

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

**I TE KŌTI TAIAO
ŌTAUTAHU ROHE**

ENV-2018-CHC-240

BETWEEN

KĀTI HUIRAPA RŪNAKA KI PUKETERAKI

TE RŪNANGA O ŌTĀKOU

Appellants

AND

DUNEDIN CITY COUNCIL

Respondent

AMENDED NOTICE OF APPEAL

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

Solicitor Acting: S M Chadwick

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AMENDED 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.

Issue 3: Ridgelines

12 The decisions on this issue that are appealed are:

12.1 The removal of the mapped ridgelines in the 2GP maps and the wording of all plan provisions associated with the 'identified ridgelines' that were originally included in

the notified version of the 2GP, and the consequential changes as a result of that removal.¹

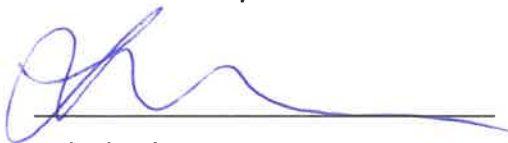
- 13 The reasons for the appeal on this issue are:
- 13.1 Ridgelines commonly hold great significance for Manawhenua and are frequently linked to creation traditions.
- 13.2 The ridgelines protections included in the notified version of the 2GP plan were welcomed and supported by Ngā Rūnanga as an essential management mechanism that was complementary to, and would support and enhance the protection of Manawhenua values from the adverse effects of a range of activities on and close to ridgelines, including network utility structures and mining.
- 13.3 The decision to remove the identified ridgelines and associated provisions substantially weakens the framework of protections provided in the 2GP, and this decision means there would be only limited oversight and management of activities sited on or close to ridgelines.
- 13.4 The 2GP rules in their present form with the ridgelines provisions removed do not adequately manage activities which can occur on top of, and close to important ridgelines, leaving a significant risk that prominent adverse effects on the skyline from poorly managed development may occur until such time as the Council might be in a position to initiate a plan change.
- 13.5 The 2GP should adequately provide for notification to Manawhenua of certain activities on or near important ridgelines, including outside the wāhi tūpuna mapped areas.
- 13.6 The recommendations in the expert reports regarding protection of ridgelines clearly supported the inclusion of rules and provisions to manage effects on ridgelines, and the decisions committee supported the intent of the ridgelines provisions.²
- 13.7 The removal of the ridgelines protections does not promote sustainable management and does not adequately reflect or take account of the important matters in Part II of the Resource Management Act 1991, including sections 6(a), (b), 6(e), 6(g), 6(f), 7(a), 7(aa), 7(f) and 8.

¹ This decision is recorded on pages 139-142 of the Rural zones hearings decisions of the hearings panel dated 7 November 2018, a copy of these pages are attached to the Amended notice of appeal

² Decisions report para 753

- 14 In respect of this issue Ngā Rūnanga seek the following relief:
- 14.1 That the appeal be allowed;
- 14.2 That important ridgelines are correctly mapped and/or identified in the 2GP maps using an alternative method in accordance with the intent of the originally identified ridgelines provisions in the notified version of the 2GP;
- 14.3 That plan provisions and rules that properly manage the effects of activities on or near identified ridgelines be included in the 2GP and the consequential amendments referred to in paragraph 754 of the Rural zones decisions report are reversed;
- 14.4 That provision is made to ensure that Manawhenua will be notified of activities on or near identified ridgelines;
- 14.5 That the provisions relating to ridgelines are appropriately linked to rules providing for the protection of Manawhenua values;
- 14.6 Such other relief as the Court sees fit; and
- 14.7 Costs.
- 15 **Attached** to this Amended Notice of Appeal are the following documents:
- 15.1 A copy of the relevant submissions of Ngā Rūnanga.
- 15.2 A copy of the relevant part of the Rural zones hearings decisions of the hearings panel dated 7 November 2018.
- 15.3 A list of the parties served with a copy of this Amended Notice of Appeal.

DATED this 1st day of March 2019



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/>



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



Chris Rosenbrock
Manager

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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 cemeteries, 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 to more than minor .	Kāi Tahu supports the notified policy. The adverse effects of cemeteries, 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 Ngāi	This submission is consistent with the aspirations of Kāti Huirapa Rūnaka

OS796.23	Waste Management (NZ) Limited	Rule 14.5 Assessment of Discretionary Activities	14.5.2 Assessment of discretionary activities	Oppose	Tahu'.	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 14.5.2.2 Assessment of discretionary activities (Crematoriums, Cemeteries and Landfills) to relate this assessment back to the mapped areas of wāhi tūpuna. 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. 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. 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 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 tupuna.

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 Horne & Craig Horne 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 (where technically and operationally practicable), 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 Kāti 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 Top 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.

OS185.2	JWB Bradley Family Trust	16.3.3 Activity status table - land use activities	16.3.3.7 Forestry not in GR17Z	Oppose	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. 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	



**SECOND
GENERATION
DISTRICT PLAN**

Rural Zones Hearing Decision of 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

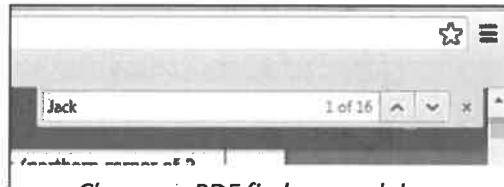
In addition to the summary table at the end of each decision report there is a master summary table that lists all decisions on provisions (Plan text), across all hearing topics, including details of the section(s) of the decision report in which that decision is discussed, and the relevant section(s) 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

