

BEFORE THE HEARINGS PANEL

UNDER the Resource Management Act 1991

IN THE MATTER of the Proposed Te Tai o Poutini
Plan - Historic Heritage - Ngā Tuku Ihotanga

STATEMENT OF EVIDENCE OF SUSAN MARY AITKEN

**ON BEHALF OF TE RŪNANGA O NGĀTI WAEWAE, TE RŪNANGA O MAKAAWHIO
AND TE RŪNANGA O NGĀI TAHU (Submitter 620 and Further Submission FS41)**

9 November 2023

INTRODUCTION

1. My name is Susan Mary Aitken.
2. I hold the qualifications of a Master of Environmental Science with First class honours from University of Canterbury. I have completed the Making Good Decisions course.
3. I am currently a Director at NewCog Limited which is a small consultancy company. I have been in this role for 2 and a half years and I provide resource management support and advice to local government, iwi, engineering consultants and not for profit organisations.
4. I have over 15 years' experience in resource management. Before working for NewCog Limited, I was employed in various roles at the Canterbury Regional Council (Environment Canterbury) and the Wellington Regional Council (Greater Wellington). During this time, my experience has been in the processing of notified and non-notified resource consent applications, inputted into the drafting and reviewing of regional plans and strategies, and undertaking compliance monitoring and enforcement work.
5. I have prepared and presented evidence in multiple resource consent hearings on behalf of Greater Wellington and Environment Canterbury for a variety of activities.
6. Since beginning at NewCog Limited, I have been providing resource management advice and support to Arahura Holding Limited, trading as Poutini Environmental. Poutini Environmental is the environmental entity solely owned by Te Rūnanga o Ngāti Waewae. I have reviewed and provided recommendations on various resource consent applications, inputted into planning documents and I have drafted Cultural Impact Assessments for Te Rūnanga o Ngāti Waewae.
7. I have also supported Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio with their input into the draft Te Tai o Poutini Plan

(**TTPP**) and their submission and further submission on the proposed TTPP. I was also involved in supporting Poutini Ngāi Tahu with their project to identify, map and categorise the Sites and Areas of Significance to Māori (SASM) for the proposed TTPP.

8. I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 and have complied with it in preparing this evidence. I confirm that the issues addressed in this evidence are within my area of expertise and I have not omitted material facts known to me that might alter or detract from my evidence. The issues addressed in this statement of evidence are within my area of expertise except where I state that I am relying on the evidence or advice of another person. The data, information, facts and assumptions I have considered in forming my opinions are set out in the part of the evidence in which I express my opinions.
9. My evidence primarily addresses the submissions of Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu, (collectively submitter 620). I have referred to these three parties collectively in my evidence as **Ngāi Tahu** for readability purposes.
10. When referring to provisions within the **TTPP** relating to Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio I have used the term of **Poutini Ngāi Tahu** for readability purposes.
11. The key documents I have referred to in drafting this brief of evidence are:
 - (a) The Resource Management Act 1991 (**RMA**);
 - (b) The Paetae Kotahitanga ki Te Tai Poutini - Partnership Protocol and Mana Whakahono ā Rohe Iwi Participation Agreement 2020 between Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio, Te Rūnanga o Ngāi Tahu and the West Coast Regional Council (**Mana Whakahono ā Rohe**);
 - (c) National Planning Standards 2019 (**NPS**);
 - (d) New Zealand Coastal Policy Statement (**NZCPS**);

- (e) National Policy Statement of Electricity Transmission 2008 **(NPSET)**;
- (f) National Policy Statement for Renewable Electricity Generation 2011 **(NPSREG)**;
- (g) West Coast Regional Policy Statement 2020 **(WCRPS)**;
- (h) West Coast Regional Land and Water Plan 2014 **(WCLWP)**;
- (i) Statement of Planning Evidence for Topic 1: Introduction and General Provisions and Topic 2: Strategic Directions, prepared by Rachael Pull;
- (j) Statement of Cultural Evidence for Topic 1: Introduction and General Provisions and Topic 2: Strategic Directions, prepared by Veronica Baldwin-Smith;
- (k) Legal submission for Ngāi Tahu for Topic 1: Introduction and General Provisions and Topic 2: Strategic Directions, prepared by Katherine Viskovic;
- (l) Statement of Planning Evidence for Topic 3: General District Wide Matters Part 1, earthworks, light and temporary activities, prepared by Philippa Lynch;
- (m) Statement of Planning Evidence for Topic 4: General District-Wide Matters Part 2 - Energy, Infrastructure and Transport, prepared by Rachael Pull;
- (n) Section 32 Evaluation, Report 4: Proposed TTPP: Historic and Cultural Values prepared by Lois Easton;
- (o) TTPP Section 42A report: Historic Heritage, prepared by Lois Easton (**s42A Report**),

SCOPE OF EVIDENCE

12. I have been asked by Ngāi Tahu to prepare planning evidence for the Topic 5 Hearing - Historic Heritage - Ngā Tuku Ihotanga.

