Oppose	Remove Pukemakamaka/Turimakamaka (Saddle Hill / Jaffrays Hill) and Upper Slopes and Peaks of Scroggs Hill and Saddle Hill wāhi tūpuna mapped areas. Alternatively, if this is not done, identify that the features are subject to a lawfully established mining activity.	Pukemakamaka/Turimakamaka (Saddle Hill / Jaffrays Hill) remains a highly significant wāhi tūpuna for Kāi Tahu, despite the mining that has taken place there. The hills feature in important local creation stories. Lawfully established activities, including quarrying, form part of the permitted baseline. An increase in the scale of quarrying, over and above this permitted baseline, does require an assessment of the effects of the expanded activity on the values of wāhi tūpuna.
OS471.3	Wilde, Rebecca Jane		Mapping of 'Mapped Areas'	Wāhi Tūpuna Mapped Area	Oppose	Amend the mapping of A4.40 Pikiwhara (Sandymount) and Sandfly Bay as shown in Figure 6 attached to the submission.	The mapped area in the notified plan reflects the correct extent of the wāhi tūpuna. The existence of private property within the wāhi tūpuna does not change its geographical extent.

OS535.1	Wilson, Warren	Mapping of 'Mapped Areas'	Wāhi Tūpuna Mapped Area	Oppose	Amend boundaries of Wāhi Tūpuna mapped areas 21 and 22 to reflect in-depth research.	The mapped area in the notified plan reflects the correct extent of the wāhi tūpuna. The existence of private property within the wāhi tūpuna does not change its geographical extent.
OS610.3	Buchan, John	Mapping of 'Mapped Areas'	Wāhi Tūpuna Mapped Area	Oppose	Remove the Wāhi Tūpuna Mapped Area from the area adjoining and contained between Riccarton Road East, Main South Road-SH1 and Hollands Drive (refer to map attached to submission).	The mapped area in the notified plan reflects the correct extent of the wāhi tūpuna. The existence of private property within the wāhi tūpuna does not change its geographical extent.
OS660.3	Taylor, Kimberly John	Mapping of 'Mapped Areas'	Wāhi Tūpuna Mapped Area	Oppose	Remove the Wāhi Tūpuna Mapped Area from the area adjoining and contained between Riccarton Road East, Main South Road-SH1 and Hollands Drive (refer to map in submission).	The mapped area in the notified plan reflects the correct extent of the wāhi tūpuna. The existence of private property within the wāhi tūpuna does not change its geographical extent.
OS663.3	Horne, Craig	Mapping of 'Mapped Areas'	Wāhi Tūpuna Mapped Area	Oppose	Remove the Wāhi Tūpuna Mapped Area from the area adjoining and contained between Riccarton Road East, Main South Road-SH1 and Hollands Drive (refer to map in submission).	The mapped area in the notified plan reflects the correct extent of the wāhi tūpuna. The existence of private property within the wāhi tūpuna does not change its geographical extent.
OS666.3	Kelliher, Chris	Mapping of 'Mapped Areas'	Wāhi Tūpuna Mapped Area	Oppose	Remove the Wāhi Tūpuna Mapped Area from the area adjoining and contained between Riccarton Road East, Main South Road-SH1 and Hollands Drive (refer to map in submission).	The mapped area in the notified plan reflects the correct extent of the wāhi tūpuna. The existence of private property within the wāhi tūpuna does not change its geographical extent.

OS693.3	Blue Grass Limited	Mapping of 'Mapped Areas'	Wāhi Tūpuna Mapped Area	Oppose	Remove the Wāhi Tūpuna Mapped Area from the area adjoining and contained between Riccarton Road East, Main South Road-SH1 and Hollands Drive (refer to map in submission).	The mapped area in the notified plan reflects the correct extent of the wāhi tūpuna. The existence of private property within the wāhi tūpuna does not change its geographical extent.
OS813.3	Saddle Views Estate Ltd	Mapping of 'Mapped Areas'	Wāhi Tūpuna Mapped Area	Oppose	Remove the Wāhi Tūpuna Mapped Area from the area adjoining and contained between Riccarton Road East, Main South Road-SH1 and Hollands Drive (refer to maps attached to submission).	The mapped area in the notified plan reflects the correct extent of the wāhi tūpuna. The existence of private property within the wāhi tūpuna does not change its geographical extent.
OS816.3	Mainland Property 2004 Limited	Mapping of 'Mapped Areas'	Wāhi Tūpuna Mapped Area	Oppose	Remove the Wāhi Tūpuna Mapped Area from the area adjoining and contained between Riccarton Road East, Main South Road-SH1 and Hollands Drive (refer maps attached to submission).	The mapped area in the notified plan reflects the correct extent of the wāhi tūpuna. The existence of private property within the wāhi tūpuna does not change its geographical extent.
OS826.2	Moi Bien Investments Ltd	Mapping of 'Mapped Areas'	Wāhi Tūpuna Mapped Area	Oppose	Remove Wāhi Tūpuna Sites overlay (45) and delete all associated provisions that apply to the St Clair Neighbourhood Centre.	The mapped area in the notified plan reflects the correct extent of the wāhi tūpuna. The existence of private property within the wāhi tūpuna does not change its geographical extent.
OS874.8	Blackhead Quarries Ltd	Mapping of 'Mapped Areas'	Wāhi Tūpuna Mapped Area	Oppose	Remove all Wāhi Tūpuna Sites overlays as they apply to existing quarries, particularly those at 333 Blackhead Road, 377 Main South Road, 386 Mt Cargill Road and 145 Anzac Ave.	The mapped area in the notified plan reflects the correct extent of the wāhi tūpuna. The existence of private property within the wāhi tūpuna does not change its geographical extent.

OS901.42	Tussock Farm Ltd	Top	Mapping of 'Mapped Areas'	Wāhi Tūpuna Mapped Area	Oppose	Remove Wāhi Tūpuna overlays (site 55, Views of the upper slopes of Scroggs Hill and Saddle Hill) and associated provisions as they apply to the existing quarry at 332 Saddle Hill Road, Saddle Hill.	The mapped area in the notified plan reflects the correct extent of the wāhi tūpuna. The existence of private property within the wāhi tūpuna does not change its geographical extent.
OS951.23	Morris, Timothy George		Mapping of 'Mapped Areas'	Wāhi Tūpuna Mapped Area	Oppose	Amend boundaries of Wāhi Tūpuna Site A4.40 Pikiwhara (Sandymount and Sandfly Bay) as per Figure 6 in submission	The mapped area in the notified plan reflects the correct extent of the wāhi tūpuna. The existence of private property within the wāhi tūpuna does not change its geographical extent.
OS1054.23	RG and SM Morris Family Trust		Mapping of 'Mapped Areas'	Wāhi Tūpuna Mapped Area	Oppose	Amend boundaries of Wāhi Tūpuna Site A4.40 Pikiwhara (Sandymount and Sandfly Bay) as per Figure 6 in submission	The mapped area in the notified plan reflects the correct extent of the wāhi tūpuna. The existence of private property within the wāhi tūpuna does not change its geographical extent.

CHAPTER 5 NETWORK UTILITIES

Submission point no.	Submitter name	Plan section or category	Plan sub section or category	Kāi Tahu supports/ opposes/ amends	Particular points supported or opposed	Reasons
OS576.24 OS915.10 OS923.24 OS925.24	Vodafone NZ Ltd; PowerNet Limited; Spark New Zealand Trading Limited; Chorus New Zealand Limited (Chorus)	Objective 5.2.1	Policy 5.2.1.11	Oppose	Remove Policy 5.2.1.11.	Manawhenua propose retaining the policy and adding effects on Manawhenua values as a matter for consideration for network utility and energy generation structures in wāhi tūpuna. Network utility and energy generation structures have the potential to adversely impact on Manawhenua values in wāhi tūpuna.

CHAPTER 8 NATURAL HAZARD MITIGATION

Submission point no.	Submitter name	Plan section or category	Plan sub section or category	Kāi Tahu supports/ opposes/ amends	Particular points supported or opposed	Reasons
OS308.168	University of Otago	Rule 8.3 Activity Status	8.3.2 Activity status table - Natural hazard mitigation activities	Oppose	Amend Rules 8.3.2.3 (activity status table - hazard mitigation earthworks) and 8.3.2.4 (activity status table - hazard mitigation structures) by changing the activity status from discretionary to restricted discretionary. Consequentially amend Rule 8.5.2.1 (assessment of discretionary natural hazard mitigation activities).	Kāi Tahu supports the notified discretionary activity status for hazard mitigation and hazard mitigation structures, as these have the potential to affect the cultural values of wāhi tūpuna.

CHAPTER 16 RURAL ZONES

Submission point no.	Submitter name	Plan section or category	Plan sub section or category	Kāi Tahu supports/ opposes/ amends	Particular points supported or opposed	Reasons
OS488.4; OS704.6; OS717.11; OS739.6; OS742.6; OS874.18; OS889.4; OS900.104; OS901.13	Salisbury Park Ltd; Craig Home & Craig Home Surveyors Ltd; Robyn and Stephan Smith, Rick and Jill Clarke, Alan	16.2 Objectives and Policies	Objective 16.2.1	Oppose	Submitters request deletion of the references to papakāika in Objective 16.2.1	The requested amendments do not support the aspirations of Manawhenua for the development of papakāika in the Rural zone. The papakāika provisions were carefully developed with Council to ensure any adverse effects resulting from papakāika in the Rural Zone would be minimised.

	Brown, Carrowmore Properties Ltd, Blueskin Projects Ltd; CTW Holdings Ltd; Blackhead Quarries Ltd; G & J Sommers Edgar; Save The Otago Peninsula (STOP) Inc Soc; Tussock Top Farm Ltd.	16.2 Objectives and Policies	Objective 16.2.1	Oppose	The submitter requests the deletion of the references to papakāika in Objective 16.2.1.	The requested amendments do not support the aspirations of Manawhenua for the development of papakāika in the Rural zone. The papakāika provisions were carefully developed with Council to ensure any adverse effects resulting from papakāika in the Rural Zone would be minimised.
OS592.9	Reid, Dianne					
OS350.10; OS488.7; OS704.7; OS739.7; OS742.7; OS874.19; OS889.5; OS901.14.	Glenelg Gospel Trust; Salisbury Park Ltd; Craig Horne & Craig Horne Surveyors Ltd; Blueskin Projects Ltd; CTW Holdings Ltd; Blackhead Quarries Ltd; G & J Sommers	Objective 16.2.1	Policy 16.2.1.2	Oppose	The submitters request amendments to Policy 16.2.1.2 to read "Provide for other rural activities, veterinary services, rural industry, community activities, cemeteries and crematoriums in the rural zones where the effects can be adequately managed in-line with Objectives 16.2.2 and 16.2.3, 16.2.4 and their policies, and the objectives and policies of any relevant overlay zones ".	The removal of the references to overlay zones limits Manawhenua input for activities that may affect the values of wāhi tūpuna, and limits consideration of Manawhenua values. Manawhenua want to have input into the consenting for any crematoriums, landfills or cemeteries in any zone, whether or not they are located in wāhi tūpuna.

OS350.11; OS488.8; OS704.8; OS739.8; OS742.8; OS889.6	Edgar; Tussock Top Farm Ltd. Glenelg Gospel Trust; Salisbury Park Ltd; Craig Horne & Craig Horne Surveyors Ltd; Blueskin Projects Ltd; CTW Holdings Ltd; G & J Sommers Edgar.	Objective 16.2.1	Policy 16.2.1.5	Oppose	This policy, as notified, limited residential activity, with the exception of papakāika, in the rural zone. Submitters request the deletion of the reference to papakāika in Policy 16.2.1.5.	The requested amendments do not support the aspirations of Manawhenua for the development of papakāika in the Rural zone. The papakāika provisions were carefully developed with Council to ensure any adverse effects resulting from papakāika in the Rural Zone would be minimised.
OS951.26; OS1054.26	Morris, Timothy George; RG and SM Morris Family Trust	Objective 16.2.1	Policy 16.2.1.5	Oppose	Remove Policy 16.2.1.5	The removal of this policy removes the provision for papakāika in the Rural Zone. Policy 16.2.1.5 supports the aspirations of Manawhenua for the development of papakāika on their ancestral lands.
OS958.99	Forest and Bird NZ	16.2 Objectives and Policies	Objective 16.2.3	Support	Amend paragraph (f) of Objective 16.2.3 to read: 'f. significant areas of indigenous vegetation and habitats for indigenous fauna; and'	Manawhenua support the retention of areas of indigenous vegetation and habitats of indigenous fauna.
OS1054.33,	RG and SM Morris Family Trust;	16.2 Objectives and Policies	Objective 16.2.3	Oppose	Amend Objective 16.2.3 to Delete: 'f. significant areas of indigenous vegetation and habitats for indigenous fauna.'	Manawhenua support the retention of areas of indigenous vegetation and habitats of indigenous fauna.

OS322.38; OS 576.67; OS923.67; OS925.67	KiwiRail Holdings Limited; Vodafone NZ Ltd; Spark New Zealand Trading Ltd; Chorus NZ Limited	Objective 16.2.3	Policy 16.2.3.1	Oppose	Amend Policy 16.2.3.1 as follows: Require buildings, and structures and network utilities to be set back from boundaries and identified ridgelines, and of a height that maintains the rural character values and visual amenity of the rural zones.	Network utilities can have a significant effect on Kāi Tahu values in wāhi tūpuna areas. Kāi Tahu supports the requirement to set back buildings, structures and network utilities from identified ridgelines, and to maintain rural character values.
OS457.40	Aurora Energy Limited	Objective 16.2.3	Policy 16.2.3.1	Oppose	Amend Policy 16.2.3.1 as follows: Policy 16.2.3.1 Require buildings, structures and network utilities to be set back from boundaries and identified ridgelines <u>(where technically and operationally practicable)</u> , and of a height that maintains the rural character values and visual amenity of the rural zones.	Network utilities can have a significant effect on Kāi Tahu values in wāhi tūpuna areas. Kāi Tahu supports the requirement to set back buildings, structures and network utilities from identified ridgelines. Technical and operational considerations should not take precedence over the preservation of the values of wāhi tūpuna.
OS918.45	Radio New Zealand Limited	Objective 16.2.3	Policy 16.2.3.1	Oppose	Amend Policy 16.2.3.1 as follows: Require buildings, structures and network utilities to be set back from boundaries and identified ridgelines, and of a height that maintains the rural character values and visual amenity of the rural zones, <u>unless such a location is required for the effective operation of a network utility.</u>	Network utilities can have a significant effect on Kāi Tahu values in wāhi tūpuna areas. Kāi Tahu supports the requirement to set back buildings, structures and network utilities from identified ridgelines. Technical and operational considerations should not take precedence over the preservation of the values of wāhi tūpuna.

OS458.24	Saddle Views Estate Limited	Objective 16.2.3	Policy 16.2.3.4	Oppose	Amend Policy 16.2.3.4 to read as follows: Only -allow mining and landfills where there is reasonable certainty that land will be rehabilitated to an acceptable standard with respect to landform and productive potential.	Kāi Tahu prefers the term 'restore'.
OS790.4	Te Rūnanga o Ngāi Tahu	Objective 16.2.3	16.2 Objectives and Policies Rules 16.3 to 16.13	Support	Add new Policy under Objective 16.2.3 to read: 'Enable land use activities on Huriawa and Mapoutahi that comply with an Approved Management Plan.' Amend rules in rural section to permit activities on Huriawa and Mapoutahi, provided they comply with an agreed management plan.	This amendment is consistent with Kāi Huirapa Rūnaka aspirations.
OS958.100	Forest and Bird NZ	16.2 Objectives and Policies	Objective 16.2.5	Support	Amend Objective 16.2.5 to add a new paragraph (d) as follows: 'd. indigenous vegetation and habitats of indigenous species.'	This is consistent with Manawhenua aspirations to see an increase in indigenous biodiversity.
OS874.4; OS901.4	Blackhead Quarries Ltd; Tussock Farm Ltd	Rule 16.3 Activity Status	16.3.3 Activity status table - land use activities	Oppose	The submitter requests the addition of a new rule or amendment of Rule 16.3.3.13 to make the establishment of new quarrying and/or aggregate processing activity on a rural zoned site a restricted discretionary activity provided it is not located within a 'Natural Landscape' and 'Natural Coastal Character' overlay area (matters of discretion detailed in the submission). Make the	This amendment is strongly opposed by Kāi Tahu as it limits Kāi Tahu input into resource consent applications for the establishment of new quarrying and/or aggregate processing activity within wāhi tūpuna. Kāi Tahu does not support the consenting of mining and quarrying activity as a restricted discretionary or controlled activity.

					establishment of new quarrying and/or aggregate processing activity on a rural zoned site a discretionary activity where it is located within a 'Natural Landscape' and 'Natural Coastal Character' overlay area.	
OS185.2	JWB Bradley Family Trust	16.3.3 Activity status table - land use activities	16.3.3.7 Forestry not in GR17Z	Oppose	Amend Rule 16.3.3.7.b so that forestry is a permitted activity in the Rural Hill Slopes Zone and in the Flagstaff-Mt Cargill Significant Natural Landscape Overlay Zone	This amendment would not allow consideration of the impact of forestry on Kāi Tahu values where forestry is identified as a threat to the values of wāhi tūpuna.
OS505.3	Kilpatrick, Christopher	16.3.3 Activity status table - land use activities	16.3.3.7 Forestry not in GR17Z	Oppose	Amend Rule 16.3.3.7.b so that forestry is permitted in a Significant Natural Landscape (inferred not stated)	This amendment would not allow consideration of the impact of forestry on Kāi Tahu values where forestry is identified as a threat to the values of wāhi tūpuna.
OS458.26	Saddle Views Estate Limited	16.3.3 Activity status table - land use activities	16.3.3.13 Mining not in a GR17Z	Oppose	Amend Rule 16.3.3.13 so that mining is a discretionary activity in an landscape or natural coastal character overlay zone	Mining potentially has significant adverse impacts on Kāi Tahu values in wāhi tūpuna and its activity status should be at the highest possible level to provide for full consideration of its impacts on Kāi Tahu.
OS737.14	Port Otago Limited	16.3.3 Activity status table - land use activities	16.3.3.13 Mining not in a GR17Z	Oppose	Amend Rule 16.3.3.13 so that mining at the Aramoana Quarry (853 Aramoana Road) is a permitted activity in the Rural Coastal Zone.	Lawfully established activities, including quarrying, form part of the permitted baseline. An increase in the scale of quarrying, over and above this permitted baseline, does require an assessment of the effects of the expanded activity on the values of wāhi tūpuna.
OS796.7	Waste Management (NZ) Limited	16.3.3 Activity status table - land use activities	New suggested rules to 16.3.3.	Oppose	Amend Rule 16.3.3 (activity status table - land use) by adding, as a permitted activity, the following: Activities and associated discharges on closed landfills that do not perforate or penetrate the cap of the	Kāi Tahu submits that a precautionary approach is required to activities on closed landfills. Amending this provision to make it a permitted activity would not provide for consideration of Kāi Tahu values.

					landfill.	
OS592.20; OS717.19	Reid, Dianne; Robyn and Stephan Smith, Rick and Jill Clarke, Alan Brown, Carrowmore Properties Ltd.	Rural Zone Rules	Rule 16.4 Notification	Oppose	Amend Rule 16.4 by deleting 16.4.1 and 16.4.3	The current rules allow applications for papakāika housing to be considered without the need to obtain a written approval of affected persons and without notification. This removes a significant hurdle for the development of papakāika on Kāi Tahu ancestral land.
OS458.27 ; OS874.40; OS901.33.	Saddle Views Estate Limited; Blackhead Quarries Ltd; Tussock Top Farm Ltd	Rule 16.4 Notification	16.4.4 Manawhenua considered an affected person	Oppose	Remove Rule 16.4.4 (notification - manawhenua)	Rule 16.4.4 affirms that Manawhenua are an affected party for: • Consents for cemeteries, crematoriums and landfills; • all restricted discretionary activities that list 'effect on cultural values of manawhenua' as a matter for discretion; and • discretionary and non-complying activities in a wāhi tūpuna mapped area where the activity is identified as a threat in Appendix A4. This rule recognises and provides for Kāi Tahu wellbeing and interests in Dunedin, pursuant to sections 5(2), 6(e), 7(a) and 8 of the Act.
OS951.37; OS 1054.37	Morris, Timothy George; RG and SM Morris Family Trust	16.5.2 Density performance standard	16.5.2.1 Standard residential activities	Oppose	Amend Rule 16.5.2 so that the minimum site size for residential activity is smaller in all zones, to allow for the use of existing titles, and to remove dispensations for papakāika. In particular, residential activity in the Peninsula Coast should be allowed at 15, 30 and 45 ha.	The provision for papakāika housing in Rule 16.5.2 allows Manawhenua to live on their ancestral land.