Table of Contents

1.0	Introduction	15
1.1	Scope of decision	15
1.1.1	Section 42A Report	16
1.1.2	Structure of Report	16
1.2	Section 32AA Evaluation	16
1.3	Statutory Considerations	17
2.0	Hearing Appearances and evidence presented	19
3.0	Key topics discussed at the hearing or covered in tabled evidence OR Discussion on provisions sought to be amended	24
3.1	Context	24
3.2	Subdivision and density provisions	24
3.2.1	Introduction	24
3.2.2	Strategic Directions Policy 2.2.4.3.c	24
3.2.2.1	Background	24
3.2.2.2	Submissions	24
3.2.2.3	Section 42A Report	25
3.2.2.4	Hearing	25
3.2.2.5	Revised recommendations	25
3.2.2.6	Decision and reasons	26
3.2.3	Policy 2.3.1.3	26
3.2.3.1	Background	26
3.2.3.2	Submissions	26
3.2.3.3	Section 42A Report	27
3.2.3.4	Hearing	27
3.2.3.5	Revised recommendations	27
3.2.3.6	Decision and reasons	27
3.2.4	Rule 16.7.4 (subdivision minimum site size standard)	28
3.2.4.1	Background	28
3.2.4.2	Submissions in support of Rule 16.7.4	28
3.2.4.3	Submissions to review minimum site size standard	29
3.2.4.4	Submissions to reduce minimum site sizes for subdivision	29
3.2.4.5	Submissions to increase minimum site sizes for subdivision	31
3.2.4.6	Section 42A Report	31
3.2.4.7	Hearing	32
3.2.4.8	Revised recommendations	33
3.2.4.9	Decision and reasons	34
3.2.5	Activity status for subdivision activities not meeting minimum site size performance standard (Rule 16.7.4.3)	35
3.2.5.1	Background	35
3.2.5.2	Submissions to specify non-complying activity status	35

3.2.5.3	Requests for default status of discretionary rather than non-complying where Minimum Site Size not met	35
3.2.5.4	Request for additional exceptions for contravention of Minimum Site Size to be treated as restricted discretionary	36
3.2.5.5	Section 42A Report	37
3.2.5.6	Hearing	38
3.2.5.7	Revised recommendations	38
3.2.5.8	Decision and reasons	40
3.2.6	Rule 16.7.4.2 Sites exempt from subdivision minimum site size	40
3.2.6.1	Background	40
3.2.6.2	Submissions	40
3.2.6.3	Section 42A Report	41
3.2.6.4	Hearing	41
3.2.6.5	Decision and reasons	41
3.2.7	Rule 16.7.5 Shape Subdivision Performance Standard	42
3.2.7.1	Background	42
3.2.7.2	Submissions	42
3.2.7.3	Section 42A	42
3.2.7.4	Decision and reasons	43
3.2.8	Policy 16.2.1.10 and Rule 16.7.4.3 surplus dwelling subdivisions	43
3.2.8.1	Background	43
3.2.8.2	Submissions in support	44
3.2.8.3	Submission to remove Policy 16.2.1.10	44
3.2.8.4	Submissions to expand circumstances where land containing a surplus dwelling may be subdivided	44
3.2.8.5	Request for use of a consent notice rather than a covenant	45
3.2.8.6	Section 42A Report	45
3.2.8.7	Hearing	46
3.2.8.8	Revised recommendations	46
3.2.8.9	Decision and reasons	47
3.2.9	Objective 16.2.1	49
3.2.9.1	Background	49
3.2.9.2	Submissions in support	50
3.2.9.1	Submissions to amend	50
3.2.9.2	Section 42A Report	52
3.2.9.3	Hearing	52
3.2.9.4	Revised recommendations	53
3.2.9.5	Decision and reasons	53
3.2.10	Policy 16.2.1.5	54
3.2.10.1	Background	54
3.2.10.2	Submissions	54
3.2.10.3	Section 42A Report	54
3.2.10.4	Hearing	55

3.2.10.5	Decision and reasons	55
3.2.11	Policy 16.2.1.7	55
3.2.11.1	Background	55
3.2.11.2	Submissions	55
3.2.11.3	Section 42A Report	57
3.2.11.4	Hearing	58
3.2.11.5	Decision and reasons	58
3.2.12	Rule 16.5.2 Residential density performance standard	59
3.2.12.1	Background	59
3.2.12.2	Submissions in support of Rule 16.5.2	60
3.2.12.3	Submission to clarify Rule 16.5.2 with respect to sleep outs	60
3.2.12.4	Submissions on 16.5.2.1 -minimum site size	60
3.2.12.5	Submissions on Rule 16.5.2.2 (Family Flats)	63
3.2.12.6	Submissions on Rule 16.5.2.3 (Performance standard contravention)	63
3.2.12.7	Section 42A report	64
3.2.12.7.1	Submissions in support	64
3.2.12.7.2	Clarification with respect to sleep outs	64
3.2.12.7.3	Minimum site sizes	64
3.2.12.7.4	Submissions to allow residential activity on existing sites	66
3.2.12.7.5	Submissions on performance standard contraventions	66
3.2.12.8	Hearing	67
3.2.12.9	Revised recommendations	68
3.2.12.10	Decisions and reasons	69
3.2.13	Policy 16.2.1.9 and Rule 16.3.5.2 (cross lease, company lease and unit title subdivision)	70
3.2.13.1	Background	70
3.2.13.2	Submissions	70
3.2.13.3	Section 42A Report	70
3.2.13.4	Hearing	71
3.2.13.5	Revised Recommendations	71
3.2.13.6	Decision and reasons	71
3.2.14	Policy 16.2.3.8	72
3.2.14.1	Background	72
3.2.14.2	Submissions	72
3.2.14.3	Section 42A Report	72
3.2.14.4	Hearing	73
3.2.14.5	Revised recommendations	73
3.2.14.6	Decision and reasons	73
3.2.15	Policy 16.2.4.3	73
3.2.15.1	Background	73
3.2.15.2	Submissions in support	73
3.2.15.3	Submissions to allow subdivision in a broader range of circumstances	74