13. My evidence includes:
- (a) A summary of the relevant Statutory Direction for Historic Heritage under the RMA.
 - (b) An analysis of the relief sought from the points raised in the Ngāi Tahu submission and further submissions related to the provisions in the Historic Heritage chapter in the Historical and Cultural Values section in the TTPP.
 - (c) Comments on new provisions proposed in the s.42A report where the hearings panel could consider other factors.

SUMMARY

14. Ngāi Tahu made a submission in general support of the notified version of the Historic Heritage chapter except where specific changes were requested. The submission also sought refinement of identified provisions to better achieve their identified purposes and the purpose of the RMA.
15. The main amendments requested in the Ngāi Tahu submission were:
- i. Replacement of the definition of historic heritage in the TTPP with the definition of historic heritage from s2 of the RMA.
 - ii. To provide more clarity for plan users on how all the schedules (and Appendix 10) referenced in the Historic and Cultural Values Section of the TTPP are to be utilised to protect historic heritage from inappropriate subdivision, use and development on the West Coast/Te Tai o Poutini, even if the site(s) and areas were not listed in Schedule One. Schedule One is titled 'Historic Heritage Items and Areas'.
 - iii. To seek that objectives and policies within the Historic Heritage chapter apply across the other two chapters within the Historical and Cultural Values section of the TTPP. These chapters are 'Notable Trees' and 'SASM' chapters.
16. Overall, the s42A report supported and accepted most of the Ngāi Tahu submissions points and further submissions. In my evidence I support

and seek that the recommendations in the s42A report and Appendix 1 and Appendix 2 of the s42A report are adopted where they support the Ngāi Tahu submission points and further submissions for the reasons documented in the s.42A report.

17. The s42A report has proposed amendments to some provisions that Ngāi Tahu submissions or further submissions supported as notified. I have made comment on some of these provisions.
18. The National Planning Standards 2019 group Historic Heritage, Sites and Areas of Significance to Māori (SASM) and Notable Trees together into Historical and Cultural Values section due to their common values and historical associations. The Resource Management Act (RMA) identifies historic heritage as a matter of national importance and seeks to protect sites and items for the benefit of current and future generations.
19. The TTPP Historic Heritage chapter and Schedule One identify mainly colonial buildings, structures, sites and items of particular historic heritage value to the West Coast. The RMA identifies historic heritage as a matter of national importance and seeks to protect sites and items for the benefit of current and future generations. Sites and Areas of Significance to Māori (SASM) fall within the RMA definition of historic heritage, and culturally significant historical sites are included within the SASM Chapter and Schedule Three. Some sites are listed in Schedule One and Schedule Three and the provisions of both chapters should be considered. While some historic sites within the SASM Chapter need to have protection from inappropriate use and development, other culturally significant sites may need to be managed in a way so the impacts of any use and development are sensitive to the cultural values of the historic site.
20. A summary of the Ngāi Tahu submission and further submissions for the Topic 5 hearing on Historic Heritage and the references to the relevant recommendations in the s.42A report is provided in **Appendix One** of this evidence.

RELEVANT STATUTORY DIRECTION

The Resource Management Act 1991 (RMA) – Part 2

21. As stated in section 5, the sustainable management purpose of the RMA includes the management of natural and physical resources in a way, or at a rate, that provides for current and future generations. The balance of the Part 2 provisions (i.e. sections 6, 7 and 8) identify specific matters that are relevant to achieving that overarching purpose. The following Part 2 matters are of particular relevance to the interests of Ngāi Tahu in relation to this hearing:

- (a) The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga¹ as a matter of national importance;
- (b) The protection of historic heritage from inappropriate subdivision, use, and development² as a matter of national importance;
- (c) The ability for Ngāi Tahu to exercise their role as kaitiaki³ on Te Tai o Poutini/ the West Coast; and
- (d) The principles of the Treaty of Waitangi being taken into account in the exercising of functions and powers under the RMA (including in decision making in relation to the TTPP)⁴.