					Make consequential changes to Policy 16.2.4.4.	
OS704.20; OS739.20; OS 742.20	Craig Horne & Craig Horne Surveyors Ltd; Blueskin Projects Ltd; CTW Holdings Ltd.	16.5.2 Density performance standard	16.5.2.3 Performance standard contravention	Oppose	Amend Rule 16.5.2.3 which has the effect of removing the references to papakāika.	The requested amendment does not support the aspirations of Manawhenua for the development of papakāika in the Rural zone. The papakāika provisions have been carefully developed by Manawhenua and Council to enable residential development on Native Reserve Land.
OS874.41; OS901.34; OS923.53; OS 925.53; OS576.53	Blackhead Quarries Ltd; Tussock Top Farm Ltd; Spark Trading NZ Ltd; Chorus NZ Limited; Vodafone NZ Ltd;	16.6.11 Setbacks performance standard	16.6.11.4 Setback from ridgeline	Oppose	Removal or weakening of Rule 16.6.11.4 (setback ridgeline)	The ridgeline provisions as notified provide for the consideration of Manawhenua values in wāhi tūpuna. Manawhenua do not support the weakening of the notified provisions and the removal of the requirement for setbacks from ridgelines.
OS458.28 ; OS874.42; OS901.35	Saddle Views Estate Limited; Blackhead Quarries Ltd; Tussock Top Farm Ltd	Rule 16.11 Assessment of Discretionary Activities	16.11.2 Assessment of discretionary land use activities	Oppose	Amend Rule 16.11.2 (which has the effect of removing consideration of Manawhenua values for activities threatening wāhi tūpuna).	The wāhi tūpuna provisions as notified provide for consideration of Manawhenua values when consents that threaten these values are applied for. Manawhenua support the retention of the provisions as notified to recognise and provide for their important sites and landscapes as required by section 6e of the RMA.
OS458.32	Saddle Views Estate Limited	Rural Zone Rules	Rural Zone - New Suggested Rules	Oppose	Add new performance standard and identify Quarry Buffer Mapped Area around the existing quarries to protect them from reverse sensitivity effects from subdivision, landuse, and development.	Lawfully established activities, including quarrying, form part of the permitted baseline. An increase in the scale of an activity, over and above this permitted baseline, does require an assessment of the effects of the expanded activity on the values of wāhi tūpuna.
OS248.1	Parata, Anthony	16.3.3 Activity status table - land use activities	16.3.3.21 Papakāika	Oppose	Amend or remove Rule 16.3.3.21 (land use - papakāika) so that 'descendants of original grantees' are not exempt from	The papakāika provisions have been developed collaboratively by Manawhenua and Council to allow for descendants of the original Native Reserve grantees to live on the reserve land in

						plan provisions that other residents are required to abide by.	accordance with the definition of papakāika in the notified plan. The Native Reserves were originally granted to provide land for the descendants to live on, and the papakāika provisions facilitate this intended purpose. There is strong support from Manawhenua for these provisions. The density of any development has been carefully considered to avoid adverse effects on the landscape.
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**SECOND
GENERATION
DISTRICT PLAN**

Manawhenua Decision of the Hearings Panel

**Proposed Second Generation Dunedin City
District Plan (2GP)**

7 November 2018



User guide to the decision reports and the marked-up decisions version of the 2GP

The decisions of the 2GP Hearings Panel are presented in 29 decision reports (one report per hearing topic).

The reports include the Panel's decisions and reasons and incorporate the requirements under s32AA.

At the end of each report a table has been included summarising all the decisions on provisions (Plan text) in that decision report.

Marked-up version of the Notified 2GP (2015)

The decisions include a marked-up version of the notified 2GP, which shows the amendments made to the notified plan in ~~strike-through~~ and underline. Each amendment has a submission point reference(s) or a reference to 'cl.16' if the amendment has been made in accordance with Schedule 1, clause 16(2) of the Resource Management Act. Schedule 1, clause 16(2), allows minor and inconsequential amendments to be made to the Plan.

Amendments to the Schedules below are not marked up as in other sections of the plan as they are drawn from a different source. Any changes to Schedules are detailed in the decision report for the relevant section.

Some very minor clause 16 changes such as typographical errors or missing punctuation have not been marked up with underline or strikethrough. More significant cl. 16 changes (such as where provisions have been moved) are explained using footnotes, and in some cases are also discussed in the decision.

Hearing codes and submission point references

As part of the requirement of the DCC to summarise all original submissions, all submission points were given a submission point reference, these references started with 'OS'. Further submissions were also summarised and given a submission point that started with 'FS'.

The submission points are made up of two numbers the first is the submitter number, which is followed by a full stop, the second part is the submission point number for that submitter.

For example, OS360.01 is submitter 360 and their first submission point.

The 2GP Hearings Panel has used these same submission point references to show which submission points different amendments were attributed to. However, to enable these changes to be linked to different decision reports, the reference code was changed to start with a decision report code, e.g. Her 308.244.

A list of hearing codes can be found on the following page.

It should be noted that in some cases where several submitters sought a similar change, the submission point reference may not include all of these submission points but rather include only one or say, for instance, "PO 908.3 and others".

Master summary table of all decisions

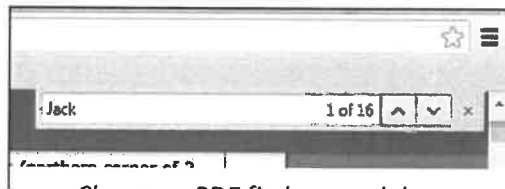
In addition to the summary table at the end of each decision report there is a master summary table that lists all decisions on provisions (Plan text), across all hearing topics, including details of the section(s) of the decision report in which that decision is discussed, and the relevant section(s) of the s42A reports. The s42A report sections will be helpful for appellants needing to identify which other parties have submitted on that provision, as notices of the appeal must be served on every person who made a submission on the provision or matter to which the appeal relates. The master summary table of decisions can be found on the decisions webpage of the 2GP website (2gp.dunedin.govt.nz).

List of hearing codes

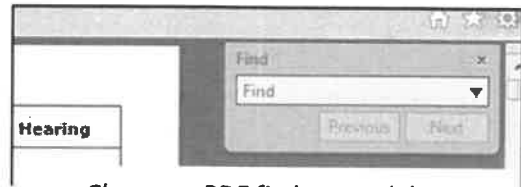
Hearing topic	Code
Commercial Advertising (cross plan hearing topic)	CP
Commercial and Mixed Use Zones	CMU
Community Correction Facilities (cross plan hearing topic)	CP
Defence Facilities and Emergency Services (cross plan hearing topic)	CP
Designations	Des
Earthworks	EW
Heritage	Her
Industrial Zones	Ind
Major Facilities (without Port and Mercy Hospital)	MF
Manawhenua	MW
Mercy Hospital	Mer
Natural Environment	NatEnv
Natural Hazards	NatHaz
Natural Hazard Mitigation	HazMit
Network Utilities	NU
Plan Overview and Structure	PO
Port Zone	Port
Public Amenities	PA
Public Health and Safety (PHS)	PHS
Quarries and Mining Activities (cross plan hearing topic)	CP
Recreation Zone	Rec
Residential Zones	Res
Rural Zones	RU
Rural Residential Zones	RR
Scheduled Trees	ST
Service Stations (cross plan hearing topic)	CP
Temporary Activities	TA
Transportation	Trans
Urban Land Supply	ULS

How to search the document for a submitter number or name

1. If you want to search for particular submitter name, submission point or Plan provision in any of the reports (decision report, marked-up version of the Plan, or s42A report) the easiest way to do this is to use the 'Find' function.
2. When you have the document open, press the keys CTRL and F (Windows) or CMND and F (Mac) to bring up the 'PDF Finder'.



Chrome – PDF finder search box



Chrome – PDF finder search box

3. Once the PDF search box appears (in the top left or right corner of your browser) type in the submission number or submitter name and press enter on your keyboard.
4. The PDF finder will search for all instances of this term. Depending on the size of the document and your internet connection it may take a minute or so.
5. Press on the up or down arrows (Chrome) or 'next' (Internet Explorer) in the search box to view the different instances of the term until you find the one you are looking for.
6. An 'advanced search' function is available under the Edit tab in some PDF viewers, this allows you to search 'whole words' only to look for exact strings of letters or numbers

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1.0 Introduction

1. This document details the decision of the Proposed Dunedin City District Plan Hearings Panel/Te Paepae Kaiwawao Motuhake O Te 2GP with regards to the submissions and evidence considered at the Manawhenua Hearing, held on June 1 and 2 2016 at the 2GP Hearings Centre.

1.1 Scope of Decision

2. This Decision Report addresses the 114 original submissions and 55 further submissions addressed in the Manawhenua Section 42A Report (s42A).
3. In addition, it also addresses the following points:
 - *Ngā Runanga's* submissions (OS1071.103, 105) to amend Objective 30.2.3 and Policy 30.2.3.3, which were heard in the Earthworks Hearing; and
 - *Ngā Runanga's* submissions (OS1071.21) to correct a typographical error in section 1.3.2.3, which was heard in the Plan Overview Hearing.

1.1.1 Section 42A Report

4. The Manawhenua s42A Report addressed submissions on provisions that relate to activities that affect values of significance to Manawhenua. These provisions are found in the following sections of the 2GP:
 - Section 1: Plan Overview (including Section 1.4 definitions, Section 1.6 Outcomes sought by Kāi Tahu)
 - Section 2: Strategic Directions
 - Section 14: Manawhenua
 - Assessment and notification rules contained within city-wide activity sections (Part B, sections 3-8), and all management (Part D, sections 15-20) and major facility zones (Part E, sections 21-35)
 - Part F: Appendix A4 (descriptions of wāhi tūpuna)
5. Some decisions made in relation to the Natural Environment and Earthworks hearings are also relevant to this topic.

1.1.2 Structure of Report

6. The decision report is structured by issue. The report does not necessarily respond to every individual submitter or individual submission points; instead it discusses the matters raised in submissions and records our decisions and reasons on the provisions relevant to each matter¹. Appendix 2 at the end of the report summarises our decision on each provision where there was a request for an amendment. The table in Appendix 2 includes provisions changed as a consequence to decisions on other submission points on other parts of the plan.
7. Schedule 1 of the RMA outlines key aspects of the process that must be used to prepare and make decisions on a plan change (including the submission and hearing process)
8. Clause 16(2) of that schedule allows a local authority to make an amendment where the alteration "is of minor effect", and to correct any minor errors, without needing to go through the submission and hearing process.
9. This Decision includes some minor amendments and corrections that were identified by the DCC Reporting Officers and/or by us through the deliberations process. These amendments are referenced in this report as being attributed to "cl.16". These amendments are summarised in Section 5.0.

¹ In accordance with Schedule 1, section 10 of the RMA.

1.2 Section 32AA Evaluation

10. Section 32 of the Resource Management Act 1991 (RMA) establishes the framework for assessing proposed objectives, policies and rules. 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 Plan was notified.
11. The evaluation must examine the extent to which each objective is the most appropriate way to achieve the purpose of the RMA and whether, having had regard to their efficiency and effectiveness, the policies and rules proposed are the most appropriate for achieving the objectives. The benefits and costs of the policies and rules, and the risk of acting or not acting must also be considered.
12. A section 32AA evaluation has been undertaken for all amendments to the notified plan. The evaluation is incorporated within the decision reasons in section 3.0 of this decision.

1.3 Statutory Considerations

13. The matters that must be considered when deciding on submissions on a district plan review are set out in Part 2 (sections 5-8, purpose and principles) and sections 31, 32 and 72-75 of the RMA. District plans must achieve the purpose of the RMA and must assist the council to carry out its functions under the RMA.
14. The s42A Report provided a broad overview of the statutory considerations relevant to this topic. These include:
 - Section 75(3) of the RMA, which requires us to ensure the 2GP gives effect to any National Policy Statement (NPS) or National Environmental Standard (NES) that affects a natural or physical resource that the Plan manages. We note that there are no NPS or NES directly relevant to this particular topic
 - Section 74(2)(a) of the RMA, which requires us to have regard to the proposed Otago Regional Policy Statement (pRPS) and section 75(3)(c) of the RMA, which requires us to ensure the 2GP gives effect to the operative Otago Regional Policy Statement (oRPS). We note that the proposed RPS was notified on 23 May 2015, and decisions released on 1 October 2016. At the time of making these decisions on 2GP submissions some of the proposed RPS decisions are still subject to appeal, and therefore it is not operative
 - Section 74(2)(b)(i), which requires us to have specific regard to any other key strategies prepared under the Local Government Act. The s42A Report highlighted the Dunedin Spatial Plan 2012 as needing to be considered as this DCC strategic document sets the strategic directions for Dunedin's growth and development for the next 30 plus years.
 - Section 74(2A), which requires that we must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district. The Kāi Tahu ki Otago Natural Resource Management Plan 2005 is such a document.
15. These statutory requirements have provided the foundation for our consideration of submissions. We note:
 - where submissions have been received seeking an amendment of a provision and that provision has not been amended, we accept the advice in the original s42A Report that the provision as notified complies with the relevant statutory considerations

- where a submitter has sought an amendment in order to better meet the statutory considerations, we have discussed and responded to these concerns in the decision reasons
- in some cases, while not specifically raised, we have made amendments to the Plan as the evidence indicated this would more appropriately achieve these statutory considerations, in these cases we have explained this in our decision reasons
- where we have amended the Plan in response to submissions and no parties have raised concerns about the provisions in terms of any statutory considerations, and we have not discussed statutory considerations in our decision, this should be understood to mean that the amendment does not materially affect the Plan's achievement of these statutory considerations.

2.0 Hearing Appearances and Evidence Presented

16. Submitters who appeared at the hearing, and the topics in this report under which their evidence is discussed, are shown below in Table 1. All evidence can be found on the 2GP Hearing Schedule webpage under the relevant Hearing Topic <https://2gp.dunedin.govt.nz/2gp/hearings-schedule/index.html>

Table 1: Submitters and their related topics

Submitter (submitter number)	Represented by	Expert evidence, submissions, or evidence tabled at the hearing	Topics covered by evidence
<i>AgResearch Ltd</i> (OS924)	Graeme Mathieson (environmental consultant)	Tabled evidence. Did not appear at the hearing.	Management of wāhi tūpuna sites
<i>Anthony Parata</i> (OS248)	Anthony Parata	Tabled evidence and appeared at the hearing.	• Management of papakāika • Minor changes to terminology and spelling
<i>Heritage New Zealand</i> (OS547)	Jonathan Howard (Area Manager)	Tabled evidence. Did not appear at the hearing.	Management of wāhi tūpuna sites
<i>Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou</i> ('Ngā Rūnanga') (OS1071, FS2456)	Tim Vial (planner, Kāi Tahu Ki Otago) Matapura Ellison (Chairperson of Kāti Huirapa Rūnaka ki Puketeraki)	Expert planning evidence tabled. Appeared at the hearing.	• Notification of Manawhenua • Management of resources valued by Manawhenua • Management of wāhi tūpuna sites • Changes to Appendices • Management of papakāika • Minor changes to terminology and spelling • Changes to definitions • Management of mahika kai
<i>Port Otago Limited</i> (FS2378)	Len Andersen (legal counsel) Lincoln Coe (General Manager Infrastructure) Mary O'Callahan (planning consultant)	Legal submissions. Evidence on Port operations tabled. Expert planning evidence pre-circulated. All appeared at hearing.	• Notification of Manawhenua • Management of wāhi tūpuna sites
<i>Oceana Gold (NZ) Ltd</i> (OS1088)	Jackie St John (legal counsel)	Tabled evidence and appeared at the hearing.	Management of wāhi tūpuna sites
<i>Rebecca Wilde</i> (OS471)	Robert Morris	Tabled evidence and appeared at the hearing.	Changes to Appendix A4
<i>RG & SM Morris Family Trust</i> (OS1054)	Robert Morris	Tabled evidence and appeared at the hearing.	Changes to Appendix A4

<i>Timothy Morris</i> (OS951)	Robert Morris	Tabled evidence and appeared at the hearing.	Changes to Appendix A4
<i>Transpower New Zealand Limited</i> (OS806)	Rebecca Eng (Senior Environmental Planner)	Tabled evidence (not pre-circulated). Did not appear at the hearing.	Management of resources valued by Manawhenua

17. Appearances for the Dunedin City Council were:

Emma Christmas, Reporting Officer

18. Evidence provided by Ms Christmas included:

- section 42A Report, responding to each submission point
- opening statement (tabled and verbal)
- revised recommendations (tabled and verbal), responding to each submitter that provided evidence.

19. Planning assistance to the hearing was provided by:

Anna Johnson, City Development Manager

3.0 Discussion on provisions sought to be amended

3.1 Background

3.1.1 Overview

20. The relationship of Maori and their culture and traditions with ancestral lands, water, sites, wāhi tapu and other taonga is a matter of national importance under section 6(e) of the RMA, while section 7(a) lists kaitiakitanga as one of the other matters which local authorities shall have regard to. Further, section 8 of the RMA requires that the principles of the Treaty of Waitangi be taken into account.
21. The s42A Report explains that 2GP Manawhenua provisions are primarily concerned with protection of wāhi tūpuna (landscapes and sites of ancestral significance), including mahika kai sites, management of culturally sensitive activities, and providing for papakāika (residential activity by descendants of the occupiers of original native reserves). These provisions allow Manawhenua to express kaitiakitanga, and implement section 6(e), 7(a) and 8 of the RMA (s42A Report, Section 1.1, p. 3).

3.1.2 General outline of Manawhenua provisions

22. The Reporting Officer explained that the 2GP acknowledges issues, sites and values of importance to Manawhenua, and manages adverse effects on those values by identifying both sites of significance (wāhi tūpuna) and threats on those sites, and general activities of concern such as cemeteries and landfills. Effects on Manawhenua values are assessed when consent is required for those activities, and Manawhenua are identified as affected parties in terms of sections 95A to 95E of the RMA (s42A Report, Section 2, pp. 4–5).
23. The assessment rules direct the plan user to relevant objectives and policies in Section 14. This section contains one objective, Objective 14.2.1, which states:

"The relationship between Manawhenua and the natural environment is maintained or enhanced, including the cultural values and traditions associated with:

 - a. *wāhi tūpuna;*
 - b. *mahika kai; and*
 - c. *occupation of native reserve land through papakāika".*
24. Section 14 contains seven policies, which are concerned with managing adverse effects on wāhi tūpuna, managing activities which can have potential effects on Manawhenua values, and provision for papakāika.
25. The reporting Officer explained that the 2GP does not trigger any additional consents requirements in terms of the wāhi tūpuna overlay zones. Rather, it ensures that where resource consent is required in these areas the assessment covers effects on Manawhenua values.
26. The 2GP also provides for papakāika housing.

3.1.3 Submissions on overall appropriateness of Manawhenua section

27. The *University of Otago* (OS308.273) and *Otago Regional Council* (OS908.6) both sought to retain Section 14, acknowledging the role of Manawhenua and their relationship with the city. *Nga Rūnanga* (OS1071.8) wished to retain the section within the city-wide provisions section of the 2GP, to ensure the rules operate as they are intended to.
28. *Terry Wilson* (OS1001.1) sought the removal of Section 14, so that the only areas with special restrictions and subject to the decisions of Kāi Tahu are the lands that are legally

owned by Kāi Tahu and related groups. His view was that the values of the people of Dunedin should be considered with equal weighting.

29. *Transpower New Zealand Limited* (OS806.51), in its original submission, sought to remove Section 14; however, in tabled evidence the company acknowledged misunderstanding of the provisions and accepted the Reporting Officer's recommendation for the section to remain.
30. *Saddle Views Estate Ltd* (OS458), *Tussock Top Farm* (OS901) and *Blackhead Quarries Ltd* (OS874) sought a number of changes aimed at facilitating use of their existing quarries, recognising the benefits for the community from the supply and use of aggregates, and safeguarding opportunities to extract aggregates. *Saddle Views Estate Ltd* considered that the 2GP is not balanced, and the identification of wāhi tūpuna over private land is not appropriate.
31. The submitters sought either deletion of the entire Section 14, or its amendment to introduce balance between existing activities (including expansion) and protection of Manawhenua values. The amendments included deletion of Objective 2.5.3 and Policy 2.5.3.1, which concern the acknowledgement and protection of wāhi tūpuna, and the amendment of Policy 14.2.1.4 (which also concerns wāhi tūpuna) such that it does not apply to existing activities; the removal of Section 1.4.10 – Outcomes sought by Kai Tahu, which identifies ongoing quarrying at Saddle Hill as an issue; and deletion of the notification rule (16.4.4.), which identifies Manawhenua as an adversely affected party in relation to activities that affect cultural values.
32. The submitters also sought removal of specific wāhi tūpuna mapped areas. These submissions are considered in section 4.9.1 below.
33. The *Tussock Top Farm* and *Blackhead Quarries Ltd* submissions were supported by *Terry Wilson* (FS2425.6) on the grounds that the 2GP should not give preference to any particular religious, cultural or racial grouping, and racism should be opposed wherever it appears.
34. Most of these submissions were opposed by *Ngā Rūnanga* (FS2456), which considered it important to retain the Manawhenua provisions in general as they recognise and provide for Kai Tahu wellbeing and interests, pursuant to Part 2 of the RMA. *Ngā Rūnanga* noted that Section 1.4 sets up and provides background to the wāhi tūpuna provisions, which give effect to section 6(e) of the RMA.
35. The Reporting Officer noted that Section 6(e) of the RMA requires that the relationship of Māori and their culture and traditions with their ancestral lands, water sites, wāhi tapu and other taonga are recognised and provided for. For Kāi Tahu, the natural environment, and how they engage with it, is a critical component of their identity as a people and in maintaining their culture. The ability to keep alive traditional practices passed down by ancestors, in places traditionally used or occupied by descendants, provides a sense of belonging and continuity. Restoring, maintaining and enhancing the relationship between Kāi Tahu and their ancestral lands, water and taoka, requires the protection of these resources, and the ability of Manawhenua to be actively involved in decision-making processes to achieve environmental outcomes that recognise this relationship (s42A report, Section 4.3.7, pp. 17-18).
36. She recommended that submissions by the *University*, *ORC* and *Ngā Rūnanga* be accepted, and the remaining submissions rejected.
37. Mr Vial, in his tabled evidence, expressed the view that the provisions appropriately recognised and provided for Kai Tahu wellbeing and interests in Dunedin, pursuant to Part 2 of the RMA. He concurred with the recommendations of the s42A Report that no changes be made to the provisions.

3.1.3.1 Decision and decision reasons

38. We reject the submissions by *Terry Wilson* (OS1001.1) and *Saddle Views Estate* (OS458.16) seeking that Section 14 be removed. As noted in the s42A Report, Part 2 of

the RMA requires that, in achieving the purpose of the Act, the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga are recognised and provided for as a matter of national importance, particular regard shall be had to kaitiakitanga, and the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) shall be taken into account. Section 14 of the Plan and the associated provisions fulfil these requirements. The values stated above are not restricted under the RMA to land in Kāi Tahu ownership.