3.2.15.4	Submissions to enable conservation and protection of new species	74
3.2.15.5	Submission to expand scope of Policy 16.2.4.3	74
3.2.15.6	Submission to remove Policy 16.2.4.3	74
3.2.15.7	Section 42A Report	75
3.2.15.8	Decision and reasons	75
3.2.16	Policy 16.2.4.4	76
3.2.16.1	Background	76
3.2.16.2	Submissions	76
3.2.16.3	Section 42A report	76
3.2.16.4	Hearing	77
3.2.16.5	Decision and reasons	77
3.3	Rural Productivity	77
3.3.1	Introduction	77
3.3.2	High class soils and productive land	78
3.3.2.1	Background	78
3.3.2.2	Submissions	78
3.3.2.3	Section 42A Report	79
3.3.2.4	Hearing	81
3.3.2.5	Revised Recommendations	81
3.3.2.6	Decision and reasons	82
3.3.3	Policy 2.2.2.1	84
3.3.3.1	Background	84
3.3.3.2	Submissions	84
3.3.3.3	Section 42A Report	84
3.3.3.4	Hearing	85
3.3.3.5	Revised recommendations	86
3.3.3.6	Decisions and reasons	86
3.3.4	Objective 2.3.1	87
3.3.4.1	Background	87
3.3.4.2	Submissions	87
3.3.4.3	Section 42A Report	88
3.3.4.4	Hearing	88
3.3.4.5	Revised recommendations	89
3.3.4.6	Decisions and reasons	89
3.3.5	Policy 2.3.1.2	89
3.3.5.1	Background	89
3.3.5.2	Submissions	89
3.3.5.3	Section 42A Report	90
3.3.5.4	Hearing	90
3.3.5.5	Revised recommendations	91
3.3.5.6	Decisions and reasons	91
3.3.6	Policy 2.3.1.3	92

3.3.6.1	Background	92
3.3.6.2	Submissions	92
3.3.6.3	Section 42A Report	92
3.3.6.4	Hearing	92
3.3.6.5	Revised recommendations	92
3.3.6.6	Decision and reasons	93
3.3.7	Objective 16.2.4	93
3.3.7.1	Background	93
3.3.7.2	Submissions	93
3.3.7.3	Section 42A Report	94
3.3.7.4	Hearing	94
3.3.7.5	Decision and reasons	94
3.3.8	Policy 16.2.4.1	94
3.3.8.1	Background	94
3.3.8.2	Submissions	94
3.3.8.3	Section 42A Report	95
3.3.8.4	Decision and reasons	95
3.3.9	Policy 16.2.4.2	95
3.3.9.1	Background	95
3.3.9.2	Submissions	95
3.3.9.3	Section 42A Report	96
3.3.9.4	Hearing	97
3.3.9.5	Revised recommendations	97
3.3.9.6	Decision and reasons	98
3.4	Management of Rural activities	99
3.4.1	Introduction	99
3.4.2	Factory Farming	99
3.4.2.1	Introduction	99
3.4.2.2	Submission in support	100
3.4.2.3	Submissions to rename factory farming	100
3.4.2.4	Submissions to amend the definition of factory farming	100
3.4.2.5	Submissions to add new definitions of poultry farming	100
3.4.2.6	Section 42A Report	101
3.4.2.6.1	Submissions to rename factory farming	101
3.4.2.6.2	Submissions to amend the definition of factory farming	101
3.4.2.6.3	Submissions to add new definitions for poultry farming	102
3.4.2.6.4	Recommended amendment	102
3.4.2.7	Hearing	103
3.4.2.8	Revised recommendations	104
3.4.2.9	Decision and reasons	104
3.4.3	Farming	106
3.4.3.1	Background	106

3.4.3.2	Submissions	106
3.4.3.3	Section 42A Report	106
3.4.3.4	Hearing	106
3.4.3.5	Decision and reasons	107
3.4.4	Forestry and Tree Planting	107
3.4.4.1	Introduction	107
3.4.4.2	Submissions	108
3.4.4.3	Section 42A Report	109
3.4.4.4	Hearing	110
3.4.4.5	Decision and Reasons	110
3.4.5	Landfills	111
3.4.5.1	Background	111
3.4.5.2	Submissions	112
3.4.5.3	Section 42A Report	112
3.4.5.4	Decision and Reasons	113
3.4.6	Rural Industry	113
3.4.6.1	Background	113
3.4.6.2	Submission in support	114
3.4.6.3	Requests relating to offal rendering plant	114
3.4.6.4	Request to add new definition of rural contractor depots	114
3.4.6.5	Section 42A Report	115
3.4.6.6	Hearing	116
3.4.6.7	Decision and Reasons	116
3.4.7	Policy 16.2.1.1	119
3.4.7.1	Background	119
3.4.7.2	Submissions	119
3.4.7.3	Section 42A Report	119
3.4.7.4	Hearing	119
3.4.7.5	Decision and reasons	120
3.4.8	Policy 16.2.1.2	120
3.4.8.1	Background	120
3.4.8.2	Submissions	120
3.4.8.3	Section 42A Report	120
3.4.8.4	Hearing	121
3.4.8.5	Decision and reasons	121
3.4.9	16.3.3 Activity status – land use activities	122
3.4.9.1	Submissions	122
3.4.9.2	Section 42A Report	122
3.4.9.3	Decision and reasons	122
3.4.10	Rule 16.3.3.24 Supported living facilities	122
3.4.10.1	Background	122
3.4.10.2	Submissions	122