22. I also consider the definition of Historic Heritage within section 2 of the RMA to be relevant to this hearing. Historic Heritage is defined in the RMA as:

(a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:

(i) archaeological:

(ii) architectural:

¹ Section 6 (e) Matters of National Importance

² Section 6 (f) Matters of National Importance

³ Section 7(a) Other Matters to have particular regard to

⁴ Section 8 Treaty of Waitangi

- (iii) cultural:*
- (iv) historic:*
- (v) scientific:*
- (vi) technological; and*

(b) includes—

- (i) historic sites, structures, places, and areas; and*
- (ii) archaeological sites; and*
- (iii) sites of significance to Māori, including wāhi tapu; and*
- (iv) surroundings associated with the natural and physical resources.*

National Planning Documents

23. The RMA outlines in section 75(3) that:

A district plan must give effect to—

- (a) any national policy statement; and*
- (b) any New Zealand coastal policy statement; and*
- (ba) a national planning standard; and*
- (c) any regional policy statement.*

New Zealand Coastal Policy Statement

24. The NZCPS includes objectives and policies that are particularly relevant to points in the Ngāi Tahu submission on the Historic Heritage provisions. In particular, the proposed TTPP must give effect to Objectives 3 and 6, and Policies 1, 2, 6, 15 (refers to cultural landscapes) and Policy 17 (Historic Heritage Identification and Protection). The full wording of the objectives and policies are set out in **Attachment A** to this planning evidence.

Regional Policy and Plans

West Coast Regional Policy Statement 2020

25. The West Coast Regional Policy Statement 2020 (WCRPS) includes objectives and policies of particular relevance to Historic Heritage that the TTPP must “give effect to”.⁵
26. Chapter 2 of the WCRPS identifies significant resource management issues for the West Coast including significant issues for Poutini Ngāi Tahu. These issues are discussed further in Chapter 3 ‘Resource Management Issues of Significance to Poutini Ngāi Tahu’.
27. The following provisions from Chapter 3 of the WCRPS that are relevant to Historic Heritage (and Sites and Areas of Significance to Māori) include Objectives 1 and 2, and Policies 1, 2 and 3. The full wording of these objectives and policies is set out in **Attachment A** to this planning evidence.
28. The WCRPS provides an explanation to the policies. While these explanations are essentially advice notes, and have no legal effect, they can provide helpful guidance. The WCRPS explains that ‘Policy 2 gives effect to section 6(e) of the RMA by recognising that some resources, places or things are of special significance to Māori. These include wāhi tapu sites, archaeological sites, other historic sites or places and natural landscapes or features of cultural or traditional importance to Māori. The traditions of Ngāi Tahu tūpuna (ancestors) are embedded in the landscape. The policies aim to protect sites and Poutini Ngāi Tahu values from the adverse effects of resource use and development as far as practicable’.⁶ The WCRPS also explains that ‘Policy 3 gives effect to section 6(e) of the RMA, and to Section 7(a), which requires that particular regard be given to kaitiakitanga. The role of Poutini Ngāi Tahu as kaitiaki is an integral part of the special relationship Poutini Ngāi Tahu have with their land, and all living things’⁷.
29. Historic heritage does not have its own chapter in the WCRPS and is considered within Chapter 4: Resilient and Sustainable Communities.

⁵ Section 75(3)(c) of the RMA.

⁶ WCRPS page 12

⁷ WCRPS page 13

The objectives and policies in Chapter 4 must be read together with Chapter 3 of the WCRPS concerning Poutini Ngāi Tahu values⁸. The relevant Historic Heritage provisions within Chapter 4 Resilient and Sustainable Communities include Objectives 4 and 5 and Policies 5 and 6 which are set out in **Attachment A** of this planning evidence.

30. The WCRPS explains that 'Policy 5 promotes the sustainable management of historic heritage'. The WCRPS explains that 'the policy requires regional and district plans to include schedules of significant historic heritage; and that the effects of any subdivision, use and development on those identified values are appropriately recognised and managed'⁹.
31. The WCRPS explains that Policy 6 of Chapter 4 'recognises that the traditions of Poutini Ngāi Tahu tūpuna (ancestors) are embedded in the landscape'¹⁰. In relation to this policy, the WCRPS goes on to state that 'protection of Poutini Ngāi Tahu cultural landscapes from inappropriate use, development and subdivision is important to Poutini Ngāi Tahu culture, identity and wellbeing, and consultation with Poutini Ngāi Tahu is required to determine appropriate means of addressing this in particular locations.'¹¹