39. The s42A Report highlighted our responsibilities under section 6(e) of the RMA, noting that for Kāi Tahu, the natural environment, and how they engage with it, is a critical component of their identity as a people and in maintaining their culture. Restoring, maintaining and enhancing the relationship between Kāi Tahu and their ancestral lands, water and taoka, requires the protection of these resources, and the ability of Manawhenua to be actively involved in decision-making processes to achieve environmental outcomes that recognise this relationship.
40. In addition to applying these specific directives in the Act, we have also considered how best to promote the overall purpose of the Act set out in section 5 of the Act. That is to enable "people and communities" to use and protect resources to meet their needs. The evidence of Mr Ellison, Mr Vial and Mr Parata established the great significance of certain land and water bodies, and their use and protection, for Māori people in the City.
41. We consider that the Manawhenua section of the 2GP is the most appropriate method for providing for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga. We generally agree with the approach taken in the 2GP to acknowledging and protecting resources of significance to Manawhenua. This view sets the framework for our decisions throughout the rest of this report.
42. With regards to the requested changes to the various wāhi tūpuna objectives, policies and notification provisions, we agree with the reasoning in the s42A Report as noted above and reject the quarry operators' submissions to remove or amend them (*Saddle Views Estate Ltd* (OS458.16, 27, 36), *Tussock Top Farm* (OS901.6, 30, 33, 36) and *Blackhead Quarries Ltd* (OS874.10, 37, 40, 43)).
43. In relation to the requested change to Policy 14.2.1.4, we note that there appears to be some confusion by the submitters between existing use rights (which would not be affected by the 2GP provisions), and new applications for new quarries or for expansions or changes in scale of existing operations. Those quarries that have existing use rights will not be affected by these plan provisions.
44. We also note in relation to Policy 14.2.1.4 that we have amended the word "possible" to "practicable" as a result of submissions considered in the Plan Overview decision.

3.2 Submissions on overall approach to wāhi tūpuna

45. *AgResearch Ltd* (OS924.20) sought a review of the necessity and effectiveness of the policy framework regarding wāhi tūpuna sites, including replacing the wāhi tūpuna sites in the 2GP with more specific key cultural sites or areas of concern to Kāi Tahu, which would trigger resource consent for any proposed activity in their vicinity (OS924.23). Their concern, explained in their submission and evidence tabled at the hearing, is that the wāhi tūpuna provisions themselves do not trigger resource consent; instead, there is only assessment of wāhi tūpuna values if a resource consent is triggered by another rule in the 2GP.
46. *AgResearch Ltd* questioned the effectiveness of this approach, which allows a permitted activity to become established without consideration of wāhi tūpuna values. The submitter considered it would be more effective if the 2GP maps showed key specific sites or areas of concern to Kāi Tahu, for which resource consent was required for any proposed activity.
47. The Reporting Officer explained in the s42A Report that it was identified that there was no need for specific rules in wāhi tūpuna: having identified the threats in each wāhi

tūpuna, it was apparent that consent was required for these activities under other rules (for example the landscape provisions or earthworks rules) and Manawhenua values could be assessed as part of those consent processes. The same outcome could therefore be achieved without having additional rules in the 2GP. The Reporting Officer acknowledged that the direct relationship between an activity and effects on Manawhenua values is less clear with the approach taken; however, this relationship becomes apparent when the assessment rules are considered (s42A Report, Section 4.3.12, p. 25).

48. *AgResearch Ltd's* tabled evidence acknowledged this explanation. The evidence further noted that the Invermay Campus is within the Whakaehu (Silverstream catchment) wāhi tūpuna (A4.50). Effects on cultural values need only be assessed for activities located within 5m of the Silverstream, or for buildings on ridgelines, neither of which apply within the Campus area. *AgResearch Ltd* consequently sought that the boundaries of the wāhi tūpuna be adjusted to exclude the Invermay Campus.
49. The Reporting Officer, in her Opening Statement, noted that the boundaries of the wāhi tūpuna were identified and confirmed by the rūnaka prior to notification of the 2GP, and were based on the area that is significant to them, not the development potential of a particular site. If no activities that are identified as a threat are undertaken, then the assessment rules would not be triggered (Opening Statement, p. 2).
50. She further noted that *AgResearch Ltd* is correct that the Invermay Campus is not immediately adjacent to a waterway and so the setback from water bodies performance standard (Rule 26.6.9) is therefore not strictly required within the Invermay and Hercus Zone. However, there is no submission to specifically remove it.

3.2.1 Decision and decision reasons

51. We reject the requests made in the submission by *AgResearch Ltd* (OS924.20).
52. We acknowledge the Reporting Officer's explanation of the way the 2GP is structured to manage activities that are within wāhi tūpuna. We do not consider that any changes are necessary, and so reject *AgResearch Ltd's* submissions seeking a review.
53. We also agree with the Reporting Officer's reasoning for retaining the Whakaehu wāhi tūpuna as mapped, and reject *AgResearch Ltd's* request to remove it. It may be appropriate in a future plan change to remove performance standard 26.6.9 from the Invermay and Hercus Zone. In the meantime, we note that to be consistent with elsewhere in the Plan, the restricted discretionary rule for contravention of the Setback from coast and waterbodies performance standard should be phrased "In a wāhi tūpuna mapped area, effects on cultural values of Manawhenua". We make this change under cl. 16.

3.3 Threats to be managed in wāhi tūpuna sites

3.3.1 Request to add natural hazard mitigation activities and subdivision to the list of threats to wāhi tūpuna sites

54. The 2GP defines wāhi tūpuna as:

"Landscapes and sites that embody the ancestral, spiritual and religious traditions of all the generations prior to European settlement.

For the purposes of the Plan, wāhi tūpuna have been mapped as a wāhi tūpuna mapped area."
55. The descriptions and values of the wāhi tūpuna mapped areas are found in Appendix A4 of the 2GP.
56. These threats are reflected in the policies under Objective 2.5 in the Strategic Directions section, which outlines the methods used in the plan with respect to Manawhenua provisions. Specifically, the policies list the activities managed in the 2GP to which the Manawhenua provisions apply.

57. Policy 2.5.3.1 is to:

"Identify wāhi tūpuna and protect them from identified threats through rules that manage:

a. buildings, structures, forestry, network utility structures, roading, mining and earthworks on the upper slopes and peaks of hills and mauka; and

b. earthworks in areas where there is high likelihood of archaeological remains."

58. *Nga Rūnanga* (OS1071.30) requested an amendment to add both natural hazard mitigation activities and subdivision to the list of threats in the policy, so these activities are managed where they occur within wāhi tūpuna (where they are listed as a threat).

59. The Reporting Officer recommended that the amendment proposed by *Nga Rūnanga* was appropriate (s42A Report, Section 4.3.8, p. 18).

3.3.1.1 Decision and decision reasons

60. We accept the submission from *Ngā Rūnanga*. Clearly natural hazard mitigation activities and subdivision have potential to adversely affect manawhenua values, so they should be included in Policy 2.5.3.1 as shown in Appendix 1 (MW 1071.30).

3.4 Request to add earthworks and natural hazard mitigation activities to Policy 2.5.4.1 Mahika kai

61. Policy 2.5.4.1 states:

"Identify wāhi tūpuna that have mahika kai areas and manage activities that have the potential to adversely affect those values, or adversely affect access to them, including:

- buildings, structures, and development activities adjacent to waterways and the coastal environment; and*
- vegetation clearance."*

62. Mahika kai is defined in the 2GP as, "The customary gathering of food or natural materials and the places where those resources are gathered".

63. *Ngā Rūnanga* (OS1071.31) sought to amend Policy 2.5.4.1.a to add "earthworks" and "natural hazard mitigation activities" to the list of activities that have the potential to adversely affect mahika kai values and/or access to mahika kai areas.

64. The s42A Report noted that "earthworks" is already included in the policy, as it is included in the "development activities" grouping. However, natural hazard mitigation activities should be included as these do not fall under the 2GP "buildings", "structures" or "development activities" definitions / activity groupings (s42A Report, Section 4.3.9, p. 19).

3.4.1 Decision and reasons

65. We accept the submission by *Ngā Rūnanga* to amend Policy 2.5.4.1.a and agree that these activities have the potential to affect mahika kai values. We note that changes we have made to the earthworks section mean that earthworks is now a city-wide activity, not a development activity, therefore reference should be made to both these activities in Policy 2.5.4.1. We have amended Policy 2.5.4.1 as shown in Appendix 1 (MW1071.31), for the same reason as given in the s42A Report, outlined above.

3.5 Activities in the Port Zone

3.5.1 Request to amend assessment rules in the Port Zone

66. *Ngā Rūnanga* (OS1071.107, 108, 109) requested that several assessment rules be included in Section 30 – Port Zone, as activities within this zone may have adverse effects on Manawhenua values and practices. These amendments would explicitly identify that effects on cultural values of Manawhenua must be considered for breaches of the sediment control performance standard (Rule 30.8.4.4) and earthworks that exceed the small-scale thresholds (Rules 30.9.2.1 and 2). They also requested general guidance for consideration of Manawhenua values for non-complying activities, following the standard format seen in other zones (Rule 30.11).
67. In addition, *Ngā Rūnanga* (OS1071.103, 105) sought that Objective 30.2.3 and Policy 30.2.3.3 be amended to include “adverse effects on cultural values of Manawhenua” to the list of potential adverse effects from earthworks that are to be avoided, or adequately mitigated. *Ngā Rūnanga* considered that the earthworks necessary for approved port land use and development require careful management to avoid, or adequately mitigate, any adverse effects on Manawhenua cultural values. These submission points were heard in the earthworks hearing.
68. *Port Otago Limited* (FS2378.13, FS2378.14) opposed the insertions in Rules 30.9 and 30.11. In respect of Rule 30.9, *Port Otago Limited* noted that the only restricted discretionary activity in the Port Zone that would potentially affect Manawhenua is large scale earthworks. The effects on Manawhenua of these earthworks should be specified within the rule, so there is certainty as to consent requirements.
69. The s42A Report concluded that the effect of concern is the risk of sediment entering the harbour, which is a wāhi tūpuna (site A4.23). The report noted that earthworks must comply with the sediment control performance standard (Rule 30.6.1.5), which requires that measures are undertaken to prevent sediment entering water bodies. The amendment proposed to Rule 30.8 by *Ngā Rūnanga* would require that breaches of this rule consider effects on Manawhenua values (s42A Report, Section 4.3.17, p. 41).
70. In relation to Rule 30.11 (non-complying activities), *Port Otago Limited* stated in their further submission that the proposed addition to Rule 30.11.2 is too general, and the threats to cultural values of non-complying activities should be identified to give certainty to the legitimate interests of Manawhenua.
71. The Reporting Officer noted that general assessment guidance has been (or was recommended to be) included in all zones, for discretionary and non-complying activities, to ensure that effects of concern are not inadvertently missed. She did not see any reason to take a different approach in this case and recommended that *Ngā Runanga’s* request be accepted (s42A Report, Section 4.3.17, p. 41).
72. *Port Otago Limited* raised no concerns in their tabled evidence to the Reporting Officer’s proposed amendments to assessment Rule 3.8. In relation to Rule 30.11, Mr Andersen, in his legal submissions for *Port Otago Limited*, argued that that general assessment guidance proposed to be inserted is not appropriate. His view was that the phrase, quoted below, suggests that Kāi Tahu has a right outside the realms of the resource consent application (i.e. does not need to make a submission), and that the Council must take into account that advice in granting or refusing the consent:

“Kāi Tahu may advise the Council if it considers that the granting of consent would affect the integrity of the broader environment within which the wāhi tūpuna is located...”

He considered that the threats of concern to Manawhenua should be identified specifically.
73. Mr Vial, representing *Ngā Rūnanga*, supported the Reporting Officer’s recommendations in his tabled evidence.

3.5.1.1 Decision and decision reasons

74. Amendment of Rule 30.8 (assessment of non-compliance with the sediment control performance standard) was not opposed by *Port Otago Ltd*, which acknowledged, through Mr Andersen, that this was a relevant matter of concern to *Ngā Rūnanga*, as sediment could enter Otago Harbour (a wāhi tūpuna site – A4.23 – Ōtākou Harbour) and affect water quality. We agree with *Ngā Rūnanga* that this amendment should be made and we accept this submission (OS.1071.107).
75. We note that Rule 30.8 (assessment of restricted discretionary performance standard contraventions) has moved to the new Earthworks section 8A, and therefore the amendment to this rule is shown in Rule 8A.6.2.4 (submission reference MW 1071.107). This assessment rule refers back to Section 14 for assessment of the effects on cultural values, and so as a consequential change, a new assessment rule is added into Rule 14.3.2 (assessment of restricted discretionary performance standard contraventions). This refers to Policy 14.2.1.4 for guidance on assessing a breach of the sediment performance standard.
76. Rule 30.9 relates to restricted discretionary activities. In the Earthworks decision, in response to a submission from Port Otago, we have amended the earthworks rules such that earthworks in the Port Zone are always considered small-scale earthworks. These are permitted, subject to performance standards. Amendments to rules 30.9.2.1 and 30.9.2.2 are therefore not necessary. In addition, as discussed above, we note the parties are in agreement that earthworks themselves are not the issue; rather it is whether the works result in sediment discharge into the coastal marine area. Consequently, we reject the submission from *Ngā Rūnanga* (OS1071.108).
77. With respect to Rule 30.11 (non-complying activities assessment rule), we agree with Mr Andersen that the following clause is unnecessary:
- "If located outside a wāhi tūpuna mapped area, Kai Tahu may advise the Council if it considers that the granting of consent would affect the integrity of the broader environment within which the wāhi tūpuna is located."*
78. We also agree with him that the first part of the guidance (shown below) is appropriate and sufficient to ensure that the concerns of Manawhenua are considered during consent processes:
- "In assessing the significance of effects, consideration will be given to: maintaining the relationship between Manawhenua and the natural environment, including the cultural values and traditions associated with:*
- 1. wāhi tūpuna; and*
- 2. the customary use of mahika kai (Objective 14.2.1)."*
79. However, as discussed in section 3.6.2, we consider that this guidance, which is repeated in many sections within the Plan, is more appropriately located within Section 14. We have added it to both section 14.5.2.1 (discretionary activities assessment) and 14.6.2.1 (non-complying activities assessment), with guidance referring the Plan user back to Section 14 in other Plan sections as required. We therefore accept *Ngā Rūnanga's* submission OS1071.109 in part, and have added guidance to Rule 30.11 that refers the user to Rule 14.6.2.1. This guidance uses standard wording found elsewhere in the Plan: "See Section 14.6 for guidance on the assessment of resource consents in relation to Objective 14.2.1 and the effects related to cultural values of manawhenua".
80. With regard to the requested change to Objective 30.2.3 and Policy 30.2.3.3, we note that there are already policies within the Manawhenua section which are relevant. These include Policy 14.2.1.1 and Policy 14.2.1.4, which (as amended by other decisions) are to:
- Policy 14.2.1.1: *"Only allow activities in or adjacent to wetlands and coastal and riparian areas that are wāhi tūpuna and are identified as having mahika kai values in Appendix*

A4, where adverse effects on mahika kai are avoided, or if avoidance is not practicable, are no more than minor."

Policy 14.2.1.4: *"Only allow activities that are identified as a threat to wāhi tūpuna in Appendix A4, where adverse effects on the relationship between and the wāhi tūpuna are avoided, or if avoidance is not possible, are no more than minor".*

81. These citywide policies apply across the plan. Therefore, we do not agree that there is any need for additional policies within the earthworks section. As previously discussed, the issue of concern with earthworks in the Port Zone is the discharge of sediment into the coastal marine area, and our other amendments ensure that this effect can be adequately managed. Consequently, we reject the *Rūnanga's* submissions OS1071.103 and 105.
82. In summary, we have made the following amendments:
- amend Rule 8A.6.2.4 – to add new matter of discretion – effect on cultural values of Manawhenua (MW 1071.107)
 - amend non-complying assessment rule (Rule 30.11) to add guidance referring to rule 14.6 (MW 1071.109)
 - add new assessment rule to Rule 14.3.2 – contravention of sediment control performance standard (MW 1071.107)

3.5.2 Request to amend notification rules in Port Zone section

83. Related to the change to the assessment rules above, *Ngā Rūnanga* (OS1071.102) requested the notification rules in the Port Zone section be reinforced by amending Rule 30.4 to add the following:

"With respect to resource consent applications for the following activities, Manawhenua will be considered an affected person in accordance with section 95B of the RMA where their written approval is not provided:

- i. all restricted discretionary activities that list 'effect on cultural values of Manawhenua' as a matter for discretion; and*
- ii. discretionary and non-complying activities in a wāhi tūpuna mapped area where the activity is identified as a threat in Appendix A4."*

84. This submission was opposed by *Port Otago Limited* (FS2378.12) on the grounds that the rule would create an unnecessary administrative burden if written approval is required for activities where Manawhenua have no genuine interest, because there is no precision in the rule as to what activities are included.
85. The Reporting Officer noted that the rule would apply only in limited circumstances, and those are well defined. Her recommendation was that it is inserted into the 2GP (s42A Report, Section 4.3.18, p. 47).
86. Ms O'Callahan, in her tabled evidence for *Port Otago Limited*, noted that the issue of notification is intrinsically linked with consent requirements within the zone. She considered that the control of sediment performance standard (Rule 30.6.1.5, now Rule 8A.5.7) is uncertain as a permitted activity standard, as it is not possible to know what level of control is necessary to satisfy the rule. She was also concerned with the low permitted earthworks thresholds in the zone, as defining very small-scale earthworks as "large-scale earthworks" would raise sedimentation concerns and the potential for debate on whether the performance standard was satisfied or not. She had no concerns with Manawhenua being identified as an affected party when clear and sensible permitted activity thresholds were breached.
87. Mr Andersen, in his legal submissions for *Port Otago Limited*, argued that the requested notification rule was too broad, and would lead to uncertainty as to whether Manawhenua is an affected person, with possible legal challenges to consents where Manawhenua has not been notified. He considered that the specific areas of concern requiring notification of Manawhenua should be identified in Rule 30.4, as follows:

- earthworks from which sediment will or may enter the harbour,
 - earthworks which change the topography of the land,
 - the activity could prevent public access to the coastline.
88. In her revised recommendations, the Reporting Officer had no objection to re-wording the notification rule as there are specific issues in this zone that could be addressed individually.

3.5.2.1 Decision and decision reasons

89. We accept *Ngā Rūnanga's* submission (OS1071.102) in part.
90. Under the rule proposed by *Ngā Rūnanga*, the only relevant matter for notification in the Port Zone would be the discharge of sediment of Otago Harbour.
91. We accept Mr Andersen's submission that a revised notification rule is appropriate for the Port Zone, as the issues are well defined.
92. However, as the earthworks provisions have been consolidated into a separate section (section 8A, discussed in the Earthworks Decision Report), the notification rule is now located at 8A.4. This covers earthworks in all zones and is worded as follows:

"With respect to resource consent applications for the following activities, Manawhenua will be considered an affected person in accordance with section 95B of the RMA where their written approval is not provided:

a. large scale earthworks in a wāhi tūpuna mapped area where the activity is identified as a threat; and

b. activities that contravene the sediment control performance standard in a wāhi tūpuna."

93. As there are no large-scale earthworks activities in the Port Zone, the only restricted discretionary earthworks activity that might apply is breach of the sediment control performance standard. This rule therefore achieves the outcomes sought by both *Nga Runanga* and *Port Otago*, albeit in a different form.
94. In response to Ms O'Callahan's concerns about the certainty of the sediment control performance standard, this matter was discussed in both the Earthworks and Natural Environment Hearing. Changes have been made to the relevant policy (Policy 8A.2.1.2) and the sediment control performance standard (Rule 8A.5.7) as a result.
95. We also note that our decision from the Earthworks Hearing is to consider all earthworks in the Port Zone to be small scale earthworks. These do not need to comply with the setback from the coast and water bodies performance standard, although the other earthworks performance standards remain.

3.6 Assessment rules

96. Rules governing activities that may affect values of significance to Manawhenua are contained within the individual zones and city-wide activities sections of the 2GP. Where appropriate, the assessment rules within these sections then refer the plan user to Section 14, for further detail on consideration of effects on Manawhenua values. These links are specific to particular activities, and in some cases, particular locations (e.g. in wāhi tūpuna mapped areas).
97. The assessment rules in Section 14 refer to the relevant objectives and policies to be considered.
98. In addition, there is general assessment guidance provided for discretionary and non-complying activities, which refers to maintaining the relationship between Manawhenua and the natural environment and references Objective 14.2.1. The Reporting Officer noted in the s42A Report that this was inserted as a 'back-up' to ensure that consideration

of effects on Manawhenua was always undertaken, even if specific effects were not identified in the individual rule.

99. *Ngā Rūnanga* (OS1071) made several submission points in support of the assessment rules relating to Manawhenua in the 2GP, and also sought changes to the provisions. These are dealt with in turn.

3.6.1 Request to amend the assessment rule wording for the assessment of effects of discretionary and non-complying activities

100. Within the management and major facility zone sections, the assessment guidance points plan users to Section 14 as follows.

- for restricted discretionary activities: "See Rule 14.4"
- for discretionary and non-complying activities, either:
 - "See Section 14.6 for guidance on the assessment of resource consents in relation to Objective 14.2.1 and the effects related to cultural values of manawhenua", or
 - "Where in a wāhi tūpuna, see Section 14.6 for guidance on the assessment of resource consents in relation to Objective 14.2.1 and the effects related to cultural values of manawhenua".

101. There is also general assessment guidance in many discretionary and non-complying assessment rules, which requires that consideration is given to the matters in Policy 14.2.1.

102. *Ngā Rūnanga* (OS1071.4) requested that the general assessment guidance in each plan section is amended to refer more generally to Chapter 14, to ensure that the consents planner and applicant consider Chapter 14 in its entirety. For example, it should only state: "Refer Chapter 14, including Rule 14.4 (or 14.5 or 14.6 as appropriate)".

103. The s42A Report noted that while the guidance does not refer to Section 14 specifically, the background information in Section 14, and in Appendix A4 (wāhi tūpuna values), is relevant in considering whether Objective 14.2.1 is achieved. The Reporting Officer did not consider that any changes to the assessment wording were necessary; however, she was not opposed to a reference to Section 14 being added if required (s42A Report, Section 4.3.17, p. 40).

3.6.1.1 Decision and decision reasons

104. We consider that the wording of the existing guidance is generally appropriate, and so reject the submission of *Ngā Rūnanga* (OS1071.4). However, we consider that the general guidance is more appropriately located within Section 14, in rules 14.5 and 14.6. We have therefore moved the guidance to those sections, and replaced to references to it with the standard phrasing used elsewhere in the Plan: "See Section [14.6] for guidance on the assessment of resource consents in relation to Objective 14.2.1 and the effects related to cultural values of manawhenua."

105. This applies to the discretionary and/or non-complying assessment rules in the Rural, Recreation, Network Utilities, Transportation and Natural Hazard Mitigation sections of the 2GP. We have made this change under cl. 16 as it does not change the content of the Plan, simply where in the Plan it is located.