3.4.10.3	Section 42A Report	122
3.4.10.4	Hearing	123
3.4.10.5	Revised recommendations	123
3.4.10.6	Decision and reasons	123
3.4.11	Rule 16.3.3.35 Visitor accommodation	123
3.4.11.1	Background	123
3.4.11.2	Submissions	124
3.4.11.3	Section 42A Report	124
3.4.11.4	Hearing	124
3.4.11.5	Decision and reasons	124
3.4.12	Rule 16.3.3.37 All other activities in the commercial activities category	125
3.4.12.1	Background	125
3.4.12.2	Submissions	125
3.4.12.3	Section 42A Report	126
3.4.12.4	Hearing	126
3.4.12.5	Decision and reasons	126
3.4.13	Activity status table – land use activities – new suggested land use rules	126
3.4.13.1	Submissions	126
3.4.13.2	Section 42A Report	127
3.4.13.3	Decision and reasons	127
3.4.14	Rule 16.3.4.14 Development activities on scheduled heritage sites	127
3.4.14.1	Background	127
3.4.14.2	Submissions	127
3.4.14.3	Section 42A Report	128
3.4.14.4	Hearing	128
3.4.14.5	Decision and reasons	128
3.4.15	Rule 16.11.2.4 mining and landfill assessment rule	128
3.4.15.1	Submissions	128
3.4.15.2	Section 42A Report	128
3.4.15.3	Decision and reasons	128
3.4.16	Rule 16.9.2.1 and 16.9.4.10 (assessment of performance standard contraventions)	129
3.4.16.1	Background	129
3.4.16.2	Submission	129
3.4.16.3	Section 42A	129
3.4.16.4	Hearing	130
3.4.16.5	Decision and reasons	130
3.5	Bulk and location provisions (Landscape Amenity)	131
3.5.1	Introduction	131
3.5.2	Strategic Direction 2.4	131
3.5.2.1	Background	131
3.5.2.2	Submissions	131

3.5.2.3	Section 42A Report	131
3.5.2.4	Hearing	131
3.5.2.5	Revised recommendations	132
3.5.2.6	Decision and Reasons	132
3.5.3	Objective 2.4.6 and Policy 2.4.6.2 (Character of Rural Environment)	133
3.5.3.1	Background	133
3.5.3.2	Submissions	133
3.5.3.3	Section 42A Report	134
3.5.3.4	Hearing	135
3.5.3.5	Revised recommendations	135
3.5.3.6	Decision and Reasons	135
3.5.4	Objective 16.2.3	136
3.5.4.1	Background	136
3.5.4.2	Submissions	137
3.5.4.3	Section 42A Report	138
3.5.4.4	Hearing	138
3.5.4.5	Revised recommendations	138
3.5.4.6	Decision and Reasons	139
3.5.5	Ridgeline Mapped Area and Related Provisions	139
3.5.5.1	Background	139
3.5.5.2	Submissions to remove Rule 16.6.11.4	140
3.5.5.3	Request to remove 20m vertical setback and amend Policy 16.2.3.1 and mapping	140
3.5.5.4	Submission to amend Ridgeline Mapped Area	140
3.5.5.5	Submissions on Policy 10.2.5.10 (relating to ridgelines provisions)	140
3.5.5.6	Section 42A Report	141
3.5.5.7	Decision and Reasons	142
3.5.6	Policy 16.2.3.1	143
3.5.6.1	Background	143
3.5.6.2	Submissions	143
3.5.6.3	Section 42A Report	143
3.5.6.4	Hearing	143
3.5.6.5	Revised recommendations	144
3.5.6.6	Decision and Reasons	144
3.5.7	Policy 16.2.2.5	144
3.5.7.1	Background	144
3.5.7.2	Submissions	144
3.5.7.3	Section 42A Report	145
3.5.7.4	Decision and Reasons	145
3.5.8	Policy 16.2.2.6	146
3.5.8.1	Background	146
3.5.8.2	Submissions	146

3.5.8.3	Section 42A Report	146
3.5.8.4	Hearing	146
3.5.8.5	Decision and Reasons	147
3.5.9	Policy 16.2.3.2	147
3.5.9.1	Background	147
3.5.9.2	Submission	147
3.5.9.3	Section 42A Report	147
3.5.9.4	Hearing	147
3.5.9.5	Decision and Reasons	147
3.5.10	Policy 16.2.3.4	148
3.5.10.1	Background	148
3.5.10.2	Submissions	148
3.5.10.3	Section 42A Report	148
3.5.10.4	Hearing	148
3.5.10.5	Decision and Reasons	148
3.5.11	Policy 16.2.3.5	149
3.5.11.1	Background	149
3.5.11.2	Submissions	149
3.5.11.3	Section 42A Report	149
3.5.11.4	Decision and Reasons	150
3.5.12	Policy 16.2.3.6	150
3.5.12.1	Background	150
3.5.12.2	Submissions	150
3.5.12.3	Section 42A Report	150
3.5.12.4	Decision and reasons	151
3.5.13	Policy 16.2.3.8	152
3.5.13.1	Background	152
3.5.13.2	Submissions	152
3.5.13.3	Section 42A Report	152
3.5.13.4	Hearing	152
3.5.13.5	Revised recommendations	152
3.5.13.6	Decision and Reasons	153
3.5.14	Policy 16.2.3.9	153
3.5.14.1	Background	153
3.5.14.2	Submissions	153
3.5.14.3	Section 42A Report	153
3.5.14.4	Decision and Reasons	153
3.5.15	Objective 16.2.2	154
3.5.15.1	Background	154
3.5.15.2	Submissions	154
3.5.15.3	Section 42A Report	154
3.5.15.4	Hearing	155