West Coast Regional Land and Water Plan 2014 (WCLWP)

32. Section 75(4)(b) of the RMA requires that a district plan must not be inconsistent with a regional plan. The WCLWP contains reference to Historic Heritage within Chapter 2: Poutini Ngāi Tahu / Ngāi Tahu Perspective. The relevant section from this Chapter is Section 2.10 Wāhi Tapu which outlines:

'There are requirements under the RMA and the Historic Places Act 1993 relating to the protection of archaeological sites and historic heritage. Sites do not have to be registered or listed to warrant this protection. Usually if there is one site there is a high probability of

⁸ WCRPS page 16

⁹ WCRPS page 16

¹⁰ WCRPS page 16

¹¹ WCRPS page 16

*others in the vicinity. Tikanga Maori provides the framework to ensure appropriate respect for, and treatment of, wahi tapu*¹².

33. Chapter 3: Natural and Human Use Values, of the WCLWP refers to Historic Heritage. The introduction to the Chapter states that in addition to the natural and human use values identified in Schedule 7, West Coast water bodies can have historic heritage values which are protected by the Plan¹³.
34. The relevant Historic Heritage provisions within Chapter 3 of the WCLWP are Objectives 3.2.2 and 3.2.3 and Policies 3.3.1 and 3.3.7). The full wording of the objectives and policies are set out in **Attachment A** to this planning evidence.
35. The policies relate to the management of any activity involving water that contains historic heritage values. Where a water body contains significant historic heritage values, preference will be given to avoiding adverse effects of any development (Policy 3.3.1 (1)(h)). For other historic heritage, it seeks to avoid, remedy, or mitigate adverse effects on those historic heritage values (Policy 3.3.7). The types of activities that might affect the historic heritage values of waterbodies could include earthworks or vegetation disturbance.¹⁴
36. The WCLWP covers activities undertaken on land, the beds of lakes and rivers, and the takes, uses, diversion, and damming of water, and discharges to water and land. While regional councils are responsible for making decisions about quality and quantity for waterbodies, district councils are responsible for making decisions on activities on the surface of rivers and lakes¹⁵.
37. The Historic Heritage Chapter of the TTPP focuses on known historic built and archaeological heritage (i.e. 'physical sites') located in the terrestrial environment, given the District Council's function to manage the effects of development and land use activities. While the s42A

¹² West Coast Regional Land and Water Plan 2014, page 7

¹³ West Coast Regional Land and Water Plan 2014, section 3.1, page 10

¹⁴ West Coast Regional Land and Water Plan 2014, page 12

¹⁵ Sections 31 of the RMA

report or the s32A report does not specifically mention the WCLWP historic heritage provisions, Policy ASW-P3 in the Activities on the surface of water Chapter of TTPP refers to historic heritage values. It specifically provides for commercial activities and structures on the surface of West Coast/Te Tai o Poutini rivers, lakes and lagoons as long as the activity does not have adverse effects on significant natural heritage values including identified scheduled sites; cultural and spiritual values including sites and areas of significance to Māori; and Poutini Ngāi Tahu values and in particular as [they] relate to culturally significant rivers and lakes.

38. Ngāi Tahu has strong relationships and associations with ancestral waters and surrounding land which are linked to their cultural traditions and heritage values, history or identity which have been established, reinforced, and reconfirmed for many generations. In her cultural evidence for Topic 1 and 2 of the TTPP, Ms Baldwin-Smith states:

*'Poutini Ngāi Tahu lived and travelled extensively across the West Coast regional to mahinga kai and trade and this provided our historical and ongoing cultural connections with our whenau/land and waterways throughout the region.'*¹⁶

*'There are a wide range of sites and areas of significance to us. These are sites and areas with significant relationships to our identity, our traditions and our history. They could be associated with creation stories, particular events or ceremonies or they may be where valued resources and precious taonga such as pounamu and aotea are located. They include old pā and kāinga/village sites, mahinga kai locations, battle sites and urupā/cemeteries.'*¹⁷

39. The SASM Chapter also contains heritage sites that have ongoing Poutini Ngāi Tahu values e.g. Lake Māhinapua (SASM111) which is listed as having wāhi tapu values in Schedule 3 of the TTPP. The management of heritage values for waterways in the SASM Chapter

¹⁶ Veronica Baldwin-Smith, Evidence for Topic 1 and 2, paragraph 53.