3.6.2 Request to ensure all linkages between Section 14 and the assessment rules are included where required throughout the plan

106. *Ngā Rūnanga* (OS1071.3) requested that all the appropriate assessment linkages were in place between Section 14 and the rest of the Plan, including any necessary linkages resulting from amendments to the Plan, so that the linkages between the sections are not weakened.

107. In response, the Reporting Officer identified that a number of assessment rules were not included in the notified 2GP, as listed below, and recommended that these omissions be rectified (s42A Report, Section 4.3.17, pp. 40-41).

- Public amenity structures in wāhi tūpuna sites: Kāi Tahu identified “buildings and structures” as a threat in a number of wāhi tūpuna, meaning structures in a broad sense. However, the definition of 'structures' in the 2GP does not include network utilities structures and public amenity structures. Network utilities are specifically included in the list of threats for the relevant wāhi tūpuna, however public amenities are not.
- Section 3 – Public amenities. The restricted discretionary assessment rule is missing in relation to public amenities in wāhi tūpuna mapped areas where structures are identified as a threat, as above (Rule 3.7.3).
- Section 16 – Rural zones. The discretionary assessment rule in relation to landfills located outside wāhi tūpuna. Policy 14.2.1.5 identifies that these activities are considered a threat by Manawhenua wherever they are located.
- Sections 15, 17, 18 and 19 – Residential, rural residential, commercial mixed use and industrial zones. General assessment guidance for discretionary and/or non-complying activities.
- Section 17 – Rural residential. Assessment rule for consideration of height breaches in wāhi tūpuna where it is identified as a threat.
- Section 20 – Recreation. Assessment rule for subdivision in a wāhi tūpuna where it is identified as a threat.
- All Major Facility zones. The general assessment guidance for discretionary and non-complying activities.

108. *Ngā Rūnanga* (OS1071.138) also sought to ensure that effects on Manawhenua are considered for all consent applications for cemeteries, crematoriums and landfills. Assessment rules are in place in all management zones for these activities, but the Reporting Officer noted that these rules are not included within the major facility zones because it is highly unlikely that these activities would ever be proposed within these zones. However, she considered that it would do no harm to include them within the 2GP. If no application is made, the provision would not be triggered (s42A Report, Section 4.3.17, p. 41).

3.6.2.1 Decision and decision reasons

109. We agree that assessment rules that allow the effects on Manawhenua values to be considered are appropriate and necessary to achieve section 6(e) of the RMA. We therefore accept submission OS1071.3 by *Ngā Rūnanga* and agree that many of the amendments as outlined by the Reporting Officer are made. As discussed above (section 3.6.1) we have moved the general assessment guidance for discretionary and non-complying activities into assessment rules 14.5 and 14.6 and replaced it with links to Section 14. In determining where additional links back to Section 14 are required, we have considered the activities being assessed under each assessment rule, including whether they are identified as threats in wāhi tūpuna or may affect cultural values generally. We have removed some duplicate references to Section 14 in the notified assessment rules and where possible have standardised the format of these links.

110. In addition to matters identified by the Reporting Officer, we have identified through our consideration of the Natural Environment provisions that consideration of effects on cultural values of Manawhenua is missing from the assessment rule for contravention of the vegetation clearance performance standard in the Rural Residential section. Several wāhi tūpuna within the Rural Residential Zone have native vegetation clearance identified as a threat in Appendix A4.

111. In response to the request to ensure that effects on Manawhenua are considered for all consent applications for cemeteries, crematoriums and landfills (OS1071.138), this is provided by the general assessment guidance which we have added to discretionary and non-complying assessment rules as appropriate, and which refer the user back to the assessment rules in Section 14.
112. The amendments are attributed to submission reference MW 1071.3, and are:
- adding 'public amenities' to Appendix A4 for a number of wāhi tūpuna sites
 - adding public amenities to assessment rule 14.4.2.2
 - amending the Public Amenities assessment Rule 3.7.3 to allow consideration of Manawhenua values for public amenities in wāhi tūpuna
 - amending the Rural section discretionary activity assessment Rule 16.11.2.4.g to include landfills
 - amending the Recreation section restricted discretionary activity assessment Rule 20.10.5.10 to include subdivision
 - amending assessment rule 17.12.4.3 to add consideration of effects on Manawhenua to non-complying additions and alterations to buildings and structures within wāhi tūpuna
 - adding the general assessment guidance to the discretionary and non-complying activity assessment rules in most major facilities zones, and to rules 17.11.2 and 19.12.2.1
 - adding an assessment rule for contravention of the vegetation clearance and height performance standards to the restricted discretionary assessment rule for activities in a wāhi tūpuna in the Rural Residential Zone (Rule 17.9.6.10).
113. We also note that as a result of our deletion of the Setback from ridgeline performance standard (Rule 16.6.11.4) in the Rural decision under submission OS874.41, there is no certainty that effects on cultural values will be considered in resource consent applications for buildings and structures located towards the peaks and ridgelines in wāhi tūpuna, as non-compliance with this standard triggered consideration of effects on cultural values of Manawhenua.
114. To ensure that effects on cultural values of Manawhenua are considered when buildings may impinge on the ridgeline, as a consequential change we have added it as a matter of discretion for breaches of the height performance standard in the Rural zones, in wāhi tūpuna where buildings, structures and network utility structures that affect the peaks, upper slopes or skyline are identified as a threat in Appendix A4.
115. While this assessment rule will not apply to buildings and structures that do not exceed the maximum height limit, we also note that many buildings and structures within a landscape overlay (which applies to many of the peaks and ridgelines that are wāhi tūpuna), require consent as a restricted discretionary activity. In this situation, effects on cultural values of Manawhenua is also a matter of discretion. Likewise, effects on cultural values of Manawhenua are a relevant consideration for subdivision in wāhi tūpuna.
116. We have therefore amended the following provisions under submission reference MW 874.41:
- Rule 14.3.2.7 (assessment of restricted discretionary performance standard contraventions) to add "Maximum height" in wāhi tūpuna where buildings, structures and network utility structures that affect the peaks, upper slopes or skyline are identified as a threat in Appendix A4
 - Rule 16.9.6.7 (Rural Zone assessment of performance standard contraventions in a wāhi tūpuna mapped area) to add "Maximum height"

3.7 Wording of Policy 14.2.1.5 – Cemeteries, crematoriums and landfills

117. *Waste Management New Zealand Ltd* (OS796.23, 25) sought to amend Policy 14.2.1.5, and associated assessment Rule 14.5.2.2, such that cemeteries, crematoriums and landfills are only allowed where unavoidable adverse effects on Manawhenua values are mitigated, rather than being no more than minor. The amendment was opposed by *Ngā Rūnanga* (FS2456.13, 15).
118. The s42A Report noted that these activities, due to their nature, can have potentially significant and unacceptable effects on Manawhenua values. Consultation with the Rūnaka during plan preparation indicated that in some cases effects cannot effectively be mitigated, for example a crematorium located next to a restaurant. The wording proposed by *Waste Management* may imply that some mitigation will be acceptable, with no indication of what the outcome should be (in terms of how far the effect must be mitigated). The Reporting Officer therefore considered that notified wording is preferable as it removes this uncertainty (s42A Report, Section 4.3.14, p. 28).

3.7.1 Decision and decision reasons

119. Firstly, we note our decision in the Plan Overview Decision Report which considers holistically various requests for policy wording changes which go outside the policy drafting protocol used in the Plan, and our overall decision to adopt this protocol subject only to a few amendments. The submission from *Waste Management* requests wording different from the protocol we have confirmed, without good reason.
120. We also agree with the Reporting Officer in this hearing that the phrase “no more than minor” gives more certainty of outcome than “mitigated”. We therefore reject *Waste Management’s* submissions (OS796.23, 25) and have not amended the policy and assessment rule.
121. We note, however, that as a result of submissions considered in the Plan Overview decision, we have amended the word “possible” to “practicable”.

3.8 Notification of Manawhenua

122. The 2GP identifies Manawhenua as an adversely affected ‘person’ in terms of section 95B of the RMA in the notification rules of each section in the following situations (for example Rural Zone Rule 16.4):
- applications for cemeteries, crematoriums and landfills;
 - all restricted discretionary activities that list “effect on cultural values of Manawhenua” as a matter for discretion; and
 - discretionary and non-complying activities in a wāhi tūpuna mapped area where the activity is identified as a threat in Appendix A4.
123. The s42A Report explained that these rules guarantee Manawhenua input into consent applications that are of concern to them, and that the rules were requested by the Rūnanga during consultation, as they were concerned that decisions about whether or not Manawhenua are affected are sometimes made without their input (s42A Report, Section 4.3.18, p. 47).
124. We note that as well as the submissions discussed below, *Saddle Views Estate Ltd* (OS458.27), *Tussock Top Farm* (OS901.33) and *Blackhead Quarries Ltd* (OS874.40) sought to delete the notification rule (16.4.4). These are discussed in Section 3.1.3 above.

3.8.1 Request to add additional notification provisions

125. *Ngā Rūnanga* sought to retain the notification provisions that provide for Manawhenua to be notified of applications where effects on cultural values is an assessment matter or

where the activity is within a wāhi tūpuna mapped area (OS1071.36). This submission point also indicated that Manawhenua should be considered an affected party for all applications to develop cemeteries, crematoriums and landfills in the Rural section.

126. The submitter also sought to ensure that the standard notification rule that provides for Manawhenua to be notified for all restricted discretionary activities where effects on Manawhenua values is a matter of discretion, and for all discretionary and non-complying activities in a wāhi tūpuna mapped area where the activity is identified as a threat in Appendix A4, also be incorporated to the notification sections throughout the Major Facilities Zones section of the 2GP (OS1071.2).
127. In response to this submission, the s42A Report identified that the notification rules for cemeteries, crematoriums and landfills were missing from all zones where these are non-complying activities (s42A Report, Section 4.3.18, p. 47).

3.8.1.1 Decision and decision reasons

128. We accept *Ngā Rūnanga's* submission (OS1071.2) requesting the addition of Manawhenua notification provisions as requested. Providing for notification in these circumstances will better promote the relevant objective and policies.
129. The Reporting Officer did not identify any missing notification rules along the lines of those identified in *Ngā Rūnanga's* submission. However, there are two Major Facilities sections with restricted discretionary rules that list "Effects on cultural values of Manawhenua" as a matter of discretion (Dunedin International Airport and Schools) and so we have added the relevant notification rule to these sections.
130. There are also overlaps between wāhi tūpuna with identified threats and the Edgar Centre, Invermay and Hercus, School and Stadium zones, and so we have added the notification rule relating to wāhi tūpuna to these sections. The Port Zone also overlaps with a wāhi tūpuna; however, this has been considered separately above (see section 3.5.2).
131. We note that the part of the submission to add additional notification rules relating to cemeteries, crematoriums and landfills was limited to the Rural Zone section (where in fact they already exist). There is therefore no scope to add them into other zones as suggested by the Reporting Officer. We also note that these activities are generally non-complying and highly likely to be publicly notified.
132. The amendments are shown in Appendix 1, attributed to MW 1071.2.

3.8.2 Request to remove notification Rule 18.4.4 from the Commercial and Mixed Use Zone section

133. *Moi Bien Investments Ltd* (OS826.12) requested that notification Rule 18.4.4 is removed from the Commercial and Mixed Use Zone section as far as it relates to the Neighbourhood Centre zone, as the rule framework that provides for development within the zone is overly restrictive and onerous.
134. The Reporting Officer considered that it is appropriate that where activities affect Manawhenua values, Manawhenua should be considered an affected person and have the ability to comment on resource consent applications (s42A Report, Section 4.3.18, p. 48).

3.8.2.1 Decision and decision reasons

135. For the same reasons as our decision to support additional notification rules where they were absent, we reject the submission of *Moi Bien* (OS826.12). We agree that it is appropriate that where activities affect cultural values of Manawhenua, Manawhenua should be considered an affected person and have the ability to comment on resource consent applications.

3.9 Mapping of wāhi tūpuna mapped areas

136. The s42A Report explained that wāhi tūpuna are landscapes and sites that embody the ancestral, spiritual and religious traditions of generations prior to European settlement. The sites are highly significant to Manawhenua and include wāhi tapu, wāhi taoka, kāika, the sites of battles, cultural identity markers, mahika kai, and significant views, particularly those from the marae. The sites are mapped and their values, and the activities that may threaten Manawhenua's relationship with them, are identified in Appendix A4 of the 2GP. Threats include activities such as quarrying, buildings and structures on ridgelines, roading, activities that affect views of significant sites, earthworks disturbing archaeological remains, subdivision and coastal structures. Resource consents for activities that may threaten a wāhi tūpuna mapped area must consider the effects on values of significance to Manawhenua.
137. In the 2GP, the rules governing each activity are located within the relevant zone or citywide activity section. An assessment rule directs the plan user to Section 14 – Manawhenua for more detailed guidance on assessment. Manawhenua are identified as adversely affected in the notification rule in the relevant zone, for an activity that is identified as a threat in a wāhi tūpuna mapped area (s42A Report, Section 2.3, p. 5).

3.9.1 Requests to amend or remove wāhi tūpuna mapped areas

138. A number of submitters sought changes to the boundaries, or complete removal, of various wāhi tūpuna sites. In each case, the submissions were opposed by *Ngā Rūnanga* on the grounds that the mapped areas in the 2GP reflect the correct extent of the wāhi tūpuna. The sites were mapped according to the historic associations of iwi with particular areas, without regard to current ownership. We note that is the same as the mapping of other features recognised in the 2GP, such as areas with particular landscape or biodiversity values.
139. Mr Vial, in his tabled evidence, stated that for all the sites the mapped area reflected the correct extent of the wāhi tūpuna. He considered that the provisions and maps/appendices in the 2GP provided an appropriate mechanism to consider the effects of specific proposed activities on Manawhenua values. In response to questions, he stated that the whole of the Dunedin area is a cultural landscape, but it cannot all be protected. Broad areas were mapped in terms of the mana of those areas, to ensure no surprises for those wishing to undertake activities. The 2GP is about recognising values and providing for those ancestral relationships. Mr Vial described the process of collecting information from kaumatua and kuia being about the relative cultural significance of various parts of the Dunedin City area.
140. The Reporting Officer's recommendation was to retain all sites as mapped in the 2GP (s42A Report, pp. 59–72). At the hearing she also reiterated that as these mapped areas did not trigger additional consent requirements but only triggered the need to assess effects on values of significance to Manawhenua, they were not onerous requirements. We consider this to be an important point – recognition of an area as wāhi tūpuna does not create any sort of veto on use and development of that area.
141. She noted that the wāhi tūpuna overlays do not inhibit existing lawfully established quarrying, but instead alert resource users to the importance of the site, and provide a framework for Manawhenua input into the consent process for any future expansion. She considered this appropriate, as the relative merits of extending the quarry and protection of Manawhenua values could then be considered together. This applied whether a site was privately owned or not.
142. The sites which were submitted on, and reasons given by the submitters, were as follows.
- Appendix A4.21 Hill faces near/at Aramoana***
143. *Warren Wilson* (OS535.1) sought to amend the boundaries of A4.21 on the grounds that it is an arbitrary line drawn on a map and no in-depth research had been undertaken on this area.

Appendix A4.22 Saltmarsh and spit at Aramoana

144. *Warren Wilson* (OS535.6) sought to amend wāhi tūpuna mapped area A4.22, stating that "it is delineated only and is an historical site".

Appendix A4.23 Ōtākou Harbour

145. *David Tordoff* (OS122.3) sought to change the boundary of the wāhi tūpuna area along Portobello Road, to cover the harbour wall and identified sites only.
146. The Reporting Officer noted in the s42A Report that there is no wāhi tūpuna site that covers Portobello Road in the vicinity of the submitter's property. The nearest site is A4.23 (Ōtākou harbour), which is mapped up to the water's edge. Following close of submissions, *Mr Tordoff* clarified that he was possibly confused by the mapping. The maps show an archaeological site mapped over the road in this area.

Appendix A4.28 Peaks from Mihiwaka and Mt Kettle to Mt Cargill

147. *Blackhead Quarries Ltd* (OS874.8) sought to remove the wahi tūpuna mapped area, as the 2GP does not provide the appropriate level of protection for existing quarries or make adequate provision for the development of new quarries. The submission was supported by *Terry Wilson* (FS2425.6) on the grounds that the 2GP should not give preference to any particular religious, cultural or racial grouping, and racism should be opposed wherever it appears.

Appendix A4.40 Pikiwhara (Sandymount) and Sandfly Bay

148. *Rebecca Jane Wilde* (OS471.3), *Timothy Morris* (OS951.23) and *Timothy Morris (on behalf of RG and SM Morris Family Trust)* (OS1054.23) sought to amend the boundaries of A4.40 to remove some areas at the north of the site. The reasons given were that while the site was not opposed, the mapping was not appropriate.
149. Mr Robert Morris appeared at the hearing on behalf of the submitters, and detailed the family connections with the site, with the farm having been owned by the Morris family for over 150 years. He was aware of a grave site on the cliffs, and the location of a village at Sandfly Bay in the general area of the penguin viewing hide, both of which are distant from the area sought to be amended.
150. Following the hearing, *Ngā Rūnanga* representatives met with the submitters and submitted an agreed, revised map of A4.40. This excluded the area identified by the submitters.

Appendix A4.45 Rakiatea

151. *Moi Bien Investments Ltd* (OS826.2) sought to remove area A4.45 and delete all associated provisions as they apply to the St Clair Neighbourhood Destination Centre. The reasons given were that the rule framework within the zone is overly restrictive, does not recognise the characteristics of the St Clair commercial hub and does not promote the sustainable management of the area.

Appendix A4.54 Pukemakamaka / Turimakamaka (Saddle hill / Jaffrays Hill)

152. *Saddle Views Estate Ltd* (OS458.30) and *Tussock Top Farm* (OS901.44) sought to remove the mapped area, on the grounds that it does not provide the appropriate level of protection for existing quarries or make adequate provision for the development of new quarries, and there is no acknowledgment of existing modification of the quarry sites or recognition of the High Court decision on the Saddle Hill Quarry.
153. The *Tussock Top Farm* submission was supported by *Terry Wilson* (FS2425.11) on the grounds that the 2GP should not give preference to any particular religious, cultural or racial grouping, and racism should be opposed wherever it appears.

Appendix A4.55 Upper Slopes and Peaks of Scroggs Hill and Saddle Hill

154. A number of submitters who own property in the Riccarton Road East/Braeside area sought to remove site A4.55. No reasons specifically relating to removal of the wāhi tūpuna site were given, but it was presumed by the Reporting Officer that it related to a concern that this may hinder future residential development of the land. The s42A Report

noted that the wāhi tūpuna overlays a small part of one proposed lot, to a maximum extent of approximately 24m².

155. *Saddle Views Estate Ltd* (OS458.60) and *Tussock Top Farm* (OS901.42) sought to remove the mapped area, on the grounds that it does not provide the appropriate level of protection for existing quarries or make adequate provision for the development of new quarries, and there is no acknowledgment of existing modification of the quarry sites or recognition of the High Court decision on the Saddle Hill Quarry.
156. The *Tussock Top Farm* submission was supported by *Terry Wilson* (FS2425.12) on the grounds that the 2GP should not give preference to any particular religious, cultural or racial grouping, and racism should be opposed wherever it appears.

3.9.1.1 Decision and decision reasons

157. In general, we reject the submissions to change the boundaries of wāhi tūpuna sites, on the basis that the areas mapped are those significant to Manawhenua. We accept Mr Vial's evidence in this regard.
158. In the case of A4.40 Pikiwhara/Sandymount, having received an amended map from *Ngā Rūnanga* indicating a revision to the area that is of importance to them, we accept the submissions by *Rebecca Jane Wilde*, *Timothy Morris* and the *RG and SM Morris Family Trust* (OS471.3, OS951.23 and OS1054.23) and amend the mapped area of A4.40.
159. In relation to the submissions about quarrying, we repeat our earlier decision that the decisions on the 2GP do not affect quarries working within existing consents, but that it is appropriate for extensions and changes to scale or establishment of new quarries to assess and consider effects on Manawhenua.

3.9.2 Requested new wāhi tūpuna – Otago Peninsula

160. *Ngā Rūnanga* (OS1071.122) sought to add a new wāhi tūpuna site to the 2GP planning map and Appendix A4 which covered the entire Otago Peninsula. They stated that the mapping of the Peninsula would provide certainty that the Manawhenua values of the many wāhi tūpuna on the peninsula, and the linkages between them, will be protected by the Plan.
161. Mr Vial, in his written evidence, explained that the entire Peninsula is highly significant to *Ngā Rūnanga*. He noted that the map of the new area included within the s42A Report could be reduced slightly to exclude the residential areas in Waverley, Andersons Bay, Macandrew Bay and Broad Bay, except for a 20m buffer around the edge of these areas. This would better focus efforts on the protection of Manawhenua values without placing an unnecessary burden on residential landowners. He stated that the wāhi tūpuna sites were mapped in terms of the mana of the areas.
162. The Reporting Officer stated that she had no concerns about the addition of the extra site and recommended that it was included in the 2GP, as it had been identified by *Ngā Rūnanga* as significant (s42A Report, Section 4.3.35, pp. 73–74).

3.9.2.1 Decision and decision reasons

163. We heard about the process of consultation with the Rūnanga throughout the preparation of the Plan and the process leading to the plan provisions relating to the areas identified by the iwi. Mr Vial described this process from the iwi perspective at the hearing. It was clear there had been substantial input into the preparation of the plan, so we are uneasy about changing the product of that extensive consultation and information gathering process except to correct errors. While we appreciate that the whole of Otago Peninsula is of great cultural significance to iwi, the consultation process within the Rūnanga about which areas are of particular significance appears to have been robust.
164. In our assessment it would undermine that process to now accept 'second thoughts', without supporting evidence. It would cast doubt on the accuracy of all the mapping.

165. We are also concerned that while *Nga Rūnanga's* submission is clear and provides legal scope to extend the wāhi tūpuna to cover the whole of Otago Peninsula, Peninsula residents would not have been aware of this proposal. For reasons of natural justice, we consider it would be fairer to make such a major change through a variation to the 2GP. Consequently, we reject the request of *Ngā Rūnanga* (OS1071.122) to extend the wāhi tūpuna site to incorporate the whole of Otago Peninsula through this process.