3.5.15.5	Revised recommendations	155
3.5.15.6	Decision and reasons	155
3.5.16	Policy 16.2.2.1	156
3.5.16.1	Background	156
3.5.16.2	Submissions	156
3.5.16.3	Section 42A Report	156
3.5.16.4	Hearing	156
3.5.16.5	Revised recommendations	156
3.5.16.6	Decision and Reasons	157
3.5.17	Rule 16.5.9 Separation distance performance standard	158
3.5.17.1	Background	158
3.5.17.2	Requests that additional land use activities be subject to the separation distances in Rule 16.5.9	158
3.5.17.3	Requests for increase of separation distance	158
3.5.17.4	Request for cross-referencing	159
3.5.17.5	Request that separation distances also apply from industrial and rural industrial activities	159
3.5.17.6	Section 42A Report	159
3.5.17.7	Hearing	161
3.5.17.8	Decision and reasons	162
3.5.18	Rule 16.6.8 Number, location and design of ancillary signs performance standard	163
3.5.18.1	Background	163
3.5.18.2	Submissions	164
3.5.18.3	Section 42A Report	164
3.5.18.4	Decision and reasons	164
3.5.19	Rule 16.6.11.1 Boundary setbacks	164
3.5.19.1	Background	164
3.5.19.2	Submissions in support	164
3.5.19.3	Submissions for boundary setbacks to be less restrictive, including for small sites	164
3.5.19.4	Submission to increase boundary setback for large farm sheds	165
3.5.19.5	Submission to amend exception for existing building within setback	165
3.5.19.6	Section 42A Report	165
3.5.19.7	Hearing	167
3.5.19.8	Decision and Reasons	169
3.5.20	Maximum Height Performance Standard Rule 16.6.6	171
3.5.20.1	Background	171
3.5.20.2	Submissions	171
3.5.20.3	Section 42A Report	171
3.5.20.4	Decision and Reasons	171
3.5.21	New suggested development performance standard for buildings and structures	171

3.5.21.1	Submissions	171
3.5.21.2	Section 42A Report	172
3.5.21.3	Hearing	172
3.5.21.4	Decision and Reasons	173
3.5.22	Hours of Operation Performance Standard	173
3.5.22.1	Background	173
3.5.22.2	Submissions	174
3.5.22.3	Section 42A Report	174
3.5.22.4	Hearing	175
3.5.22.5	Revised recommendations	175
3.5.22.6	Decision and reasons	175
3.5.23	Appendix A7	176
3.5.23.1	Request to insert references to Appendix A7 values to certain assessment rules	176
3.5.23.2	Request to amend term 'watercourse' to 'water body' in A7.3 Taieri Plains Rural Zone	177
3.5.23.3	Request to amend appendices to better recognise Manawhenua values	177
3.5.23.4	Request to amend A7.3 values to acknowledge horticultural production	177
3.5.23.5	Summary of amendments	177
3.6	Notification Rule	178
3.6.1	Background	178
3.6.2	Submissions	178
3.6.3	Section 42A Report	180
3.6.4	Hearing	181
3.6.5	Revised recommendations	181
3.6.6	Decision and reasons	182
3.7	Rural Section and Introduction	183
3.7.1	Rural Section	183
3.7.1.1	Submissions	183
3.7.1.2	Section 42A Report	184
3.7.1.3	Decision and reasons	185
3.7.2	Rural Introduction	185
3.7.2.1	Background	185
3.7.2.2	Submissions	185
3.7.2.3	Section 42A	186
3.7.2.4	Hearing	187
3.7.2.5	Revised recommendations	187
3.7.2.6	Decision and reasons	188
3.7.3	Broad submissions	189
3.7.3.1	Submissions to amend all objectives and policies to replace 'minor' with 'insignificant' and 'insignificant' with 'very insignificant, meaning bordering on unidentifiable'	189
3.7.3.2	Submissions to add new provisions to manage land use in dry catchments	189

3.7.3.3	Section 42A Report	189
3.7.3.4	Hearing	190
3.7.3.5	Decision and reasons	191
3.7.4	Request for new provisions for Huriawa and Māpoutahi	191
3.7.4.1	Background	191
3.7.4.2	Submissions	191
3.7.4.3	Section 42A Report	192
3.7.4.4	Hearing	193
3.7.4.5	Revised recommendations	193
3.7.4.6	Decision and reasons	194
3.8	Zoning and mapping submissions	194
3.8.1	Introduction	194
3.8.2	High class soils mapped area	194
3.8.2.1	Background	194
3.8.2.2	Submission in support	194
3.8.2.3	60 Mount Grand Rd	194
3.8.2.4	171 Pigeon Flat Rd	195
3.8.2.5	121 Hall Rd	195
3.8.2.6	712 Kaikorai Valley Rd	195
3.8.2.7	Middlemarch Basin Rural Zone	195
3.8.2.8	Area of Ridge, Sandymount and Hoopers Inlet roads, Otago Peninsula	195
3.8.2.9	55 Otokia Road East	195
3.8.2.10	14 Polwarth Road	195
3.8.2.11	155 and 252 Scroggs Hill Road	196
3.8.2.12	Section 42A	196
3.8.2.13	Hearing	197
3.8.2.14	Revised recommendations	197
3.8.2.15	Panel minute to submitters	198
3.8.2.16	Memo and Reconvened hearing - review of Middlemarch Basin HCS mapped area	198
3.8.2.17	Decision and reasons	198
3.8.3	Rural zones – general	200
3.8.3.1	Submissions	200
3.8.3.2	Section 42A Report	200
3.8.3.3	Decision and reasons	201
3.8.4	Middlemarch Basin Rural Zone	202
3.8.4.1	Submission	202
3.8.4.2	Section 42A Report	202
3.8.4.3	Decision and reasons	203
3.8.5	Hill Slopes Rural Zone	203
3.8.5.1	Submissions	203
3.8.5.2	Section 42A	204