¹⁷ Veronica Baldwin-Smith, Evidence for Topic 1 and 2, paragraph 55.

allows for Poutini Ngāi Tahu to recognise and protect their ancestral heritage while also allowing for an ongoing relationship with the West Coast/Te Tai o Poutini region in a contemporary context.

HISTORICAL AND CULTURAL VALUES (HCV) - WHOLE SECTION

Submission no.

S474.033 Rocky Mining Limited, FS41.229 by Ngāi Tahu

S474.036 Rocky Mining Limited, FS41.231 by Ngāi Tahu

S500.022 Papahaua Resources Limited, FS41.230 by Ngāi Tahu

S500.025 Papahaua Resources Limited, FS41.232 by Ngāi Tahu

40. Ngāi Tahu further submitted (FS41.229, FS41.230, FS41.231, FS41.232) in opposition to Rocky Mining Ltd (S474.033) and Papahaua Resources Limited (S500.022) who both sought recognition within the Historic Heritage Chapter, and all other overlay chapters, that mineral extraction has a functional and operational need to locate where the resource is¹⁸. They both also submitted (S474.036, S500.025) that terminology used throughout the Historic Heritage Chapter (e.g. avoid, prevent, protect, minimise, restrict and preserve) should be limited to situations where they are warranted as they can be problematic for passing the gateway test.
41. The s42A report does not support the submissions, and states in paragraph 39 that:
- ‘the RMA has identified that the protection of historic heritage from inappropriate subdivision, use and development is a matter of national importance. Case law is clear that protection is a strong direction. There is no such direction under the RMA, or any National Policy Statement that mineral extraction has a priority over Section 6 matters.’¹⁹*
42. The s42A report in paragraph 40 outlines the use of the terms in this historic heritage chapter are entirely appropriate and should not be removed on an across-the-board basis given it relates to a Section 6

¹⁸ Lois Easton. Te Tai o Poutini Plan Section 42A Officer’s Report Historic Heritage Paragraph 39

¹⁹ Lois Easton. Te Tai o Poutini Plan Section 42A Officer’s Report Historic Heritage. Paragraph 39

matter that specifically references protection of historic heritage²⁰. I note that provisions requested via submissions around mining within SASM will be addressed at the SASM Hearing.

43. I agree with the s42A report and support the recommendation in Appendix 2 of the s42A report that submissions S474.033, S500.022, S474.036 and S500.025 be rejected and that further submissions of Ngāi Tahu are accepted.

DEFINITIONS

Historic Resource

Submission no.

S620.031– Ngāi Tahu

44. The notified definition of ‘Historic Resource’ was supported by Ngāi Tahu in its submission (s620.031). The s42A report supports the retention of this definition with no changes. I support the recommendation in Appendix 2 of the s42A report that the submission of Ngāi Tahu (s620.03) is accepted.

Historic Heritage

Submission no.

S620.032 – Ngāi Tahu

45. Ngāi Tahu made a submission (s620.032) seeking the current definition of ‘Historic Heritage’ included in the Part 1, Definitions section of the notified TTPP be replaced by the definition of Historic Heritage in section 2 of the RMA.
46. The s42A report supported the Ngāi Tahu submission and stated that the s2 RMA definition is also used in the National Planning Standards 2019²¹.

²⁰ Lois Easton. Te Tai o Poutini Plan Section 42A Officer’s Report Historic Heritage Paragraph 40

²¹ Lois Easton. Te Tai o Poutini Plan Section 42A Officer’s Report Historic Heritage, Paragraphs 49 and 52

47. I support the recommendation in Appendix 2 of the s42A report that the submission of Ngāi Tahu (s620.032) is accepted and that the definition for Historic Heritage is updated to be consistent with the definition in s2 of the RMA.

HISTORIC HERITAGE (HH)

Overview

Submission no.

S620.152, S620.100, S620.151 by Ngāi Tahu

48. Ngāi Tahu submission points 620.152 and 620.100 sought amendments to the wording of paragraph 7 within the 'Overview' section of the Historic Heritage Chapter to aid in the interpretation of the Chapter and provide background for TTPP plan users around the intent of Appendix 10 (New Zealand Archaeological Authority (NZAA) listed archaeological sites of Māori origin).
49. The s42A report accepted the proposed changes requested in the Ngāi Tahu submission points and considered they made the interpretation of the TTPP clearer. The s42A report also made an addition on two sentences related to Appendix Ten of the TTPP to make it clear that while these NZAA sites are not currently mapped on the TTPP planning maps, their future mapped locations will need to be introduced into the TTPP planning maps via a Plan Change²². I have no concerns with the additional wording recommended by the s42A report and they reflect the wording of Policy HH-P9.
50. Ngāi Tahu submission points 620.151 sought amendments to paragraphs 5 and 8 of the 'Overview' to clarify for the plan user that all the schedules referenced in the Historic and Cultural Values section are part of the historic heritage of the West Coast/Te Tai o Poutini. The Ngāi Tahu submission sought that the 'Overview' should specifically confirm that Schedules Two (Notable Trees) and Three