3.9.3 Appendix A4 Wāhi Tūpuna values

3.9.3.1 Appendix A4.6 Huriawa Peninsula

166. *Te Rūnanga o Ngāi Tahu (TRoNT)* (OS790.5), supported by *Ngā Rūnanga* (FS2456.16), requested additional information be added to the description of wāhi tūpuna site A4.6 (Huriawa), and to state that management of activities on Huriawa must be undertaken in accordance with an approved management plan. The wording proposed was:

"Huriawa was vested fee-simple in Te Rūnanga o Ngāi Tahu under the Ngāi Tahu Claims Settlement Act 1998. Te Rūnanga o Ngāi Tahu and Kāti Huirapa Rūnaka ki Puketeraki are working with the Department of Conservation to prepare a management plan for Huriawa. Land use activities on Huriawa should be carried out in accordance with an Approved Management Plan".

167. By way of background, *TRoNT* (OS790.4) also sought changes to the activity status of activities on Huriawa such that activities are permitted if they are carried out in accordance with a management plan. Related submission point OS790.3 was to include a definition of 'Huriawa' that matches the description of the land vested in *Te Rūnanga o Ngāi Tahu* under the *Ngāi Tahu Claims Settlement Act*. These submissions were considered in the Rural topic hearing. Our decision is to reject those submissions (see Rural decision report).
168. *Ngā Rūnanga* (OS1071.17, 18) also sought to ensure that mapping of the Huriawa wāhi tūpuna mapped area, and the related Huriawa height restriction mapped area (OS1071.18), were consistent with the legal description of these sites in the *TRoNT* submission.
169. The Reporting Officer explained that the area identified as Huriawa in *TRoNT's* submission is a smaller area than the area mapped as a wāhi tūpuna in the 2GP, as only part of the area significant to manawhenua was vested to *Ngāi Tahu*. Consequently, she recommended that the wāhi tūpuna A4.6 remained as mapped in the 2GP (s42A Report, Section 4.3.22, pp. 54-55).
170. She also noted that the Huriawa height restriction mapped area does not overlap with the area identified by *TRoNT*, and consequently her view was that there was no need to amend the mapping of that area.
171. She recommended that the additional wording requested by *TRoNT* be added, but in an amended form as below, to reflect the fact that the *Ngāi Tahu* site and the wāhi tūpuna areas are different and that DCC cannot enforce any management plan for the area.

"Part of the Huriawa peninsula was vested fee simple in Te Rūnanga o Ngāi Tahu under the Ngāi Tahu Claims Settlement Act 1998; Te Rūnanga o Ngāi Tahu and Kāti Huirapa Rūnaka ki Puketeraki are working with the Department of Conservation to prepare a management plan for this area."

172. Mr Vial, representing *Ngā Rūnanga*, supported this approach in his written evidence.

3.9.3.1.1 Decision and decision reasons

173. We accept *TRoNT's* submissions in part, and the relief recommended by the Reporting Officer for the reasons outlined in the s42A Report as detailed above. The amendment to A4.6.1 Description of area is shown in Appendix 1 (MW 790.5). No changes are made to the A4.6 Huriawa Peninsula wāhi tūpuna area mapped or the Huriawa height restriction mapped area in response to these submissions.

3.9.3.2 Appendix A4.17 Mapoutahi and Mateawheawhe (Beach at Pūrākaunui Bay)

174. As with Huriawa, *TRoNT* (OS790.6), supported by *Ngā Rūnanga* (FS2456.17), sought to amend the description of wāhi tūpuna site A4.17 (Mapoutahi and Mateawheawhe) by inserting:

"Mapoutahi was vested fee-simple in Te Rūnanga o Ngai Tahu under the Ngai Tahu Claims Settlement Act 1998; Te Rūnanga o Ngai Tahu, Kāti Huirapa Rūnaka ki Puketeraki are working with the Department of Conservation to prepare a management plan for this area. Land use activities on Mapoutahi should be carried out in accordance with an Approved Management Plan".

175. *Ngā Rūnanga* (OS1071.137) sought that mapping of the Mapoutahi wāhi tūpuna mapped area is consistent with the legal description of these sites in the *TRoNT* submission.
176. As with Huriawa, the area identified by *TRoNT* is smaller than the area mapped in the 2GP, and the s42A Report recommendation was that the wāhi tūpuna site remained as mapped in the 2GP. The Reporting Officer recommended that the additional words be added to the description of the site, but amended to reflect the fact that DCC cannot enforce a management plan for the area, as below (s42A Report, Section 4.3.22, pp. 54–55).

"Mapoutahi peninsula was vested fee simple in Te Rūnanga o Ngāi Tahu under the Ngāi Tahu Claims Settlement Act 1998; Te Rūnanga o Ngāi Tahu and Kāti Huirapa Rūnaka ki Puketeraki are working with the Department of Conservation to prepare a management plan for this area".

177. Mr Vial, in his written evidence, supported this approach.

3.9.3.2.1 Decision and decision reasons

178. We accept the submissions in part, and the relief recommended by the Reporting Officer to amend the description of wāhi tūpuna site A4.17, for the reasons outlined in the s42A Report as detailed above. This amendment is shown in Appendix 1 (MW 790.6). No amendment is made to the area mapped as A4.17.

3.9.4 Threats to wāhi tūpuna from adjacent land

179. *Ngā Rūnanga* (OS1071.16) noted that where restricted discretionary activities that may threaten a wāhi tūpuna are located outside the wāhi tūpuna, effects on Manawhenua are not identified as a matter of discretion, and therefore cannot be considered. To resolve this, they sought that wāhi tūpuna, where "adjacent" activities are listed as a threat, are mapped more broadly, to allow consideration of these effects.

180. The s42A Report identified wāhi tūpuna sites that have threats from adjacent land as:

- water bodies, being Matainaka/Hawksbury Lagoon, Te Tauraka Poti/Merton Tidal Arm, Blueskin Bay; Pūrākaunui, Otago Harbour and the Taieri River
- two sites where threat of wilding tree spreading into them is an issue
- the nohoaka site at Middlemarch, where reverse sensitivity effects from adjoining subdivision is an issue.

181. For the water body sites, the relevant threats are activities affecting water quality (for example, sediment entering the water) and loss of access to the coastal marine area. The Reporting Officer suggested two solutions: either map the sites to include a 20m buffer of land around them (consequential amendments required to assessment rules in the various zones in which the buffer falls) or expand the matters of discretion for non-compliance with the 'Setback from water bodies' performance standard (Rule 10.3.3) to include 'Effects on Manawhenua values' where the site is adjacent to a wāhi tūpuna site. This would require an amendment to various assessment rules and, while it would be inconsistent with the structure of the existing assessment rules, it would still achieve the desired outcome (s42A Report, Section 4.3.21, pp. 51-52).

182. She noted that re-mapping the wāhi tūpuna was the simpler option in terms of plan drafting.
183. For the wilding tree issue, the s42A Report noted that a performance standard (Rule 10.3.4) limits the species that may be used for forestry and shelterbelts *etcetera*, and those with the highest risk of wilding spread are not permitted. She noted that this may be sufficient to alleviate the concerns raised by *Ngā Rūnanga*.
184. In relation to the nohoaka, she again recommended that this site was mapped with a 50m buffer (excluding over the Taieri River).
185. Mr Vial, in his written evidence, agreed with the s42A Report recommendations to deal with the impacts of adjacent activities.
186. *Port Otago Limited*, in its written submissions and legal submissions, was particularly concerned with the potential impact of re-mapping the Otago harbour wāhi tūpuna. Counsel for the Port Otago, Mr Andersen, noted that it had the potential to affect a large number of activities within the Port, Industrial Port and Harbourside Edge zones, as the 'Setback from water bodies' rule requires consent for new buildings and structures within 20m of mean high-water springs. The implication being that effects on Manawhenua would be considered (and consequently obtaining consent without their written approval would be more difficult) for multiple activities that are part of normal port operations.
187. Mr Andersen queried the scope for such a change, noting that it was not specifically requested in *Ngā Rūnanga's* submission.
188. Ms O'Callahan, planning witness for *Port Otago Limited*, also considered the 20m buffer to be inappropriate, as it would include an area which is not itself identified as having wāhi tūpuna values. In her view, the alternative methods of amendments to rules or assessment criteria should be properly considered and evaluated under s32. In her opinion any new mapped areas should be subject to a variation, so that affected parties could make submissions on the proposal.

3.9.4.1 Decision and decision reason

189. We accept in part the submission of *Ngā Rūnanga* (OS1071.16) and extend the area of the Maitainaka/Hawkesbury Lagoon, Te Tauraka Poti/Merton Tidal Arm, Blueskin Bay, Otakou Harbour and the Taieri River wāhi tūpuna mapped areas to include 20m of land adjacent to the water body. We accept that it is inconsistent with the intent of the Resource Management Act and Objective 14.2.1 to identify the sites as wāhi tūpuna mapped areas, acknowledge threats to those sites in Appendix A4, and then not actually protect the Manawhenua values of these areas. We note that this is the case under the provisions as notified, as where mapped areas extend only up to and not above MHWS, an assessment against Manawhenua values will not be triggered.
190. We are confident there is scope for this decision, as submission OS1071.16 states: "Wāhi tūpuna sites that list 'adjacent' activities as a threat to the site's values, need to be mapped more broadly than the site itself to ensure a resource consent application on adjacent land that threatens the site triggers Manawhenua input". We consider the inclusion in the wāhi tūpuna mapped areas of an additional 20m of land adjacent to the water body, to be providing relief to this submission.
191. With this amendment, wāhi tūpuna mapped areas extend into additional zones, meaning consequential amendments are required, adding assessment rules in the zones where they are not already present. Our decision therefore includes amendments to assessment rules in the Rural Residential, Industrial, Commercial and Mixed Use, Edgar Centre, Stadium and School zones sections of the 2GP (Rules 17.9.6, 19.9.6, 18.9.6, 25.8.4, 31.9.6 and 34.8.4, attributed to MW 1071.16) such that non-compliance with the Setback from water bodies performance standard, and the Esplanade reserves and strips performance standard, (where present) include consideration of the effect on cultural values of Manawhenua.

192. We also note that, as discussed in the Public Health and Safety Decision Report, in response to another *Ngā Rūnanga* submission (OS1071.56), we have amended the Shape rule in the Residential, Rural, Rural Residential zones; commercial, mixed use and industrial zones; and the Campus Zone, to require that in un-reticulated areas, resultant sites must provide for a waste disposal area to be located at least 50m from any water body and MHWS. We consider this amendment also supports the outcome sought by *Ngā Rūnanga*.
193. We note that the concerns of Port Otago are addressed in Section 3.5.1. We also note for completeness that, as outlined in the Natural Environment Decision Report, we have amended Rule 10.3.3 to clarify that the 'Setback from water bodies' performance standard does not apply in the Port or Harbourside Edge zones, or to structures with a maximum footprint of 10m² associated with port activities (and associated earthworks) in the Industrial Port Zone. The reasons for that are set out in that decision.
194. We also accept that a remapping of the Nohoaka site near Middelmarsh as recommended by the Reporting Planner and accepted by *Ngā Rūnanga* is appropriate, and accept the Reporting Officer's evidence that Rule 10.3.4 provides some protection of wāhi tūpuna from the wilding species, noting that this was not contested by *Ngā Rūnanga* at the hearing.

3.9.5 East Otago Taiapure

195. The *East Otago Taiapure Management Committee* (OS329.1) requested that the East Otago Taiapure is recognised in the 2GP document and maps. A taiapure is a local management tool established in an area that has customarily been of special significance to an iwi or hapū, as a source of food or for spiritual or cultural reasons. The East Otago Taiapure covers the marine area between approximately Cornish Head, Doctors Point and Potato Point, to the mean high-water mark.
196. The s42A Report noted that the Taiapure is outside DCC's area of jurisdiction. Discharges (including land based discharges) to the marine environment and disturbance of the sea bed are primarily managed by the Otago Regional Council. However, other marine areas, including the Otago Harbour and Blueskin Bay have been identified and mapped as wāhi tūpuna within the 2GP, and reference to it could be included in the 2GP.
197. The Reporting Officer recommended that the Taiapure is included in the introductory sections of the 2GP (Section 1.3.3.2.2). She dismissed an alternative option of including the Taiapure as a wāhi tūpuna mapped area, as the Rūnaka indicated that the Taiapure is a community management tool, rather than just a site of significance to Rūnaka (s42A Report, Section 4.3.20, pp. 49-50).

3.9.5.1 Decision and decision reasons

198. We accept in part the submission of *East Otago Taiapure Management Committee* (OS329.1) and consider the relief proposed by the Reporting Officer to be appropriate. We accept that the Taiapure is different from wāhi tūpuna (as a community management tool, rather than just a site of significance to Rūnaka) but agree that reference in the Introduction is useful. We amend section 1.3 of the 2GP to achieve this. See Appendix 1, amendments attributed to MW 329.1. We also note that parts of the Taiapure is already covered by wāhi tūpuna mapped areas.
199. We note that related *East Otago Taiapure Management Committee* submissions (OS329.4, 5) are discussed in the Natural Environment Decision Report.

3.10 Management of papakāika

200. The operative plan limits papakāika development to Māori Land (defined as any land given the status of Māori freehold land pursuant to Te Ture Whenua Māori Act 1993 or subsequent legislation). The s42A Report noted that Māori Land is often owned by multiple

owners and there are particular restrictions on the sale and development of the land. Sites currently classed as Māori land are the remnants of land that was originally set aside as native reserves in the 19th century when large areas of land were sold to European settlers. This land was intended to provide for kāika (villages) and food production and gathering. The s42A Report notes that there remains a strong association with this land and a strong desire from Manawhenua that papakāika be allowed in these areas.

201. The 2GP provisions allow papakāika in all native reserve areas (Rule 16.3.3.21). The ability to develop papakāika is limited to descendants of the original grantees of these reserves, who may also be represented by Rūnaka or by various management structures over the land. Native reserve land is located primarily in rural and residential zones. Both zones provide for papakāika development at greater density than is normally allowed in these areas (s42A Report, Section 2.2, p. 5).

202. Papakāika is defined in the 2GP as:

*"Residential activity within the boundaries of a **native reserves mapped area** where:*

the land is fully or partly owned by one or more of the following:

- *A descendant of an original grantee of a Native Reserve, or their trustee; or*
- *a management structure governed by the Te Ture Whenua Māori Act 1993 or subsequent legislation over the land concerned, for the benefit of such persons in (a); or*
- *a Rūnaka with authority/mana over the area in which the Native Reserve is located; or*
- *a spouse/civil union/de facto partner of a descendant of an original grantee who has inherited the land from the descendant; and, the dwelling is primarily occupied by at least one of the following:*
 - *a descendant of an original grantee of the reserve; or*
 - *a spouse/civil union/de facto partner of a descendant of an original grantee who has inherited the land from the descendant; or*
 - *a whāngai of a descendant of an original grantee."*

3.10.1 Request to remove or amend papakāika provisions

203. *Anthony Parata* (OS248.1) requested that Rule 16.3.3.21 be removed from the 2GP altogether, or amended in a way that "descendants of original grantees" were not exempt from plan provisions that other residents are required to abide by. His reasons were that the proposal distinguishes between Dunedin's residents depending on ethnic origin; the reserves were a concept of the Government of the time and the relationship between Kāi Tahu and their ancestral land should apply to all land within Otago, not just the reserves; the ability to build up to six units on a site could lead to unsightly urban sprawl, particularly at Puketeraki, and would lead to an unplanned and unquantifiable demand to upgrade infrastructure; and the proposal will cause resentment and is not fair and equitable.

204. This was opposed in a further submission by *Ngā Rūnanga* (FS2456.104), which stated that the Native Reserves were originally granted to provide land for the descendants to live on, and the papakāika provisions facilitate this intended purpose. *Ngā Rūnanga* stated that there is strong support from Manawhenua for these provisions, and the density of any development has been carefully considered to avoid adverse effects on the landscape.

205. *Mr Parata*, in his written and verbal evidence, discussed the way that papakāika is defined and managed in a number of other territorial authorities, and noted that it generally involved communal living, or a village form, and be on Māori land. He noted that the 2GP is alone in allowing for a single dwelling on any sized site within a Māori reserve and occupied by a descendant of a grantee of the reserve. He considered that in Dunedin there is no need to provide for land within reserves as ancestral land is readily available both in rural and residential zones.

206. He considered that the restrictions imposed by the 2GP conditions mean that land and buildings could not be used as security, or to realising a capital gain on the site. The only descendants likely to use such provisions are those that cannot build under the rural rules (due to the size of the site). In response to a question, he stated that rules that will never be used should not be in the Plan. Any structure would be expensive, due to the Building Act. Allowing a few people to build on under-sized rural sites is a huge concession, amounting to discrimination, and will lead to poor environmental outcomes.
207. *Mr Parata* also considered that the advice note explaining that papakāika cannot subsequently be sold to non-descendants will be ineffectual, and the owner could put a case to a hearings panel that the house already exists, and to refuse sale would be discrimination. He concluded that the definition of papakāika does not give due respect to either the traditional or contemporary use of the term, and giving superior development rights to descendants of grantees is fraught with difficulty.
208. *Mr Parata* noted that he would be less concerned if the provisions restricted development to Māori land.
209. *Mr Parata* tabled a number of supporting documents including the draft s32 Report for the papakāinga zones in the Christchurch Proposed City Plan (May 2015), a PowerPoint presentation by Waimakariri District Council on Māori Reserve 873 (Tuahiwi), and legal submissions from Te Rūnanga o Ngāi Tahu and Ngā Rūnanga to the Proposed Christchurch Replacement Plan, Chapter 4 Papakāinga (November 2015).
210. In its original submission to the 2GP, *Ngā Rūnanga* (OS1071.11) sought to retain the provisions in the Manawhenua section of the 2GP that provide for papakāika, including the controlled activity status in rural zones (Rule 16.3.3.21); the density performance standards (rules 16.5.2.1.h and 16.5.2.3.a); assessment Rule 16.11.3.2; and the advice note on Papakāika (Note 16.3B).
211. *Mr Vial*, called by *Ngā Rūnanga*, noted in his evidence that Manawhenua have expressed a strong desire for whānau to return to their land, and for the communities to grow, providing a supportive environment for older people and young families. Returning to their ancestral land is a way Māori can maintain and enhance their culture and traditions. When the reserves were set aside, they were intended for kāika. The papakāika provisions provide for such a possibility.
212. Both *Mr Matapura Ellison* and *Mr Edward Ellison* appeared at the hearing for *Ngā Rūnanga*, and in their written evidence, both emphasised the strong connection whānau have with the Māori Reserves, describing them as both tūrakawaewae and tauraka waka, anchoring whānau to the land. Living on the land is an important way of maintaining this connection.
213. *Mr Edward Ellison* explained that whānau in the district have been unable to establish papakāika to date, due to difficulties with laws concerning communal land. The 2GP provisions will facilitate establishing papakāika.
214. In her revised recommendations, given orally, the Reporting Officer noted that the Waimakariri example tabled by *Mr Parata* does not presume village development, but allows single houses, on both Māori Land and general title land, as long as they are by a descendant of an original grantee.
215. The 2GP still puts far greater restrictions on land used for papakāika than apply to normal residential activity in residential zones.
216. The Reporting Officer recommended that the request by *Anthony Parata* be rejected and the requests by *Ngā Rūnanga* be accepted (s42A Report, Section 4.3.16, p. 33).
217. *Ngā Rūnanga* (OS1071.52) also sought to amend Policy 14.2.1.6, which sets up the framework for papakāika development within Native Reserves, to read:

"Enable Manawhenua to live-in develop and occupy papakāika in Native Reserve areas where ~~any~~ adverse effects on the relevant zone can be adequately managed ~~in-line~~ with the objectives and policies of the relevant zone".

218. The reasons given were that the provisions should recognise that it is appropriate to develop papakāika housing, provided that adverse effects on the site and the surrounding area are adequately managed. The submission stated that the provisions provide a limited exemption for the development of housing that supports Manawhenua social, cultural and economic well-being. A requirement to mitigate all or any adverse effects in line with the objective and policies of the relevant zone is contrary to the enabling direction of these provisions.
219. The s42A Report noted that Policy 14.2.1.6 is intended to be an enabling policy, against which the policies of the relevant zone are considered. For example, for papakāika development in the rural zones (a controlled activity for up to 6 units or 15 habitable rooms), relevant rural policies are included within assessment Rule 16.8.2. These include policies in relation to managing the disposal of stormwater and wastewater, ensuring there are no significant effects on the safety and efficiency of the transport network, and maintaining rural character and visual amenity of the rural zones. This last policy (Policy 16.2.3.2) is of concern in that it may result in the number of dwellings being limited in order to maintain rural character. This is contrary to the aim of the papakāika provisions, which are to allow a greater density of development in rural areas, acknowledging there may be some effects on rural character. It is also contradictory to Policy 16.2.1.5, which exempts papakāika from the normal rural density restrictions, and from achieving various rural objectives and their policies, including Policy 16.2.3.2. What was actually intended was that while allowing a greater density, the design of any development maintains rural amenity outcomes as far as practicable, for example through design, scale and location of dwellings (s42A Report, Section 4.3.15, pp. 29-30).
220. To remedy this, the Reporting Officer recommended that the papakāika assessment rule (Rule 16.8.2.1) is amended to remove the reference to Policy 16.2.3.2 as a relevant policy, and add additional assessment guidance instead. This guidance would encourage the development to achieve Objective 16.2.3 as far as practicable, in terms of the design, scale and location of the development.
221. She did not support the specific wording changes requested, as in her view, removal of the reference to the objectives and policies introduces uncertainty as to what outcome must be achieved. She was also concerned that the phrase "develop and occupy" differs from the definition of papakāika, which is "residential activity".
222. Consequently, she recommended that amendments were made to the assessment rules in the rural section (Section 16), but that the other provisions, including Policy 14.2.1.6, remain unchanged (s42A Report, Section 4.3.15, pp. 29-30).