3.8.5.3	Hearing	206
3.8.5.4	Decision and reasons	206
3.8.6	Coastal Rural Zone	207
3.8.6.1	Submissions	207
3.8.6.2	Section 42A	207
3.8.6.3	Hearing	209
3.8.6.4	Decision and reasons	209
3.8.7	Peninsula Coast Rural Zone	209
3.8.7.1	Submissions	209
3.8.7.2	Section 42A Report	210
3.8.7.3	Hearing	211
3.8.7.4	Decision and reasons	211
4.0	Future plan change reviews and other suggestions	211
5.0	Minor and inconsequential amendments	212
Appendix 1 – Amendments to the Notified 2gP (2015)		213
Appendix 2 – Figures		214
Appendix 3 – Summary of Decisions		

word 'significant' as the clause adds clarity because it fully lists elements of rural character and amenity.

728. In response to *Ms Maturin*, Mr Bathgate agreed that the word 'significant' should be removed as this implied reference only to scheduled ASCVs, and in doing so, revised his s42A recommendation to remove clause f entirely.

3.5.4.6 Decision and Reasons

729. We accept in part the submission of *Forest and Bird NZ* (OS958.99), because we accept the evidence of Mr Bathgate and Ms Maturin that the remaining areas of indigenous vegetation and presence of wildlife are important components of rural character and this should not be restricted to significant areas. We have amended clause "f" of Objective 16.2.3 to replace 'significant' with 'extensive' because we consider that this better describes the nature of indigenous vegetation and habitats of indigenous fauna while aiding in plan clarity. For these reasons, we reject *Timothy Morris* (OS951.33) and the *Morris Family Trust* (OS1054.33) to remove clause f.
730. We reject the submission of *Federated Farmers of New Zealand* (OS919.51) to replace clause a-g of Objective 16.2.3 to recognise the changing nature of the rural landscape. We agree with *Otago Regional Council* that the changes would be inconsistent with the pRPS and with the Reporting Officer that the clauses provide a general and high level description of the rural character values and amenity that the objective seeks to maintain or enhance, while allowing for an element of change. We have decided not to include the word 'generally', as recommended by the Reporting Officer. We hold the view that including 'generally' forms an aspirational statement that, in our view, is not effective in an objective.
731. We reject the submission of *Horticulture New Zealand* (OS1090.33) to expand clause e. to acknowledge effects arising from farming activities. We agree with the reason provided by the Reporting Officer that referring to these effects within the policy would imply an intent to maintain or enhance such effects when the intent of the objective is to maintain or enhance rural character and amenity.
732. We have made the following amendments to implement this decision:
1. Amended Objective 16.2.3.f to replace 'significant' with 'extensive'. See Appendix 1 (amendments attributed to RU 958.99).

3.5.5 Ridgeline Mapped Area and Related Provisions

3.5.5.1 Background

733. Important ridgelines in Dunedin were initially identified by Boffa Miskell in a review of the landscape management areas in the operative Plan (Dunedin Landscape Management Areas Review, 2007). The ridgelines identified in the study were considered to be visually prominent and of high cultural or amenity value. Most, but not all of the ridgelines identified by Boffa Miskell, that were included in the 2GP as 'ridgeline mapped areas', lie within proposed landscape overlay zones.
734. Rule 16.6.11.4 Setback from ridgeline reads:
1. New buildings and structures (except fences), additions and alterations, and network utilities structures (all scales) and network utilities poles and masts - small scale must be at least 20m vertically below any ridgeline mapped area.
 2. For the purposes of this standard, the vertical distance will be measured from the highest part of the building or structure.

3.5.5.2 Submissions to remove Rule 16.6.11.4

735. *Blackhead Quarries Ltd* (OS874.41) and *Tussock Top Farm Ltd* (OS901.34) sought the deletion of Rule 16.6.11.4 as the submitters considered that the 2GP did not provide adequate recognition of the importance of aggregate to the community and did not provide the appropriate level of protection for existing quarries. The proposed deletion, in their view, would go some way to ensuring the appropriate level of recognition and protection was put in place. These submissions were opposed by *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.95, 96), who considered that the ridgeline provisions as notified provided for the consideration of Manawhenua values in wāhi tūpuna.
736. *Tim Morris and the Morris Family Trust* (OS951.30, OS1054.30) also sought deletion of Rule 16.6.11.4 as they considered the setback distances were far too restrictive and unreasonable. *Federated Farmers of New Zealand* (FS2449.337, 338) supported an amendment of setback rules as they considered they were not appropriate for rural areas. *HPPC* (FS2267.70) opposed the submissions of *Tim Morris and the Morris Family Trust* as "structures on or close to ridgelines have a significant impact on character and amenity".

3.5.5.3 Request to remove 20m vertical setback and amend Policy 16.2.3.1 and mapping

737. *The Clifton Trust* (OS720.3) sought that Rule 16.6.11.4.1 be amended so that the highest points of buildings or structures are located below a ridgeline, rather than being required to be 20m below the ridgeline. The submitter considered that the rule should follow that proposed by Boffa Miskell Limited, which recommended that any building located within 100m of a ridgeline should have its highest point below the ridgeline. The submitter also sought that Policy 16.2.3.1 be amended by deleting the words "and identified ridgelines", and that the mapping of the Ridgeline Mapped Areas be amended to show a 100m horizontal buffer on either side of a mapped ridgeline, within which the submitter's amended version of Rule 16.6.11.4.1 would apply.