²² Lois Easton. Te Tai o Poutini Plan Section 42A Officer's Report. Historic Heritage, Paragraph 41

(Sites and Areas of Significance to Māori) are also Historic Heritage (in accordance with the s2 RMA definition of Historic Heritage) and that objectives and policies in this chapter should also apply to sites listed in Schedules Two and Three.

51. The recommendation in Appendix 2 of the s42A report supports and accepts submission S620.151. The s42A report states that all of the Historic Heritage objectives but only policies 1, 2, 3 and 9 are applicable across the other chapters in the Historical and Cultural Values Section²³.
52. I have reviewed the Historic Heritage objectives and all of the policies, and I agree with the s42A report that all of the objectives are appropriate and that policies HH-P01, HH-P02, HH-P03 and HH-P09 are the appropriate policies that should apply across all three of the chapters in the Historical and Cultural Heritage section of the Plan.

Overall, I support the amendments made and the recommendation in Appendix 2 of the s42A report that Ngāi Tahu submissions S620.152, S620.100, S620.151 are accepted.

Other relevant Te Tai o Poutini Plan provisions

Submission no.

S620.101, S620.353²⁴, S620.392, S620.153 by Ngāi Tahu

53. Submissions S620.101, S620.353, S620.392 and S620.153 by Ngāi Tahu sought amendments to the wording of sentences included within 'Other relevant Te Tai o Poutini Plan provisions' of the Historic Heritage Chapter to correct typos and provide background for the TTPP plan users around the intent of Appendix 10 (New Zealand Archaeological Authority (**NZAA**) listed archaeological sites of Māori origin).
54. The s42A report accepted all the suggested amendments²⁵. I support the recommendation in Appendix 2 of the s42A report that Ngāi Tahu

²³ Lois Easton. Te Tai o Poutini Plan Section 42A Officer's Report Historic Heritage, Paragraph 42

²⁴ Submission was mentioned in s42A report but not Appendix 2 to s42a report.

²⁵ Lois Easton. Te Tai o Poutini Plan Section 42A Officer's Report Historic Heritage. Paragraph 41

submissions S620.101, S620.353, S620.392 and S620.153 are accepted.

Other Relevant Statutory Provisions

Submission no.

S620.102, S620.154 by Ngāi Tahu

55. Ngāi Tahu submissions points S620.102, and S620.154 sought amendments to the wording of paragraphs included within 'Other Relevant Statutory Provisions' of the Historic Heritage Chapter.
56. In summary, these changes and amendments were sought to correct typos (S620.154) and correct the terminology used (e.g. replace reference to human remains with 'kōiwi or taonga' - s620.102, s620.154).
57. The s42A report accepted all the amendments made²⁶. Overall, I support the recommendation in Appendix 2 of the s42A report that the Ngāi Tahu submission points S620.102 and S620.154 are accepted.
58. I note that Appendix 1 of the s42A report shows how the recommended amendments to the Overview section of Historic Heritage Chapter will look and read. It currently has a few minor typos and punctuation errors, and the text will require a sense check. The word 'site' needs to be included within the following sentence in paragraph 7 (see underlined):

Further investigation is required to ensure the exact spatial location and extent of some of these sites, therefore these sites are included in Appendix Ten

Sites and Areas of Significance to Māori (SASM)

Submission no.

S608.010 Grey District Council, FS41.004 by Ngāi Tahu

59. Grey District Council submitted that all references to "Sites or Areas of Significance to Māori" in the Historic Heritage Overview section be

²⁶ Lois Easton. Te Tai o Poutini Plan Section 42A Officer's Report. Paragraph 41.

removed (S608.010). Ngāi Tahu opposed this submission (FS41.004) as cross referencing within the TTPP is important for clarity and is often used as a prompt to remind a plan user to check other parts of the Plan that are relevant. The SASM Chapter includes historic sites.