3.10.1.1 Decision and decision reasons

223. Overall, we reject the submission from *Anthony Parata* (OS248.1) to remove the papakāika provisions or limit them to Māori land, and accept the further submission by *Ngā Rūnanga* to retain them.
224. In our assessment these provisions are a small concession, relating to only a few small areas, that recognises a longstanding cultural attachment to these areas. We acknowledge that they may not be the best locations for further housing from servicing or landscape perspectives, but the evidence was that they were originally identified by the Government of the day to meet the need for land for housing for Māori and we were told that need still exists.
225. We are not persuaded that the provisions would cause significant resentment by the wider community, as suggested by *Mr Parata*. His was the only submission that raised any concerns. The greater density provided for may lead to a form of development that some may consider unfortunate, but the rules are designed to at least partly address this through the consent process. We accept *Mr Parata's* point that it may be difficult for beneficial owners to actually make use of the provisions because of things like bank rules about security for mortgages, but that is no reason not to provide the opportunity.

226. With respect to the submission by *Ngā Rūnanga* to amend Policy 14.2.1.6, we agree with the Reporting Officer's reasoning in regard to amending the Papakaika assessment rule (16.8.2.1), but consider that a better approach is to add a new policy to the rural section that states, "Require Papakaika to maintain the rural character, values and amenity of the rural zones as far as practicable in terms of the design, scale and location of the development", and replace the reference to Policy 16.2.3.2 in rule 16.8.2.1 with a reference to this new policy. This clarifies the preferred outcome for Papakaika housing within the rural zones.
227. We therefore accept the submission of *Ngā Rūnanga* in part. The changes are shown in Appendix 1, attributed to MW 1071.52.

3.10.2 Activity definition – Papakāika

228. The *Dunedin City Council (DCC)* (OS360.13) sought a minor amendment to the definition of papakāika to include the phrase "Papakāika is a sub-activity of standard residential activity", to clarify its relationship to residential activities and improve plan usability.
229. *Ngā Rūnanga* (OS1071.24) sought to have the definition of papakāika retained in its notified form.

3.10.2.1 Decision and decision reasons

230. We accept the submissions from both *Ngā Rūnanga* (OS1071.24) (in part) and the *DCC* (OS360.13) and retain the definition of papakāika with the addition of the clarification phrase proposed above (see Appendix 1, MW 360.13).

3.11 Terminology and spelling

3.11.1 Request to remove terminology 'native reserve' and 'half-caste reserve'

231. *Anthony Parata* (OS248.10) sought to remove the terms "native reserve" and "half-caste reserve" from the 2GP, as these terms "reflect colonial arrogance" and are considered offensive. In his evidence, *Mr Parata* noted that under the Māori Purposes Act 1947, the term 'native' is to be replaced with 'Māori'. The terms "native reserve" and "half-caste reserve" appear on old maps only and are not in local usage.
232. This submission was opposed by *Ngā Rūnanga* (FS2456.2), who argued that the terms are the correct historical names of the reserves, as granted by the colonial government.
233. The Reporting Officer discussed the use of the alternative term 'Māori Reserve' with Kāi Tahu ki Otago, which represents the Rūnanga. They noted that the term 'Māori Reserve' may have other legal meanings, and to avoid confusion 'Original Native Reserve' could be used. The Reporting Officer also noted that the Rūnanga felt strongly that the correct names of the reserves should be used to describe them, including the terms "native reserve" and "half-caste reserve". She therefore recommended that all incidences of "native reserve" be amended to read 'original native reserve' unless it is the name of a specific reserve (s42A Report, Section 4.3.5, p. 15).
234. The Reporting Officer later commented, while discussing her revised recommendations, that another alternative would be to use the term 'Original Māori Reserve'.

3.11.1.1 Decision and decision reasons

235. We consider that the appropriate term is 'Original Native Reserve' for the Plan text and map legend, but to use the actual historical names in the mapping information. While we understand *Mr Parata's* concern, we cannot re-write history. The names used for individual reserves are the legal names and are factually correct. We therefore accept *Mr Parata's* submission (OS248.10) in part, and amend "native reserve" to 'Original Native Reserve' wherever it appears in the Plan (attributed to MW 248.10).

3.11.2 Other definitions – Māori Freehold Land

236. Māori freehold land was defined in the 2GP as notified as, “Any land given the status of Māori freehold land pursuant to Te Ture Whenua Māori Act 1993”.

237. *Ngā Rūnanga* (OS1071.27) requested that the definition be amended by adding, “or subsequent legislation”.

238. The Reporting Officer noted that the phrase ‘Māori freehold land’ is not used elsewhere in the Plan. She therefore recommended that the definition is removed (s42A Report, Section 4.3.3, p. 13).

3.11.2.1 Decision and decision reasons

239. We agree with the recommendation in the s42A Report and remove the definition under cl. 16 of the Act.

3.11.3 Minor typographical corrections and amendments

240. *Ngā Rūnanga* sought to make the following minor corrections to the Plan:

- Correct the typographical error in Section 1.4.9 (Outcomes sought by Kai Tahu) – ‘Kāi Tahu’s’ (OS1071.22);
- Amend all references to manawhenua to ‘~~m~~Manawhenua’ (OS1071.19);
- Amend Kāi Tahu, pā, Ōtākou, and wāhi tūpuna throughout the plan to ensure correct use of the macrons (OS1071.20);
- Amend 14.1 ‘Te Rūnaka o Ngāi Tahu’ to ‘Te Rūnanga o Ngāi Tahu’ throughout the Section 14 Introduction (OS1071.48);
- Amend discussion on Kāi Tahu ki Otago Natural Resources Management Plan (was section 1.3.5.3, now 1.5.2.3) to correct spelling (OS1071.21)
- Amend 14.1 ‘Te Rūnaka o Ōtākou’ to ‘Te Rūnanga o Ōtākou’ in Appendix A4.41(OS1071.124);
- Amend 14.1 ‘KaikaNohoaka’ to ‘Kaika Nohoaka’ in the Section 14 Introduction (OS1071.50);
- Amend paragraph 3 of the introduction to Appendix A4 Wāhi Tūpuna Values to correct ‘Te Waka a Aoraki’ to ‘Te Waka o Aoraki’ (OS1071.123);
- Amend Appendix A4.41 Description of area to correct ‘Te Rūnaka o Ngai Tahu’ to ‘Te Rūnanga o Ngai Tahu’ (OS1071.124); and
- Amend Appendix A4.61 heading, ‘Pa site and Kaik at Omoua’ to ‘Pā site and Kāika at Omoua’ (OS1071.125).

241. The changes were supported by the Reporting Officer.

3.11.3.1 Decision and decision reasons

242. We accept the submissions above and make the requested corrections to ensure the correct terminology and spelling is used throughout the 2GP. We note that the changes are made under cl. 16 as they are all minor typographical corrections.

4.0 Suggestions for future plan changes

243. The following are areas we consider there is merit to amend under a future plan change:

- New wāhi tūpuna site covering the Otago Peninsula

- Remove performance standard 26.6.9 from the Invermay and Hercus Zone.

5.0 Minor and inconsequential amendments

244. Clause 16(2) of Schedule 1 of the RMA allows a local authority to make an amendment where the alteration “is of minor effect”, and to correct any minor errors, without needing to go through the submission and hearing process.
245. This Decision includes minor amendments and corrections that were identified by the DCC Reporting Officers and/or by us through the deliberations process. These amendments are referenced in this report as being attributed to “cl.16”. These amendments generally include:
- correction of typographical, grammatical and punctuation errors
 - removing provisions that are duplicated
 - clarification of provisions (for example adding ‘gross floor area’ or ‘footprint’ after building sizes)
 - standardising repeated phrases and provisions, such as matters of discretion, assessment guidance, policy wording and performance standard headings
 - adding missing hyper-linked references to relevant provisions (eg. performance standard headings in the activity status tables)
 - correctly paraphrasing policy wording in assessment rules
 - changes to improve plan usability, such as adding numbering to appendices and reformatting rules
 - moving provisions from one part of the plan to another
 - rephrasing plan content for clarity, with no change to the meaning
246. Minor changes such as typographical errors have not been marked up with underline and strikethrough. More significant cl. 16 changes (such as where provisions have been moved) are explained using footnotes in the marked-up version of the Plan.

Appendix 1 – Amendments to the Notified 2GP (2015)

Please see www.2gp.dunedin.govt.nz/decisions for the marked-up version of the notified 2GP (2015). This shows changes to the notified 2GP with strike-through and underline formatting and includes related submission point references for the changes.

Appendix 2 – Summary of Decisions

1. A summary of decisions on provisions discussed in this decision report (based on the submissions covered in this report) is below.
2. This summary table includes the following information:
 - Plan Section Number and Name (the section of the 2GP the provision is in)
 - Provision Type (the type of plan provision e.g. definition)
 - Provision number from notified and new number (decisions version)
 - Provision name (for definitions, activity status table rows, and performance standards)
 - Decision Report section
 - Section 42A Report section
 - Decision
 - Submission point number reference for amendment

Decision Summary

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
1. Plan Overview and Introduction	Introduction	1.3.2.4.j (notified as 1.4.10)		Outcomes sought by Kai Tahu (minerals)	Retain wording		3.1.3	4.3.1
1. Plan Overview and Introduction	Introduction	1.3.2 (notified as 1.3.3.2)		Implementation of Kai Tahu values through the District Plan	Amend section 1.3.2 to add reference to East Otago Talapure	MW 329.1	3.9.5	4.3.20
1. Plan Overview and Introduction	Definition	1.5		Papakaiaka	Amend definition to clarify papakaiaaka is a sub-activity of Residential activity	MW 360.13	3.10.2	4.3.2
2. Strategic Directions	Policy	2.5.3.1			Amend policy wording to add consideration of natural hazard mitigation and subdivision activities	MW 1071.30	3.1.3, 3.3.1	4.3.8
2. Strategic Directions	Objective	2.5.3			Retain objective wording		3.1.3	4.3.7
2. Strategic Directions	Policy	2.5.4.1			Amend policy wording to add consideration of natural hazard mitigation and earthworks activities	MW 1071.31	3.4	4.3.9

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
3. Public amenities	Assessment of Restricted Discretionary Activities	3.7.3.4			Add new assessment guidance for public artworks -large scale, public display boards and public toilet in a Wahi Tupuna mapped areas with effects on cultural values of Manawhenua as a matter of discretion	MW 1071.3	3.6.2	4.3.17
14. Manawhenua	Policy	14.2.1.4			Retain policy wording		3.1.3	4.3.13
14. Manawhenua	Policy	14.2.1.5			Retain policy as notified		3.7	
14. Manawhenua	Policy	14.2.1.6			Retain policy as notified		3.10.1	4.3.15
14. Manawhenua	Assessment of Restricted Discretionary Performance Standard Contraventions	14.3.2.7		Was setback from ridgeline now maximum height (rural and residential zones)	Amend assessment rule to change from contravention of setback from ridgeline performance standard to maximum height	MW 874.41	3.6.2	4.3.17 and Rural s42A Report, Section 5.10.8
14. Manawhenua	Assessment of Restricted Discretionary Performance Standard Contraventions	14.3.2			Add additional assessment rule for contravention of sediment control performance standard	MW 1071.107	3.5.1	4.3.17

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
14. Manawhenua		14.4.2.2		Assessment of Activities where effects on cultural values of Manawhenua is a matter of discretion	Amend assessment rule to add public amenities	MW 1071.3	3.6.2	4.3.17
14. Manawhenua	Assessment of Discretionary Activities	14.5.2.1		Assessment of all discretionary activities	Amend assessment rule to reference Objective 14.2.1	MW 1071.3	3.6.2	4.3.17
14. Manawhenua	Assessment of Restricted Discretionary Activities	14.5.2.2		Assessment of RD activities in an overlay zone, mapped area or affecting a scheduled item	Retain assessment guidance as notified		3.7	4.3.14
14. Manawhenua	Assessment of Non-complying Activities	14.6.2.1		Assessment of all non-complying activities	Amend assessment rule to reference Objective 14.2.1	MW 1071.3	3.6.2	4.3.17
16. Rural Zones	Policy	16.2.3.X (new)	16.2.3.11		Add new policy in relation to design of papakaika	MW 1071.52	3.10.1	4.3.15
16. Rural Zones	Activity status	16.3.3.21	16.3.3.24	Papakaika	Retain activity status rule		3.10.1	4.3.16
16. Rural Zones	Notification Rule	16.4.4	16.4.3		Retain notification rule		3.1.3	4.3.18
16. Rural Zones	Assessment of Controlled Activities	16.8.2.1		Assessment of papakaika	Amend assessment guidance to reflect new policy 16.2.3.X	MW 1071.52	3.10.1	4.3.15

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
16. Rural Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	16.9.6.7	16.9.6.5	Assessment of performance standard contraventions in a wahi tupuna mapped area	Amend assessment rule to add contravention of maximum height performance standard	MW 874.41	3.6.2	4.3.17 and Rural s42A Report, Section 5.10.8
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.4			Amend assessment guidance wording to ensure effects on cultural values of Manawhenua are considered for landfills in any location	MW 1071.3	3.6.2	4.3.17
17. Rural Residential Zones	Assessment of Restricted Discretionary Activities	17.9.6.10 (new)	17.9.6.9	Assessment of performance standard contraventions in a wahi tupuna mapped area	Amend assessment rule to add effects on cultural values of Manawhenua for various performance standard contraventions	MW 1071.16, MW 1071.3	3.6.2, 3.9.4	4.3.17 and 4.3.21
17. Rural Residential Zones	Assessment of Discretionary Activities	17.11.2		Assessment of discretionary land use activities	Amend assessment guidance wording to add reference to Section 14	MW 1071.3	3.6.2	4.3.17
17. Rural Residential Zones	Assessment of Non-complying Activities	17.12.4.3			Amend assessment guidance to add additions and alterations to list of activities "in wahi tupuna mapped area"	MW 1071.3	3.6.2	4.3.17
18. Commercial and Mixed	Notification Rule	18.4			Retain notification rule		3.8.2	4.3.18

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
Use Zones								
18. Commercial and Mixed Use Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	18.9.6.8 (new)		Assessment of performance standard contraventions in a wahi tupuna mapped area	Amend assessment rule to add consideration of effects on Manawhenua values for various performance standard contraventions	MW 1071.16	3.9.4	4.3.21
19. Industrial Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	19.9.6.5 (new)		Assessment of performance standard contraventions in a wahi tupuna mapped area	Amend assessment rule to add consideration of effects on Manawhenua values for various performance standard contraventions	MW 1071.16	3.9.4	4.3.21
19. Industrial Zones	Assessment of Non-complying Performance Standard Contraventions	19.12.2.1		Assessment of non-complying land use activities	Amend assessment guidance wording to add reference to Section 14	MW 1071.3	3.6.2	4.3.17
. Recreation Zone	Assessment of Restricted Discretionary Activities	20.10.5.10	20.10.5.7		Amend assessment guidance to add general subdivision activities to list of activities " in a wahi tupuna mapped area where activity is identified as a threat"	MW 1071.3	3.6.2	4.3.17
21. Ashburn Clinic	Assessment of Discretionary Activities	21.10.2.1		Assessment of all discretionary land use activities	Amend assessment guidance wording to add reference to Section 14.5	MW 1071.3	3.6.2	4.3.17

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
21. Ashburn Clinic	Assessment of Non-complying Activities	21.11.2.1		Assessment of all non-complying activities	Amend assessment guidance wording to add reference to Section 14.6	MW 1071.3	3.6.2	4.3.17
22. Dunedin Botanic Gardens	Assessment of Discretionary Activities	22.11.2.1	delete	Assessment of all land use discretionary activities	Amend assessment guidance wording to add reference to Section 14.5	MW 1071.3	3.6.2	4.3.17
22. Dunedin Botanic Gardens	Assessment of Non-complying Activities	22.12.2.1		Assessment of non-complying land use activities	Amend assessment guidance wording to add reference to Section 14.6	MW 1071.3	3.6.2	4.3.17
23. Dunedin Hospital	Assessment of Discretionary Activities	23.10.2.1		Assessment of all discretionary activities	Amend assessment guidance wording to add reference to Section 14.5	MW 1071.3	3.6.2	4.3.17
23. Dunedin Hospital	Assessment of Non-complying Activities	23.11.2.1		Assessment of non-complying land use activities	Amend assessment guidance wording to add reference to Section 14.6	MW 1071.3	3.6.2	4.3.17
24. Dunedin International Airport	Notification Rule	24.4			Amend notification rule to add consideration of Manawhenua as an affected party	MW 1071.2	3.8.1	4.3.18
24. Dunedin International Airport	Assessment of Discretionary Activities	24.10.2.1	24.11.2.1	Assessment of all discretionary activities	Amend assessment guidance wording to add reference to Section 14.5	MW 1071.3	3.6.2	4.3.17
24. Dunedin International Airport	Assessment of Non-complying Activities	24.11.2.1	24.12.2.1	Assessment of non-complying land use activities	Amend assessment guidance wording to add reference to Section 14.6	MW 1071.3	3.6.2	4.3.17

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
25. Edgar Centre	Notification Rule	25.4			Amend notification rule to add consideration of Manawhenua as an affected party	MW 1071.2	3.8.1	4.3.18
25. Edgar Centre	Assessment of Restricted Discretionary Performance Standard Contraventions	25.8.4		Assessment of restricted discretionary performance standard contraventions	Amend assessment rule to add consideration of effects on Manawhenua values for contravention of the setback from coast and water bodies performance standard	MW 1071.16	3.9.4	4.3.21
25. Edgar Centre	Assessment of Discretionary Activities	25.10.2.1		Assessment of all discretionary activities	Amend assessment guidance wording to add reference to Section 14.5	MW 1071.3	3.6.2	4.3.17
25. Edgar Centre	Assessment of Non-complying Activities	25.11.2.1		Assessment of non-complying activities	Amend assessment guidance wording to add reference to Section 14.6	MW 1071.3	3.6.2	4.3.17
26. Invermay and Hercus	Notification Rule	26.4			Amend notification rule to add consideration of Manawhenua as an affected party	MW 1071.2	3.8.1	4.3.18
26. Invermay and Hercus	Assessment of Discretionary Activities	26.11.2.1		Assessment of all discretionary land use activities	Amend assessment guidance wording to add reference to Section 14.5	MW 1071.3	3.6.2	4.3.17
26. Invermay and Hercus	Assessment of Non-complying Activities	26.12.2.1		Assessment of all non-complying activities	Amend assessment guidance wording to add reference to Section 14.6	MW 1071.3	3.6.2	4.3.17
27. Mercy Hospital	Assessment of Discretionary Activities	27.11.2.1		Assessment of all discretionary activities	Amend assessment guidance wording to add reference to Section	MW 1071.3	3.6.2	4.3.17

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
					14.5			
27. Mercy Hospital	Assessment of Non-complying Activities	27.12.2.1		Assessment of non-complying land use activities	Amend assessment guidance wording to add reference to Section 14.6	MW 1071.3	3.6.2	4.3.17
28. Moana Pool	Assessment of Non-complying Activities	28.11.2.1		Assessment of non-complying land use activities	Amend assessment guidance wording to add reference to Section 14.6	MW 1071.3	3.6.2	4.3.17
29. Otago Museum	Assessment of Discretionary Activities	29.11.2.1		Assessment of discretionary activities	Amend assessment guidance wording to add reference to Section 14.5	MW 1071.3	3.6.2	4.3.17
29. Otago Museum	Assessment of Non-complying Activities	29.12.2.1		Assessment of non-complying activities	Amend assessment guidance wording to add reference to Section 14.6	MW 1071.3	3.6.2	4.3.17
32. Port	Policy	30.2.3.3			Do not amend as requested.		3.5.1	4.3.17
31. Port	Objective	30.2.3	archived		Do not amend as requested.		3.5.1	4.3.17
30. Port	Assessment of Restricted Discretionary Activities	30.9.2.1	archived	Assessment of earthworks - large scale	Do not amend assessment rule		3.5.1	4.3.17
30. Port	Assessment of Restricted Discretionary Activities	30.9.2.2	archived	Assessment of earthworks - large scale (within 5m of a water body)	Do not amend assessment rule		3.5.1	4.3.17

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
30. Port	Assessment of Non-complying Activities	30.11			Add guidance to assessment rule	MW 1071.109	3.5.1	4.3.17
31. Schools	Notification Rule	31.4			Amend notification rule to add consideration of Manawhenua as an affected party	MW 1071.2	3.8.1	4.3.18
31. Schools	Assessment of Restricted Discretionary Performance Standard Contraventions	31.9.6.1 (new)		Assessment of performance standard contraventions in a wahi tupuna mapped area	Amend assessment rule to add consideration of effects on Manawhenua values for contravention of the setback from coast and water bodies performance standard	MW 1071.16	3.9.4	4.3.21
31. Schools	Assessment of Discretionary Activities	31.11.2.1		Assessment of discretionary land use activities	Amend assessment guidance wording to add reference to Section 14.5	MW 1071.3	3.6.2	4.3.17
31. Schools	Assessment of Non-complying Activities	31.12.2.1		Assessment of non-complying land use activities	Amend assessment guidance wording to add reference to Section 14.6	MW 1071.3	3.6.2	4.3.17
32. Stadium	Notification Rule	32.4			Amend notification rule to add consideration of Manawhenua as an affected party	MW 1071.2	3.8.1	4.3.18
32. Stadium	Assessment of Restricted Discretionary Performance Standard Contraventions	32.8.4.12	32.8.4.7	Assessment of restricted discretionary performance standard contraventions	Amend assessment rule to add consideration of effects on Manawhenua values for contravention of the setback from coast and water bodies performance standard	MW 1071.16	3.9.4	4.3.21