3.5.5.4 Submission to amend Ridgeline Mapped Area

738. *Ben Sutherland* (OS335.2) sought to amend the Ridgeline Mapped Area in the vicinity of 16 Treetop Drive. The submitter explained that the position of the mapped area would restrict his ability to build a new dwelling in future because under Rule 16.6.11.4 new buildings must be 20m vertically below the ridgeline mapped area. The submitter noted that the actual physical ridgeline was at least 100 meters above the proposed ridgeline and a neighbour's house was already at the same elevation as any future dwelling he would build. The submitter suggested either moving the ridgeline further up the hill side or reducing the 20m exclusion zone.

3.5.5.5 Submissions on Policy 10.2.5.10 (relating to ridgelines provisions)

739. Policy 10.2.5.10 states "Only allow mining where adverse effects on identified ridgelines can be avoided or, if avoidance is not possible, would be insignificant."
740. *Saddle Views Estate Limited* (OS458.13) sought to remove Policy 10.2.5.10. They considered the policy applies an absolute threshold of only insignificant adverse effects from mining on ridgelines and that the approach of the District Plan is not balanced, and that the identification of ridgelines as having the same protection as other landscapes is not appropriate because these are working environments with significant modifications through farming, forestry and mining.
741. *Blackhead Quarries Limited* (OS874.17) and *Tussock Top Farm Ltd* (OS901.12) also sought to remove Policy 10.2.5.10, as they considered aggregate resources are critical for people and communities to provide for their social, economic and cultural wellbeing and for their health and safety. They felt their suggested amendments would go some way to ensuring the appropriate level of recognition and protection is put in place. *Oceana Gold (New Zealand) Limited* (OS1088.47) sought the same

amendment, or to clarify that it does not apply to the Macraes Gold Project (which occupies in an area known as Taieri Ridge), because there is no definition of ridgeline or ridgeline mapped area. They sought clarification of these issues as they wish to ensure that further development of the Macraes Gold Project is not contrary to this policy.

- 742. *HPPC* (FS2267.30, FS2267.31) opposed the removal of Policy 10.2.5.10, stating "ridgelines are inappropriate to mine because the positive economic increment of removing a ridgeline and altering the skyline is so small compared to mining the main ore body below".
- 743. *STOP* (OS900.60) considered that mining generally has a significant impact if it goes as high as a ridgeline, and sought amendment of the policy to read: "Do not allow mining where adverse effects on identified ridgelines cannot be avoided or if avoidance is not possible, would be insignificant."

3.5.5.6 Section 42A Report

- 744. In making his recommendations on the ridgeline provisions, the Reporting Officer noted that the mapping of the ridgeline mapped areas in the 2GP at notification was not satisfactory, often at variance to actual topographical ridgelines. He considered that because of the level of error in the mapping; the large amount of work required to review and fix this mapping; and the probability that remapping will result in new sites falling within ridgeline mapped areas, that it was not possible to remedy this situation within the scope of submissions and within the timeframe of the hearings process. Because of this, he suggested that the provisions relating to the ridgeline mapped areas should be removed from the 2GP, with a review of the mapping and related provisions to be included in the plan through a subsequent plan change.
- 745. In relation to Rule 16.6.11.4, the Reporting Officer (s42A Report, pp. 341-342) noted that the need to protect important ridgelines in Dunedin from inappropriate development was raised by Boffa Miskell in their review of the operative Plan landscape management areas (Dunedin Landscape Management Areas Review 2007, pp. 12,164,179). As stated above, the ridgelines identified by this study were considered to be visually prominent ridgelines of high cultural or amenity value. Mr Bathgate considered the evidence of Mike Moore supported the need for a level of protection of these ridgelines.
- 746. Mr Bathgate then acknowledged the concerns expressed in the further submissions of *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtakou* that the removal of ridgeline protection would not provide for consideration of Manawhenua values; and of *HPPC* that structures on or close to ridgelines can have significant impacts on character and amenity. However, due to the mapping issues raised above, he recommended accepting the submissions to remove Rule 16.6.11.4 and as a consequential change to amend Policy 16.2.3.1 and remove the Ridgeline Mapped Area from the 2GP.
- 747. The Reporting Officer (s42A Report, p. 384) agreed with *Ben Sutherland* (OS335.2) that the mapping was erroneous in the vicinity of his property at 16 Treetop Drive, Portobello, and he recommended the submission be accepted in part.
- 748. With regard to the submission of the *Clifton Trust* (OS720.3) Mr Bathgate, in response, noted that Mike Moore, landscape architect, had provided expert evidence in relation to the setback from ridgelines standard (refer Moore evidence, pp. 17-20). Mr Moore raised several issues with the proposed rule, and concluded that "to properly protect ridgelines, these should be mapped in a way that is responsive to the particular landform and to the visibility from significant viewing corridors. Rather than ridgelines being represented as lines on the planning maps, it would be more appropriate to indicate more thoroughly defined overlays. In my opinion, this would have greater effectiveness and clarity than to refer to a measurement below a line."
- 749. Mr Moore did not support the approach suggested by *Clifton Trust*, as he considered that the blanket 100m horizontal offset does not take sufficient account of landform

variability, with the result that buildings could still be prominent on a skyline. In line with Mr Moore's evidence, Mr Bathgate considered that further work was required to better map the ridgelines and the extent to which the effects of any buildings, structures and network utilities in relation to these ridgelines will be experienced; he noted Mr Moore's suggestion for a mapped overlay (i.e. polygons) rather than a line, which Mr Bathgate considered would provide more certainty in terms of where the rule applied (i.e. a form of horizontal offset) than the current rule.