60. The s42A report and Appendix 2 rejects the Grey District Council S608.010 submission and accepts the Ngāi Tahu further submission. The s42A report states:

*'Section 6 of the RMA specifically identifies that the protection of historic heritage, which under the RMA definition includes sites and areas of significance to Māori, is a matter of national importance. It is not just European cultural heritage that is important to our nation or the West Coast.'*²⁷

61. I note that support for FS41.004 is also consistent with the National Planning Standards Mandatory Direction 5, which states:

*"Tangata whenua/mana whenua content must be integrated throughout the policy statement or plan where the local authority determines it appropriate".*²⁸

62. I support the recommendation in the s42A report and Appendix 2 that submission S608.010 is rejected and the further submission of Ngāi Tahu is accepted.

HH OBJECTIVES

Submission no.

S620.103, S620.155, S620.104, S620.105 - Ngāi Tahu

S442.047 KiwiRail Holdings Limited, FS41.207 by Ngāi Tahu

63. Ngāi Tahu submitted in support of Objective HH - O1 (S620.103, S620.155), Objective HH - O3 (S620.104) and Objective HH - O4 (S620.105). This support is noted in paragraph 56 of the s42A report.

²⁷ Lois Easton. Te Tai o Poutini Plan Section 42A Officer's Report, Historic Heritage Paragraph 44

²⁸ National Planning Standards, Foundation Standard, Mandatory Directions, page 5

64. The s42A report has recommended amendments to the notified HH-O2, HH-O3 and HH-O4 objectives in paragraphs 62 – 64 of the s42A report. These minor amendments are to add the wording ‘from inappropriate subdivision, use, and development’ within each objective²⁹. I consider the wording is consistent with section 6 of the RMA matters and I support the recommended amendments to the objectives in the s42A report.
65. KiwiRail Holdings Limited (S441.047) submitted that Objective HH – O4 should specifically recognise the functional and operational needs of infrastructure. In their further submission, Ngāi Tahu opposed the relief sought (FS41.207).
66. The s42A report rejects the KiwiRail Holdings Limited submission point and in paragraph 60 advised that the protection of historic heritage from inappropriate subdivision, use and development is a matter of national importance, and it is not appropriate that an objective recognising this be constrained by the functional and operational needs of infrastructure³⁰. I agree with the reasoning provided in the s42A report.
67. I support the recommendation in Appendix 2 of the s42A report that submission S442.047 is rejected and the Ngāi Tahu further submission is accepted.

HH POLICIES

HH - P6

Submission no. S620.107 - Ngāi Tahu

68. Ngāi Tahu submission point S620.107 sought an addition to the matters to be considered within **HH-P6** when considering proposals for relocation or repositioning of historic heritage items. Amendments were sought to include the consideration of ‘impacts on Poutini Ngāi Tahu values on any item, site or area of significance to Māori’ so they form part of any consent application assessment.

²⁹ Lois Easton. Te Tai o Poutini Plan Section 42A Officer’s Report, Historic Heritage Paragraph 59

³⁰ Lois Easton. Te Tai o Poutini Plan Section 42A Officer’s Report, Historic Heritage Paragraph 60

69. The s42A report supports the inclusion of the addition consideration requested in Ngāi Tahu submission. At paragraph 78, the s42A report acknowledges that there are a range of heritage items that also sit within SASM and therefore such an assessment may be very important³¹. I agree with the reasoning provided in the s42A report.
70. I support the recommendation in Appendix 2 of the s42A report that the Ngāi Tahu submission S620.107 is accepted.

HH - P9

Submission no.

S140.023 Heritage New Zealand Pouhere Taonga, FS41.208 by Ngāi Tahu

71. Heritage New Zealand Pouhere Taonga (**HNZPT**) (S140.023) submitted on Policy HH-P9 seeking an amendment to widen the scope of the policy to all NZAA sites, with NZAA sites of Māori origin being prioritised. Ngāi Tahu further submitted in support (FS41.208).
72. The s42A report and Appendix 2 of the s42A report rejects the HNZPT submission and the Ngāi Tahu further submission. The s42A report at paragraph 84 states:

*'There are over 1000 NZAA sites identified on the West Coast, with over 200 of these being sites of Māori origin. In developing TTPP the Councils were unable to afford the extent of investigation into the archaeological sites and heritage items scheduled in the plan that they would like. I do not think that the West Coast Councils have the resources to be investigating all the NZAA sites, where in most cases very little information is available. I consider this responsibility lies with HNZPT in its statutory role in relation to archaeological sites. The recommended additional method HH – M2 does provide a clear pathway however for how additional sites, including additional archaeological sites, could be included in the Plan in the future.'*³²