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
32. Stadium	Assessment of Discretionary Activities	32.10.2.1		Assessment of discretionary activities	Amend assessment guidance wording to add reference to Section 14.5	MW 1071.3	3.6.2	4.3.17
32. Stadium	Assessment of Non-complying Activities	32.11.2.1		Assessment of non-complying land use activities	Amend assessment guidance wording to add reference to Section 14.6	MW 1071.3	3.6.2	4.3.17
33. Taieri Aerodrome	Assessment of Discretionary Activities	33.11.2.1		Assessment of all discretionary activities	Amend assessment guidance wording to add reference to Section 14.5	MW 1071.3	3.6.2	4.3.17
33. Taieri Aerodrome	Assessment of Non-complying Activities	33.12.2.1		Assessment of all non-complying activities	Amend assessment guidance wording to add reference to Section 14.6	MW 1071.3	3.6.2	4.3.17
34. Campus	Assessment of Discretionary Activities	34.11.2.1		Assessment of discretionary land use activities	Amend assessment guidance wording to add reference to Section 14.5	MW 1071.3	3.6.2	4.3.17
34. Campus	Assessment of Non-complying Activities	34.12.2.1		Assessment of all non-complying activities	Amend assessment guidance wording to add reference to Section 14.6	MW 1071.3	3.6.2	4.3.17
35. Wakari	Assessment of Discretionary Activities	35.10.2.1		Assessment of all discretionary activities	Amend assessment guidance wording to add reference to Section 14.5	MW 1071.3	3.6.2	4.3.17
35. Wakari	Assessment of Non-complying Activities	35.11.2.1		Assessment of non-complying land use activities	Amend assessment guidance wording to add reference to Section 14.6	MW 1071.3	3.6.2	4.3.17

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
30. Port	Notification Rule	8A.5.7 (notified as 30.4)			Do not amend notification rule wording		3.5.1	4.3.17
30. Port	Assessment of Restricted Discretionary Performance Standard Contraventions	8A.6.4.2 (notified as 30.8.4.4)		Assessment of contravention of sediment control performance standard	Amend assessment rule to add effects on cultural values of Manawhenua	MW 1071.107	3.5.1	4.3.17
A4. Wahi Tupuna Values	Appendix	A4.6.1		Huriawa Peninsula - description of area	Amend description of area	MW 790.5	3.9.3.1	4.3.22
A4. Wahi Tupuna Values	Appendix	A4.17.1		Maputahi and Mateawheawhe - description of area	Amend description of area	MW 790.6	3.9.3.2	4.3.24
A4. Wahi Tupuna Values	Appendix	A4		Wahi tupuna values - multiple sites - principal threats	Amend principal threats (multiple wahi tupuna sites)	MW1071.3	3.6.2	4.3.17
14. Manawhenua Plan	Section	Section 14			Retain section		3.1.3	4.3.10
	Terminology			Native reserve	Amend term to 'original native reserve' throughout plan but retain use of term in planning maps	MW 248.10	3.11.1	4.3.5



**SECOND
GENERATION
DISTRICT PLAN**

Cross Plan: Mining activities Decision of Hearings Panel

**Proposed Second Generation Dunedin City
District Plan (2GP)**

7 November 2018

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2.0 Hearing appearances and evidence presented

18. Submitters who appeared at the hearing, and the topics under which their evidence is discussed, are shown below in Table 1. All evidence can be found on the 2GP Hearing Schedule webpage under the relevant Hearing Topic <https://2gp.dunedin.govt.nz/2gp/hearings-schedule/index.html>

Table 1: Hearing appearances

Submitter (Submitter Number)	Represented by/experts called	Nature of evidence	Topics under which evidence is discussed
<i>Blackhead Quarries Ltd</i> (OS874)	Allan Cubitt (Resource Management Consultant)	Spoke to written statement of evidence.	• 3.1: Quarry scheduling • 3.2: Activity status of expanded or new mining activity • 3.8: Policy 16.2.2.6
	Phil Page (legal counsel)	Spoke to statement tabled at hearing.	
<i>Harboursides and Peninsula Preservation Coalition (HPPC)</i> (OS2267)	Craig Werner (representative)	Written statement of evidence (not present at hearing).	• 3.7: Policy 16.2.2.5 • 3.9: Policy 16.2.3.4 • 3.10: Policy 16.2.3.5 • 3.12: Rule 16.11.2 Assessment of discretionary land use activities
<i>Neighbours of Blackhead Quarry</i> (FS2335)	Andrew McSkimming	Spoke to statement tabled at hearing.	• 3.11: Rule 16.5.9 and Rule 17.5.10 Separation distances
	Tony Devereux	Spoke on behalf of the submitter.	
<i>Oceana Gold (New Zealand) Ltd</i> (OS1088) (FS2439)	Mark Christensen, (Counsel)	Spoke to statement tabled at hearing.	• 3.1: Quarry scheduling • 3.3 Macraes Gold Project Overlay Zone • 3.12: Rule 16.11.2 Assessment of discretionary land use activities • 3.13: Appendices
	Dale Oram (General Manager of Macraes Gold Operation)	Spoke to written expert (economic) evidence.	
	Mike Copeland (Economic Consultant)	Spoke to written statement of evidence.	
<i>Port Otago Ltd</i> (OS737)	Andrew Pullar (Civil Engineer – Port Otago Ltd)	Spoke to written statement of evidence.	• 3.1: Quarry scheduling
	Len Andersen (Counsel)	Spoke to statement tabled at hearing.	

sensitivity and direct effects. We also consider that the amendment recommended by the Reporting Officer to focus the policy on direct effects means that in effect the policy would be largely superfluous, with the listed issues already being covered in policies 16.2.2.5 and 16.2.3.5. Therefore, we have decided to remove the policy altogether.

162. To implement our decision, we have:

- deleted Policy 16.2.2.6
- consequentially amended the following rules to remove reference to Policy 16.2.2.6:

Rule 16.10.2.2 Domestic animal boarding and breeding (including dogs), Rule 16.10.2.3 Intensive Farming, Rule 16.11.2.3 Rural industry, Rule 16.11.2.4 Mining, Landfills. See Appendix 1 (amendments attributed to CP 458.23 and others).

3.9 Policy 16.2.3.4

3.9.1 Background

163. Policy 16.2.3.4 requires that mining and landfills only be allowed where there is reasonable certainty that land will be "restored to an acceptable standard with respect to landform and productive potential".

3.9.2 Submissions

164. *Saddle Views Estate Ltd* (OS458.24), *Blackhead Quarries Ltd* (OS874.22) and *Tussock Top Farm Ltd* (OS901.17) sought to amend Policy 16.2.3.4 so that the word 'rehabilitated' replaces 'restored'.

165. *Saddle Views Estate Ltd* also sought that the word 'only' be removed. *Saddle Views Estate Ltd* stated that the requirement to restore landform and productive potential was impractical because when significant volumes of excavated material have been removed full restoration is not possible, and "only rehabilitation is possible".

166. The use of the proposed word 'rehabilitated' was opposed by the following further submitters:

- *HPPC* (FS2267.50) who sought that "restoration rather than rehabilitation is required to ensure that the original natural communities are what evolve as practicable"
- *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou* (FS2456.75) who preferred the use of 'restore'
- *Waste Management (NZ) Ltd* (FS2444.23, FS2444.33) who referred to their original submission with respect to concern about the requirement for land to be restored, in terms of effects on productive potential.

167. *Oceana Gold Ltd* (OS1088.57) sought to amend Policy 16.2.3.4 to clarify what an 'acceptable standard' is.

3.9.3 Section 42A Report

168. The Reporting Officer, Katie James, noted that the phrase 'only allow' was part of the standard 2GP drafting protocol for a policy for discretionary activities and the rationale for why it should remain unchanged was covered in the Plan Overview Section 42A Report (Section 4.8.2, p. 22).

169. The DCC also provided pre-circulated landscape evidence from Mr Mike Moore (landscape consultant). In evidence, Mr Moore suggested that 'restore' implies return to an original condition, whilst 'rehabilitate' can mean return to a good (or acceptable),

but possibly changed, condition. It was the opinion of Mr Moore that restoration to a pre-existing state, if that is what 'restore' means, would not normally be practical and that rehabilitation to an agreed standard would be more practicable (Michael Moore Evidence, pp. 4-5).

170. Mr Moore also stated that where a site or area was considered to be of such value that complete restoration is required, consent for a mining activity should probably not be given at all. Under the 2GP, the value of a particular site would be considered on a case by case basis, taking into account landscape overlays and corresponding activity status (i.e. non-complying or discretionary).
171. The Reporting Officer also advised that she had sought legal advice on the matter of the proposed amendment to Policy 16.2.3.4, which indicated that the two terms were often used interchangeably and that there was no case law to be found on interpretations of these terms.
172. After considering the above evidence and advice, the Reporting Officer recommended that the Panel replace 'restored' with 'rehabilitated', and that consequential changes be made to the corresponding parts of Policy 20.2.2.9 and Rule 20.11.2.3 in the Recreation Zone (s42A Report, Section 4.3.3.5, p. 39).
173. With regard to the submission by *Oceana Gold*, the Reporting Officer noted that the word 'acceptable' allows discretion "based on the unique circumstances of the proposed activity and its environmental context..." (s42A Report, Section 4.3.3.5, p. 39). However, she considered that further guidance could be added in the assessment rules under 16.11.2.4, based on wording provided by Mr Moore. See Section 3.12 below for discussion on the assessment rules.

3.9.4 Hearing

174. In his tabled evidence at the hearing, Mr Craig Werner, representing *HPPC*, stated that while the use of the word 'rehabilitated' may be appropriate for mining in the general Rural Zone, 'restored' would be a more appropriate standard for landscape overlays. He said the proposed new wording did not provide enough guidance, and the submitter would prefer restoration to be used so that "original natural communities (flora and fauna) evolve 'as practicable'". Mr Werner suggested that this would allow a hearing committee to "fully apply its discretion on the cost-benefit trade-offs involved" which would be more appropriate than "an ad hoc overall standard for just the 'low bar' standard of adequate rehabilitation..." (Evidence of Craig Werner, p. 2).
175. In her revised recommendations, the Reporting Officer said she did not consider it appropriate to make the distinction between 'rehabilitation' and 'restoration' in the general Rural Zone versus landscape overlays, because there is already a specific objective, and policies, aimed at maintaining the values of overlays contained within the 2GP Natural Environment section. In addition, the values of the landscape overlay zones are a priority consideration in the assessment of mining activities under Rule 16.11.2.4. She, therefore, disagreed with the submitter that the recommended change to the policy provides a low bar standard. She considered that in tandem, the Natural Environment and Rural objectives, policies and rules would provide for the protection of natural landscape values.

3.9.5 Decision and reasons

176. Our decisions on this policy are made in response to submissions addressed in both the Mining Activities and Rural Zone Section 42A Reports.
177. We accept in part the submission by *Saddle Views Estate Ltd* (OS458.24), *Blackhead Quarries Ltd* (OS874.22) and *Tussock Top Farm Ltd* (OS901.17) to amend Policy 16.2.3.4. Our decision is that rather than replacing 'restored' with 'rehabilitated' it is appropriate that both terms are used in the policy.

178. We note that the 'productive potential' wording was addressed in the Rural Section 42A Report in response to the original submission by *Waste Management (NZ) Ltd* (OS796.26) who submitted that a closed landfill was unable to return to a productive rural state. The Reporting Officer for the Rural report recommended that reference to 'productive potential' be replaced with reference to 'productive or recreational use' in order to recognise that a return to productive land may not always be achievable in the short to medium term, but that some form of recreational use may well be possible.
179. We accept in part the submission by *Waste Management New Zealand* (OS796.26) heard at the Rural Hearing, regarding the submitter's concern about a return to productive potential. We consider that along with 'productive or recreational use' being included in the policy, that the word 'conservation' should also be added as a potential further use of former mining or landfill sites.
180. We accept in part *Oceana Gold (New Zealand) Limited* (OS1088.57) with regard to the submitter's request to clarify what an 'acceptable standard' is with respect to restoring landform. We have amended Rule 16.11.2.4 in order to provide additional guidance on restoration and rehabilitation as shown in section 3.12 below.
181. We reject the submission by *Saddle Hills Estate Ltd* to remove the word 'only' from the start of the policy.
182. The reasons for our decision are that we accept the planning evidence of the Reporting Officer, and the landscape evidence of Mr Moore, that the focus in the policy on restoration is impractical and inappropriate. We consider the policy should be broadened to include both restoration and rehabilitation, and the appropriate term can be applied in any particular circumstance. We also acknowledge and accept, in the context of the Rural Zone and its wider objectives and policies, that potential end uses of rehabilitated land should include recreational, and conservation uses in addition to rural productive use. Consequently, there is no need to delete the word 'only' from the policy as had been requested by *Saddle Views Estates Ltd* because the emphasis on restoration has now been changed.
183. Therefore, in response to the submissions above, we have amended Policy 16.2.3.4 as set out below and shown in Appendix 1 (and have also made consequential changes to 16.11.2.4 as shown in section 3.12):
- Policy 16.2.3.4
- "Only allow mining and landfills where there is reasonable certainty that land will be restored or rehabilitated {CP458.24 and others} to an acceptable standard with respect to landform and to enable a return to a productive, recreational or conservation use as soon as possible ~~productive potential~~. {RU796.26}
184. We partly agree with the recommendation by the Reporting Officer to make consequential changes to Policy 20.2.2.9 and Rule 20.11.2.3. Our decision is to use 'restored or rehabilitated' in these provisions, as shown in Appendix 1. For consistency, as well as adding 'rehabilitated' to 20.11.2.3.b which refers to Policy 20.2.2.9, it has also been added to 20.11.2.3 d and e, under 'Potential circumstances that may support a consent application'.

3.10 Policy 16.2.3.5

3.10.1 Background

185. Policy 16.2.3.5 reads "Only allow factory farming, rural tourism - large scale, rural industry, rural research - large scale, mining and landfill activities where there are no significant adverse effects from large scale development on rural character and visual amenity".

3.10.2 Submissions

186. *Saddle Views Estate Ltd* (OS458.25), *Blackhead Quarries Ltd* (OS874.23) and *Tussock Top Hill Ltd* (OS901.18) sought that Policy 16.2.3.5 be amended to 'allow' or 'enable' mining and other activities where significant adverse effects can be avoided, remedied or mitigated. The reasoning given by *Saddle Views Estate Ltd* was that the policy as drafted "places an inappropriate threshold for the consideration of adverse effects associated with important activities such as quarries".
187. *Oceana Gold Ltd* (OS1088.58) requested that Policy 16.2.3.5 be removed because it considered the policy was "incompatible with the reality of large scale mining". *HPPC* (FS2267.52) opposed *Oceana Gold Ltd's* submission because it considered that the adverse effects of activities referred to in the policy needed to be addressed in order to align with Objective 16.2.3.

3.10.3 Section 42A Report

188. The Reporting Officer, Katie James, said the rationale for the words 'only allow' in the policies was addressed in the Plan Overview Section 42A Report, although that report did however recommend a change to drafting where there was concern that 'no significant adverse effects' created too stringent a test.
189. The Reporting Officer recommended that the submissions by *Saddle Views Estate Ltd* and *Blackhead Quarries Ltd* were accepted in part and that Policy 16.2.3.5 be amended to state:

"Only allow factory farming, rural tourism - large scale, rural industry, rural research - large scale, mining and landfill activities where ~~there are no significant~~ adverse effects from large scale development on rural character and visual amenity are avoided or, if avoidance is not possible, adequately mitigated." {CP458.25 and others}.

The Reporting Officer also recommended a consequential amendment be made to the assessment rule for mining and landfills (Rule 16.11.2.4).

3.10.4 Hearing

190. At the hearing, Mr Werner, representative for *HPPC*, stated that the words 'adequately mitigated' provided too weak a standard, and the amendment proposed in the Section 42A Report "undermines the original standard of no significant adverse effects..."
191. In her revised recommendations, the Reporting Officer noted that the Plan Overview Section 42A Report recommended a change to drafting in response to concerns that 'no significant adverse effects' creates too stringent a test. The Plan Overview Reporting Officer accepted "that for some activities significant effects may be unavoidable and that setting a requirement that these must be avoided sets an unfair standard as it still may be appropriate to grant consent considering both the positive and adverse effects of the activity" (p. 25, para 131).
192. The Reporting Officer stated that, as notified, Policy 16.2.3.5 would potentially be prohibitive of any large scale activity. In contrast, the proposed new wording (as recommended in the Plan Overview Section 42A Report) stated that if avoidance is not possible, effects must be adequately mitigated. She noted the recommended amendment recognises that, while the priority is to avoid adverse effects, in some instances significant effects on rural character and visual amenity may be unavoidable due to the scale of the development. She therefore did not agree with the submitter that the new policy wording provided 'too weak a standard'. Instead, it was her view that the recommended change provided a better balance in terms of providing for large scale rural activities in appropriate circumstances, taking into account positive as well as negative effects, but only allowing them where effects can be adequately managed.
193. It is relevant that, in the Reconvened Plan Overview and Structure Decision Report, the Natural Environment Reporting Officer, Michael Bathgate, stated that having reviewed

the wording of Policy 16.2.3.5 in light of the evidence in the report, as well as reconsidering the points raised in the submissions, his revised recommendation was to amend the policy as follows:

"Only allow factory farming, rural tourism - large scale, rural industry, rural research - large scale (outside the Invermay Farm mapped area) {RU 924.10}, rural contractor depots - large scale, {RU 911.11}, mining and landfill activities where there are no significant adverse effects from large scale development on rural character and visual amenity will be avoided or minimised as far as practicable. {RU704.11}"

194. He considered this constituted partial relief to *Saddle Views Estate Ltd* (OS458.25), *Blackhead Quarries Ltd* (OS874.23) and *Tussock Top Hill Ltd* (OS901.18) who sought the inclusion of the phrase 'avoid, remedy or mitigate' to manage significant adverse effects (Appendix 1, p.12, Reconvened Plan Overview Hearing Report).

3.10.5 Decision and reasons

195. We accept in part the submissions of *Saddle Views Estate Ltd* (OS458.25), *Blackhead Quarries Ltd* (OS874.23) and *Tussock Top Hill Ltd* (OS901.18) to amend Policy 16.2.3.5. We do not agree with the submitters' requests to 'allow' or 'enable' mining but we agree with the Reporting Officer's original recommendation insofar as it amended Policy 16.2.3.5 (and made a consequential amendment to Rules 16.10.2.5, 16.11.2.2, 16.11.2.4 and 16.11.2.5), removing the word 'significant'. This change also addresses the concerns around the 'no significant effects' wording that were raised by the *University of Otago* (OS308.497), which we discuss and respond to in the Plan Overview Decision Report, and also in the Rural Decision Report where we made a decision with respect to submissions on Policy 16.2.3.5. We prefer the Reporting Officer's revised recommendations at the Plan Overview Hearing, insofar as they recommended "minimised as far as practicable" rather than "adequately mitigated" for the policy test. Having considered all evidence and submissions on this topic, we consider this sets a more appropriate bar for management of these activities.
196. Policy 16.2.3.5, as amended, now reads:
- Only allow ~~factory farming~~ intensive farming {RU 1090.3}, rural tourism - large scale, rural industry, rural research - large scale (outside the Invermay Farm mapped area) {RU 924.10}, rural contractor and transport depots - large scale, {RU 911.5} mining and landfills activities {RU cl. 16} where there are no significant {CP458.25 and others} adverse effects from large scale development on rural character and visual amenity will be avoided or minimised as far as practicable {RU 704.11 and others}.
197. We reject the submission by *Oceana Gold Ltd* (OS1088.58) to remove the policy.
198. We agree with the reasons given by the Reporting Officer as set out above. In particular, whilst we acknowledge the concerns of *HPPC* regarding potential weakening of a policy direction, in this case we do not consider that the policy should be framed in such a way that it is prohibitive of mining and the other types of non-farming activities that do occur, and in many cases are appropriately located and managed, in rural areas. The suggested amendments to the policy wording will in our consideration provide the appropriate balance between being enabling of land uses and managing of adverse effects.

3.11 Rule 16.5.9 and Rule 17.5.10 Separation distances

3.11.1 Background

199. The separation distance rules were introduced into the proposed 2GP in the rural and rural residential zones to reduce the potential for reverse sensitivity effects arising in relation to lawfully established rural activities. The rules require new residential buildings to be set back from factory farming, domestic animal boarding and breeding

including dogs, mining, landfill activity, and community or regional scale wind generators. The proposed distances were based on a review of other plans and in-house discussion with technical staff. Submissions on these rules were also heard in the Rural Residential and Rural Hearings. The following discussion relates specifically to mining activities.

3.11.2 Submissions

200. *Saddle View Estate (OS458.32)* sought to identify a "Quarry Buffer Area" around existing quarries to protect them from reverse sensitivity effects. This was opposed by *HPPC (FS2267.75)* who sought to adopt the proposed 2GP wording because "reasonable control of quarry operations would not require a separate land set aside buffer zone". It was also opposed by *Kati Huirapa Runaka ki Puketeraki and Te Runanga o Otakou (FS2456.103)* who were concerned that any increase in the scale of the activity would require assessment.
201. *Saddle Views Estate Ltd (OS458.43)*, *Blackhead Quarries Ltd (OS874.46)* and *Tussock Top Farm Ltd (OS901.39)* sought to amend Rule 16.5.9 so that separation distances from mining operations are increased from 100 metres in the rule, to 200 metres for non-blasting activities, and to 500 metres for mining activities involving blasting.
202. *Saddle Views Estate Ltd* submitted that Rule 16.5.9 was inefficient and ineffective at addressing reverse sensitivity effects as it does not accord with standards applied in Australia or other relevant district plans, although those standards were not cited. The submission stated that the proposed separation distance (of 100 metres) is inadequate to protect a quarry from reverse sensitivity effects.
203. *Neighbours of Blackhead Quarry (FS2335)* opposed these submissions and requested amendment to Rule 16.5.9 and Rule 17.5.10 to clarify where the separation distance is measured from; and to require new residential buildings to be either 50m from the boundary of the site containing the mining activity, or 100m from the extent of the current operational area, or 400m from the extraction area where blasting may occur. The *Neighbours of Blackhead Quarry* submitted that the amendments sought to Rule 16.5.9 would constrain development on the submitters' sites to an unnecessary extent in terms of the area that may be impacted by quarry activities. They also contended that, in interpreting Rule 16.5.9, the operational area of Blackhead Quarry could be considered to be the site boundary.