750. As Mr Bathgate recommended withdrawal of the ridgeline mapped areas from the 2GP, he did not recommend that the parts of the *Clifton Trust* submission requesting this 100m horizontal buffer be accepted; he did, however recommend that the part requesting amendment to Policy 16.2.3.1, be accepted (OS720.3).
751. Consequential to the removal of ridgelines provisions in the Rural section, the Natural Environment Reporting Officer also recommended removal of Policy 10.2.5.10 (relating to mining and identified ridgelines) in the Natural Environment section. He noted that most of the mapped ridgelines are within landscape overlay zones, where Mining is either discretionary or non-complying, and effects on landscape will be assessed regardless. Further, he explained that in rural zones outside of landscapes overlay zones, Rule 16.11.2.4 assesses the effects of Mining as a discretionary activity on rural character and visual amenity.

3.5.5.7 Decision and Reasons

752. We agree with the assessment of the Reporting Officer that it is appropriate that all references to mapped ridgelines be removed from the 2GP, because the mapping of ridgelines was inaccurate. Our reasons are the same as that outlined by Mr Bathgate - that time did not permit the remedying of this in the hearings process, nor provide for adequate consideration by owners of any new areas that could be captured by the revised mapping. We therefore accept the submissions seeking the removal of some or all of these provisions: *Blackhead Quarries Ltd* (OS874.17 and OS874.41) and *Tussock Top Farm Ltd* (OS901.3 and OS901.12), *Tim Morris* and the *Morris Family Trust* (OS951.30, OS1054.30) (opposed by *HPPC* (FS2267.70) and supported by *Federated Farmers of New Zealand* (FS2449.337, 338), *The Clifton Trust* (OS720.3), *Ben Sutherland* (OS335.2), *Saddle Views Estate Limited* (OS458.13) and *Oceana Gold (New Zealand) Limited* (OS1088.47). We reject the further submission opposing removal or amendment of the ridgeline mapping: *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.95, 96), *HPPC* (FS2267.30, FS2267.31), and *STOP* (OS900.60).
753. Notwithstanding the removal of the ridgeline mapped area and related provisions from the 2GP, we agree with the Reporting Officer that a review of the mapping and related provisions should be undertaken at a later date, and included in the District Plan through a subsequent plan change, as overall we support the intent of the provisions.
754. We have made the following amendments to implement this decision (See Appendix 1) and have attributed this to RU 874.41 and others.
 1. Removed the Ridgeline Mapped Area from the 2GP Map.
 2. Amended Policy 16.2.3.1 to delete reference to 'identified ridgelines' and network utilities as these were only subject to the set back from ridgelines provisions.
 3. Deleted Policy 10.2.5.10
 4. Deleted Rules 5.3.2.1.e, (referenced to ridgeline performance standard in Network Utilities Activity Status table) 5.5.12.3 (Network utilities ridgelines setback performance standard), 5.7.3.14 (Network utilities setback assessment of performance standard contraventions), 16.3.4.2 (Performance standards that apply to all buildings and structures

activities). 16.6.11.4 (Rural setback ridgelines setback performance standard), 16.9.4.14 (assessment of setback from ridgelines), part of 16.9.6.7 (assessment of setback from ridgelines in a wāhi tūpuna mapped area).

5. Note that as consequential change to the removal of the ridgelines provisions we have also amended Rule 16.9.6.7 (assessment of performance standard contravention in a wāhi tūpuna mapped area) so that setback from ridgelines is replaced by maximum height (see Manawhenua Decision Report).

3.5.6 Policy 16.2.3.1

3.5.6.1 Background

755. Policy 16.2.3.1 reads:

"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."

3.5.6.2 Submissions

756. *Federated Farmers* (OS919.52) sought to amend Policy 16.2.3.1 to ensure "consistency with" rural character values and visual amenity, as they considered the requirement "to maintain" failed to reflect the changing nature of the rural areas. This submission was supported by *Horticulture New Zealand* (FS2452.44) and *Clifton Trust* (FS2202.19)
757. *Federated Farmers* was opposed by *HPPC* (FS2267.48) who stated that "consistent with" was adequate for rural zones, but that maintaining values and amenity properly protects existing residents in overlays from losing these qualities, and the policy should be amended to differentiate landscape, coastal overlays and ASCVs. The *Federated Farmers* submission was also opposed by *Forest and Bird NZ* (FS2482.33).

3.5.6.3 Section 42A Report

758. The Reporting Officer (s42A, pp. 182-183) stated, in response to *Federated Farmers*, that he believed "to be consistent with" rural character value and visual amenity was not sufficiently different from "to maintain" to warrant using the different terminology. He did, however, accept that the use of the wording "maintains" in the policy may be interpreted as meaning there can be no effects whatsoever on rural character values and visual amenity. He considered that the use of the standard wording from the 2GP drafting protocol of "adverse effects are avoided, or if avoidance is not possible, are no more than minor" would clarify the intent of Policy 16.2.3.1 and he recommended an amendment to the policy to capture this.
759. The Reporting Officer also did not recommend the suggested amendment by *HPPC* was made, as in his view this policy was concerned with rural character and amenity. The particular values that make these overlay zones and ASCVs significant are the subject of separate objectives and policies in the Natural Environment section of the 2GP.

3.5.6.4 Hearing

760. David Cooper, for *Federated Farmers NZ*, supported the recommended amendment to Policy 16.2.3.1.
761. Lynette Wharfe (resource management consultant) called by *Horticulture New Zealand* pre-circulated evidence and spoke at the hearing. In relation to Policy

List of persons served with Amended Notice of Appeal

- Blackhead Quarries Limited
- Tussock Top Farm Limited
- Timothy George Morris
- The Morris Family Trust
- Federated Farmers of New Zealand
- The Clifton Trust
- Ben Sutherland
- Saddle Views Estate Limited
- Oceana Gold (New Zealand) Limited
- Harboursides and Peninsula Preservation Coalition
- Save The Otago Peninsula (STOP) Inc Soc
- The Preservation Coalition Trust
- Dunedin City Council