3.11.3 Section 42A Report

204. The Reporting Officer, Mr Bathgate, in his Section 42A Report, recommended that the submission of *Saddle Views Estate* to identify a quarry buffer zone be rejected as under assessment rule 16.11.2.4 a buffer area may already be required as a condition on a resource consent for mining, while a potential circumstance that may support a consent application is that the activity would be set back from its own boundary. In addition, he considered that any concerns about reverse sensitivity could be adequately dealt with by recommended changes to Rule 16.5.9.
205. With regard to the requests to increase separation distances in Rule 16.5.9, Mr Bathgate said he had considered comparable practices elsewhere and discussed this matter with resource consent planners and environmental health staff involved in monitoring and enforcement. He recommended that the submissions from *Saddle Views Estate Ltd (OS458.43)*, *Blackhead Quarries Ltd (OS874.46)* and *Tussock Top Farm Ltd (OS901.39)* be accepted.
206. Mr Bathgate also said he had considered there was a need for further clarification that the separation distances are not measured from site boundaries, but from areas of the mining operation that are actively being used at the time any new residential building is being erected. He recommended amending Rule 16.5.9 and Rule 16.5.10 to clarify that separation distances will be measured from 'active' operational areas within the site containing the mining activity.

3.11.4 Hearing

207. At the hearing, Andrew McSkimming and Tony Devereux for *Neighbours of Blackhead Quarry* tabled a statement seeking that:
- the separation distance from non-blasting areas is reduced to 100m (Rules 16.5.9.d, 17.5.10.d); or
 - an exception is included in these rules where a building site is subject to a 'no complaints' covenant; or
 - a setback rule is applied to the quarry preventing it from having a working area within 100m of the site boundary; or
 - written approval be required from the quarry to be obtained at the time of subdivision consent for a future house on an identified building platform, to preclude the need for a further consent process for any future dwelling.
208. *Neighbours of Blackhead Quarry* also sought consideration for site-specific rules for each quarry, all of which have different circumstances with regard to an appropriate setback for neighbours.
209. We note that these requested changes go beyond submitting support or opposition to the *Saddle Views Estate Ltd* original submission, and therefore what can be sought by a further submission. We have, therefore, only considered this in so far it is material to considering the submission by *Saddle Views Estate Ltd*.
210. The Reporting Officer, in his revised recommendations, acknowledged that the Blackhead situation may at present be acceptable for the neighbours, but this may be partly attributable to factors such as the presence of the trees. However, he said trees can not always be relied upon as a means of permanent screening. He also noted that mining and quarrying can have effects unrelated to blasting that may extend further than 100m. Mr Bathgate reiterated his opinion that 200m is a more appropriate separation distance, noting that this did not preclude any residential development from occurring within the 200m. Instead, this would trigger a resource consent requirement to consider the potential for reverse sensitivity effects and whether they can be minimised for any particular proposal.
211. With regard to the 'no complaints' covenant, Mr Bathgate noted that while these may be considered as part of a resource consent application, there can be difficulties in their enforceability. In his opinion it is not good practice to require these covenants as part of a district plan rule, with the 2GP instead seeking to manage effects in an upfront fashion rather than seeking to eliminate complaints.
212. The Reporting Officer said the request for a setback rule from the working area of the quarry may not effectively address reverse sensitivity effects, due to the existing rights or consents under which established quarries are already operating and are able to continue operating. He noted that even if quarries were to agree to vary their conditions based on this approach, for Blackhead Quarry it would depend on what happens with the permitted scheduled rule. For example, in the case of Blackhead Quarry there is an existing rule requiring a 100m setback from Blackhead Road for extraction only. As with other scheduled conditions, if this condition on the scheduled rule is to change it would require a Plan variation or Plan change. Mr Bathgate also noted that part of the proposed 2GP assessment guidance for any new mining activity includes the setback from its own boundaries.
213. With regard to the request for gaining written approval from the quarry, Mr Bathgate did not consider it good practice to write exceptions into a performance standard based on affected party approvals and considered that this would be generally regarded as ultra vires. He considered that it would raise uncertainty around matters such as how and by whom the approval was held and what would happen if parties changed. However, Mr Bathgate did suggest that consideration of written approval could be

added into assessment rules 16.9.3.7 and 17.9.3.7 as guidance for any breach of separation distance.

214. In relation to having site-specific separation rules for each quarry in the 2GP, the Reporting Officer considered this to be impractical due to the number of quarries, and the amount of work to assess each one individually. He stated that the rule was designed to predict circumstances where there may be adverse effects and to manage these through the resource consent process.

3.11.5 Decision and reasons

215. We reject the submission of *Saddle Views Estate Ltd* (OS458.32) to identify a quarry buffer area round existing quarries to protect them because the 2GP already provides for buffers and setbacks as considerations in consent applications for mines, as well as separation distances being required through Rule 16.5.9.
216. We accept the submissions from *Saddle Views Estate Ltd* (OS458.43), *Blackhead Quarries Ltd* (OS874.46) and *Tussock Top Farm Ltd* (OS901.39) and the relief recommended by the Reporting Officer to amend Rule 16.5.9 and Rule 17.5.10 as shown in Appendix 1 and attributed to CP458.43 and others.
217. Our reasons are the same as that given by the Reporting Officer, as outlined above. In particular, we agree that increased separation distances are appropriate to properly address potential reverse sensitivity issues that may arise from operational quarries. We also accept the Reporting Officer's recommended amendments to the rules to clarify that separation distances are to be measured from the active areas of a quarry rather than the site boundary, and this accordingly is less restrictive on the neighbours than they appear to have appreciated when making their submissions.
218. Accordingly, we reject the further submission of *Neighbours of Blackhead Quarry* (FS2335). As noted above the requests included in the tabled statement for *Neighbours of Blackhead Quarry* are beyond the scope of a further submission and therefore could not be made. Nonetheless we accept the reasons given by the Reporting Officer for why making an exception for a 'no complaints' covenant, requiring written approval from the quarry, or applying a setback rule to a quarry preventing it from having a working area within 100m of the site boundary would not be appropriate.
219. While also out of scope, we do not agree with the relief suggested by the Reporting Officer, i.e. for consideration of written approval to be added to assessment rules. The RMA has relevant provisions around requiring written approvals, and the part these play in the processing and granting of resource consents is already covered in that statute. It is not considered appropriate to assign a greater weight in the 2GP to an application that has obtained a written approval, rather it should be determined on its merits having regard to a range of factors that relate to any particular application and any particular site.

3.12 Rule 16.11.2 Assessment of discretionary land use activities

3.12.1 Background

220. Rule 16.11.2 lists the assessment matters for resource consent applications for discretionary land use activities in the rural zones.

3.12.2 Submissions

221. *Saddle Views Estate Ltd* (OS458.28) sought to amend the "Relevant objectives and policies (priority considerations)" part of the assessment rule for mining and landfills (16.11.2.4) as a consequence of the submitter's related submissions to amend Rural policies and rules.

222. *HPPC* (FS2267.71) opposed *Saddle Views Estate Ltd's* submission, particularly the removal of the word 'adequately' from 16.11.2.4.b relating to mitigation of adverse effects on amenity. The submission was also opposed by *Horticulture New Zealand* (FS2452.67) who objected to removing the consideration of reverse sensitivity effects from clause c of the rule, and by *Kati Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou* (FS2456.100) who objected to the removal of wāhi tūpuna mapped areas as a consideration under clause g.
223. *Saddle Views Estate Ltd* (OS458.46), *Blackhead Quarries Ltd* (OS874.51) and *Tussock Top Farm Ltd* (OS901.46) sought that an extra assessment rule for mining be added in all relevant sections that would read: "Whether the activity already exists in the environment and the contribution the activity makes to the social, economic, and cultural wellbeing of the community".
224. *Oceana Gold Ltd* (OS1088.60) requested that Rule 16.11.2 be amended so that the "potential circumstances that may support a resource consent application" under the rules for rural industry and mining and landfills had a sentence added that would read: "the development will have significant positive effects in terms of economic, social, and/or cultural wellbeing of people and communities."

3.12.3 Section 42A Report

225. The Reporting Officer, Katie James, recommended that *Saddle Views Estate Ltd's* (OS458.28) submission to amend the assessment rule for mining and landfills as a consequence of the related submissions on Rural Zone policies and rules be accepted in part, and that amendments be made consequential to her recommendations on Policies 16.2.2.6, 16.2.3.4 and 16.2.3.5 (Section 42A, Section 4.3.3.8, p. 53). She also recommended that the opposing further submissions be accepted with respect to their areas of concern.
226. In considering the assessment rules for mining, the Reporting Officer also recommended further relief be provided to submissions by *Saddle Views Estate Ltd* (OS458.31), *Blackhead Quarries Ltd* (OS874.31) and *Tussock Top Farm Ltd* (OS901.24) in relation to their proposed new objective and policy suite for quarrying, discussed above relating to Strategic Directions, in Section 3.4 of this decision. In Attachment 1 to the Section 42A Report (which discusses the Reporting Officer's response to the proposed objective and policies), she made a number of comments and recommendations:
- The Reporting Officer considered that the constraints imposed by the location of aggregate resources could be considered in the assessment of any application for mining, and recommended adding a new clause as follows:
- " In assessing an application for mining, Council will consider the constraints imposed by the location of the mineral resource and any logistical or technical requirements to access the resource {CP 901.24} and others"
227. Although she saw compensation measures as "methods of last resort", she was of the opinion that environmental compensation could be considered as part of the assessment of mining applications. Note that the change recommended by the Reporting Officer was superseded by the recommendation in the Natural Environment Section 42A Report relating to biodiversity offsetting.
228. The Reporting Officer recommended additional guidance be provided in the assessment rule in relation to rehabilitation of former mining or landfill sites. This was in response to a submission by *Oceana Gold Ltd* (OS1088.57) which sought clarification as to what an acceptable standard was in relation to restoration, as required by Policy 16.2.3.4 (this is also discussed above in Section 3.9).
229. With regard to the positive effects of mining for the community, she noted that in the 2GP, the main reference to positive effects in terms of well-being is in Objective 16.2.1. This states that "Rural zones are reserved for productive rural activities and the

protection and enhancement of the natural environment, along with certain activities that support the wellbeing of rural communities." She recommended that the wording of the objective be changed to remove the reference to 'rural' before 'communities', and that Rule 16.11.2.1 (assessment of all discretionary activities) should have an extra matter added under "Potential circumstances that may support a consent application" as follows: "the activity will have significant positive effects in terms of community well-being".

3.12.4 Hearing

- 230. At the hearing, Mr Werner, representative for *HPPC* said that clause b of Rule 16.11.2.4 (which, as notified, reads "adverse effects on the amenity of residential activities on surrounding properties are avoided or, if avoidance is not possible, adequately mitigated") could dilute amenity protections depending on the definition of 'residential'.
- 231. In response, in her revised recommendations, the Reporting Officer stated that with respect to the specifying of residential activities in the rule, and in policies under the objectives cited, this wording was the original 2GP wording and no submissions sought these words be amended, nor were any changes recommended in the Section 42A Report. She explained that the underlining of the words appearing in the report did not denote a recommended change but instead was a styling error that arose because of copying content from the ePlan (which underlines words to denote that the term has a pop-up definition).
- 232. In presenting legal submissions at the hearing, Mr Christensen, appearing on behalf of *Oceana Gold Ltd*, acknowledged the intent of the additional guidance on rehabilitation recommended in the Section 42A Report through the amendment to Rule 16.11.2.4. However, he considered that it might create more uncertainty than it solves and questioned terms such as 'effective screening' and 'blend seamlessly'. He suggested that a more simple approach was to follow the approach of the Waitaki District Plan policies for rehabilitation and establishment of activities after mining, and those assessment rules were provided.
- 233. In her revised recommendations, the Reporting Officer noted that those terms were proposed in the rules as part of general assessment guidance in considering an application, and were not intended as an absolute rule such as a performance standard. She clarified that the terms will have differing meanings and relative importance on a case by case basis for each application. She further noted that *Oceana Gold Ltd* had provided assessment rules for mining in the Waitaki District Plan as a suggested alternative. She suggested that these could be considered for inclusion in any future Plan change, but stood by her recommendation to amend the assessment rule as outlined.

3.12.5 Decision and reasons

- 234. We accept in part the submission by *Saddle Views Estate Ltd* (OS458.28) to amend the assessment rule for mining and landfills (Rule 16.11.2.4). We consider that amendments are required and address these below with reference to specific recommendations of the Reporting Officer.

Consequential Changes to clauses (c) - (e):

- 235. As a consequential change to the removal of Policy 16.2.2.6 discussed in Section 3.8 above, we have deleted clause c. We also agree with the Reporting Officer's recommendation to amend Rule 16.11.2.4.d (new e), as a consequential change to Policy 16.2.3.5, so that it reads:

~~"There are no significant a-{CP 458.25 and others} Adverse effects on rural character and visual amenity from large scale development are avoided or minimised as far as practicable {RU 704.11 and others} (Policy 16.2.3.5).~~

236. We agree in part with the Reporting Officer's recommended changes to Rule 16.11.2.4.e in line with the recommended changes to Policy 16.2.3.4, but consequential to our decision on that policy, our decision is that the rule be amended to read:

"Land will be restored or rehabilitated {CP458.24 and others} to an acceptable standard with respect to landform and to enable a return to productive, recreational or conservation use as soon as possible ~~productive potential~~ {RU796.26} (Policy 16.2.3.4)"

237. The reason for our decision on the above points is that these changes to clauses (c) to (e) reflect our decisions with respect to Policy 16.2.2.6, Policy 16.2.3.5, and Policy 16.2.3.4, for the reasons outlined in those parts of our decision, and are therefore considered consequential changes.

Restoration and Rehabilitation

238. We agree in part with the amendment recommended by the Reporting Officer to add further guidance to the assessment rule for mining and landfills in relation to restoration or rehabilitation. We consider that the wording should support conversion to a recreational use and our decision is to add a new clause to 16.11.2.4 as follows:

In assessing effects on rural character values and amenity, Council will consider whether any proposed restoration or rehabilitation measures will ensure that final landforms:

1. screen or enhance the view of excavated faces from surrounding public and residential viewpoints through appropriate landscaping, plantings or siting of public amenities; and/or

2. minimise evidence of mining or landfill activity by blending final contours with surrounding landforms to achieve as natural appearance as possible, and by providing for the establishment of vegetation cover appropriate to the local character {CP 1088.57}

239. The reason for our decision is that, as discussed in Section 3.9 above, we consider clarification is required to what an acceptable standard was in relation to restoration and rehabilitation, as required by Policy 16.2.3.4. The amendments recommended by the Reporting Officer will, in our consideration, provide the appropriate guidance.

Environmental Compensation

240. In relation to the Reporting Officer's recommendation to add a new clause relating to considering positive effects of environmental compensation, we note that the Officer's recommendation in the Mining Activities Section 42A Report was superseded by a recommendation in the Natural Environment Section 42A Report to provide for the use of biodiversity offsetting in the 2GP. Our decision in relation to submissions heard in the latter report was to provide a framework for biodiversity offsetting and environmental compensation in the 2GP. Any biodiversity offsets or environmental compensation offered up as part of an application will be taken into account as positive effects under s104 of the RMA, and will be assessed against new Policy 2.2.3.5 and Policy 2.2.3.6. Rule 16.11.2.4 refers to Natural Environment section 10.6 guidance on the assessment of resource consents in relation to relevant section 10 objectives and policies, which in turn references the policies that relate to biodiversity offsetting and environmental compensation - policies 2.2.3.5 and 2.2.3.6 (see Natural Environment decision for further detail).

241. We consider this constitutes allowance for appropriate compensatory measures.

Positive Effects of Mining

242. We accept in part the submissions of *Saddle Views Estate Ltd* (OS458.46), *Blackhead Quarries Ltd* (OS874.51) and *Tussock Top Farm Ltd* (OS901.46) and that of *Oceana Gold Ltd* (OS1088.60) with respect to recognising the potential contribution or positive effects of mining.

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
15. Residential Zones	Assessment of NC Activities	15.12.3.5	15.13.3.4		Amend guidance as a consequence of change to activity status of 'scheduled mining activity' (clarify does not apply to scheduled mining activity)	CP 874.2 and others	3.2	4.3.1
16. Rural Zones	Introduction	16.1		Introduction	Add reference to mining in the rural introduction	CP 458.59	3.4	4.3.2
16. Rural Zones	Policy	16.2.1.2			Do not amend as requested		3.6	4.3.3.1
16. Rural Zones	Objective	16.2.1			Amend objective wording	CP 1088.60 and others	3.12	4.3.3.8
16. Rural Zones	Policy	16.2.2.4			Amend policy to add reference to blasting in relation to mineral exploration as a consequence of creating new activity 'mineral exploration that involves blasting'	CP 458.1 and others	3.15	4.3.5
16. Rural Zones	Policy	16.2.2.5			Do not amend as requested		3.7	4.3.3.3
16. Rural Zones	Policy	16.2.2.6	NA deleted		Delete Policy 16.2.2.6	CP 458.23 and others	3.8	4.3.3.4
16. Rural Zones	Policy	16.2.3.4			Amend policy wording	CP 458.24 and others	3.9	4.3.3.5
16. Rural Zones	Policy	16.2.3.5			Amend policy wording	CP 458.25 and others	3.10	4.3.3.6

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
16. Rural Zones	Activity Status	16.3.3.12 (New), 16.3.3.12	16.3.3.13	Mineral exploration that does not involve blasting	Add new row to activity status table for mineral exploration that does not involve blasting as a consequence of creating new activity 'mineral exploration that involves blasting'	CP 458.1 and others	3.15	4.3.5
16. Rural Zones	Activity Status	16.3.3.AD (New), 16.3.3.13	16.3.3.17, 16.3.3.15	Scheduled mining activity	Split off from mining a new activity: 'scheduled mining activity' and change activity status from D to P in the rural zone and overlays and add reference to new performance standard	CP 874.2 and others	3.1	4.3.1
16. Rural Zones	Activity Status	16.3.3.X	16.3.3.12	Mineral prospecting	Add new row to activity status table for mineral prospecting as a consequence of creating new activity 'mineral exploration that involves blasting'	CP 458.1 and others	3.15	4.3.5
16. Rural Zones	Activity Status	16.3.3.Y (New), 16.3.3.12	16.3.3.14, 16.3.3.13	Mineral exploration that involves blasting	Split off from mining a new activity 'mineral exploration that involves blasting', change	CP 458.1 and others	3.15	4.3.5

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
					activity status from D to P and add reference to a new blasting performance standard			
. Rural Zones	Land Use Performance Standard	16.5.9.2	16.5.10.2	Separation distances	Amend to clarify the measurement of separation distances	CP 458.43 and others	3.11	4.3.3.7
16. Rural Zones	Land Use Performance Standard	16.5.9	16.5.10	Separation distances	Amend 16.5.9 so that mining not involving blasting and mining involving blasting is differentiated, with the separation distance from mining not involving blasting being increased to 200m and the separation distance from mining involving blasting being increased to 500m.	CP 458.43 and others	3.11	4.3.3.7
16. Rural Zones	Land Use Performance Standard	16.5.14 (New)	16.5.15	Blasting	Add new blasting standard to Rule 16.5 as a consequence of creating new activity 'mineral exploration that involves blasting'	CP 458.1 and others	3.15	4.3.5
16. Rural Zones	Land Use Performance Standard	16.5.15 (New)	16.5.16	Scheduled mining activity	Add new performance standard 'scheduled mining activity'	CP 874.2 and others	3.1	4.3.1

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
16. Rural Zones	Land Use Performance Standard	16.5		Land use performance standards	Do not amend as requested		3.11	4.3.3.7
16. Rural Zones	Assessment of Restricted Discretionary Activities	16.10.2.2	16.10.2.4		Amend guidance to reflect deletion of policy 16.2.2.6	CP 458.23 and others	3.8	4.3.3.4
16. Rural Zones	Assessment of Restricted Discretionary Activities	16.10.2.3	16.10.2.5		Amend guidance to reflect deletion of policy 16.2.2.6	CP 458.23 and others	3.8	4.3.3.4
16. Rural Zones	Assessment of Restricted Discretionary Activities	16.10.2.5	16.10.2.1		Amend guidance to reflect change in Policy 16.2.3.5	CP 458.25 and others	3.10	4.3.3.6
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.2			Amend guidance to reflect change in Policy 16.2.3.5	CP 458.25 and others	3.10	4.3.3.8
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.3			Amend guidance to reflect deletion of policy 16.2.2.6	CP 458.23 and others	3.8	4.3.3.4
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.3			Amend guidance to reflect change in Policy 16.2.3.5	CP 458.25 and others	3.10	4.3.3.8
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.4		Mining, landfills	Amend guidance by adding guidance about rehabilitation and restoration (CP 1088.57) and locational constraints and logistical or	CP 1088.57 CP 901.24 and others	3.12	4.3.3.8

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
					technical requirements (901.24 and others)			
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.4			Amend guidance to reflect deletion of policy 16.2.2.6	CP 458.23 and others	3.8	4.3.3.4
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.4			Amend guidance to reflect change in Policy 16.2.3.4	CP 458.24 and others	3.9	4.3.3.8
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.4			Amend guidance to reflect change in Policy 16.2.3.5	CP 458.25 and others	3.10	4.3.3.8
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.4			Amend guidance for mining to add reference to new mining policy 2.3.1.8	CP1088.17 and others	3.12	4.3.2
16. Rural Zones	Assessment of Discretionary Performance Standard Contraventions	16.11.3.4 (New)		Blasting (mineral exploration)	Amend Rule 16.11.3 to add blasting to the assessment of discretionary performance standard contraventions as a consequence of creating new activity 'mineral exploration that involves blasting'	CP 458.1 and others	3.15	4.3.5

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
16. Rural Zones	Activity Status	16.3.3.AB (New) 16.3.3.AF (New)	16.3.3.40, 16.3.3.41	Service stations on a strategic road or arterial road	Amend the activity status of service stations where they are "on a strategic or arterial road" from NC to D. Service stations, other than on a strategic road or arterial road remain as N/C	CP 634.40	3.4.1	4.3
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.9 (New)	16.11.2.7	Service stations on a strategic road or arterial road	Amend guidance to reflect change to activity status for service stations on a strategic road or arterial road (add New row and additional guidance)	CP 634.40	3.4.1	4.3
17. Rural Residential Zones	Activity Status	17.3.3.22	17.3.3.24	All other activities in the commercial activities category	Do not amend as requested		3.4.1	4.3
18. Commercial Mixed Use Zones	Activity Status	18.3.3.11.b and c	18.3.3.12.b and c	Service stations	Amend the activity status of service stations from D to RD in the centres zones	CP 634.109	3.4.2	4.3
18. Commercial Mixed Use Zones	Activity Status	18.3.3.11.a	18.3.3.12.a	Service stations	Do not amend as requested		3.4.2	4.3

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