³¹ Lois Easton. Te Tai o Poutini Plan Section 42A Officer's Report, Historic Heritage paragraph 78

³² Lois Easton. Te Tai o Poutini Plan Section 42A Officer's Report, Historic Heritage Paragraph 84

73. I understand the reasoning outlined in the s42A report and consider the recommended method HH-M2 provides clarity to the plan user on the process for how additional archaeological sites can be included into Schedule One of the TTPP.
74. I consider that even though Appendix 10 sites are not yet mapped, their heritage status is still recognised and provided for in the Plan given it would be a matter to consider in discretionary and non-complying consents. Furthermore, these NZAA sites of Māori origin are protected under the Heritage New Zealand Pouhere Taonga Act 2014 (NZPTA).
75. I accept the recommendation in the s42A report and Appendix 2 to the s.42A report that submission S140.023 and the Ngāi Tahu further submission FS41.023 is rejected.

HISTORIC HERITAGE RULES

HH - R3 - Minor earthworks in a Historic Heritage Area or site identified in Schedule One

Submission no.

S663.036, FS41.586³³ and FS41.734 by Ngāi Tahu

76. Chorus NZ Ltd, Spark NZ Trading Ltd, Vodafone NZ Ltd (S663.036) sought that standard e. be amended to provide for maintaining existing underground telecommunications assets, along with another amendment to include an additional standard (e2.) to provide for installing new underground customer connections where the building or item has not been scheduled in regard to archaeology, as a Permitted Activity.³⁴
77. The Ngāi Tahu further submitted partially supporting the submission, with the reason being that clarification is required for new customer connections and that the TTPP needs to be clear through this rule

³³ While this submission is mentioned in the s42A report it is not included in Appendix 2 of s42A report.

³⁴ Lois Easton. Te Tai o Poutini Plan Section 42A Officer's Report. Historic Heritage Paragraph 115 and 116

(and others similar to this rule) that heritage is more than just archaeology and includes SASM.

78. The s42A report and Appendix 2 accepted in part submission S663.036 amending standard (e) of HH-R3. It recommends an amendment to provide for maintaining existing underground telecommunications assets and considers the omission was a drafting error as telecommunications companies are not captured as a network utility and need to be explicitly identified in the rule³⁵. I note that in the definitions section of the TTPP, there is a definition for 'network utility operator' which includes telecommunications but agree that there is no definition for 'network utility'.

79. The other amendment requested by S663.036 is not supported in paragraph 116 of the s42A report which states:

*“Chorus NZ Ltd, Spark NZ Trading Ltd, Vodafone NZ Ltd (S663.036) also seek that installing new underground customer connections where the building or item has not been scheduled in regard to archaeology also be a Permitted Activity. I do not support this part of the submission. While not being specifically scheduled as Archaeological Sites, many historic heritage sites and items may have archaeological values or other historic values associated with the land. Therefore, this activity could impact negatively on archaeological or heritage values of a site and should be assessed as part of a resource consent process”.*³⁶

80. I agree with reasoning provided within the s42A report. Any disturbance of archaeological as well as other heritage sites, including not yet scheduled, will have archaeological values and/or cultural heritage values which need to be taken into account as part of a resource consenting process.

I support the Appendix 2 report accepting FS41.0734 and partially accepting S663.036 for the reasons outlined in the s42A report.

³⁵ Lois Easton. Te Tai o Poutini Plan Section 42A Office's Report, Historic Heritage, paragraph 115

³⁶ Lois Easton. Te Tai o Poutini Plan Section 42A Office's Report, Historic Heritage, paragraph 116

HH - R7 Relocation or Repositioning of a Historic Heritage item identified in Schedule One and associated earthworks

Submission no.

S620.108 - Ngāi Tahu

81. Ngāi Tahu in their submission (S620.108) sought that an additional matter of discretion be added to Rule HH - R7 around effects on cultural values on any site or area of significance to Māori.
82. The s42A report supported and accepted the Ngāi Tahu submission and acknowledges there are many historic heritage sites that are located within a larger site or area of significance to Māori (eg in Greymouth), and the relationship between the two features and impacts of activities on both is important as part of any assessment and considers that such a matter of discretion is appropriate for any Restricted Discretionary Activity for historic heritage³⁷. I agree with this reasoning.
83. I note that the s42A report also recommends that Rule HH - R7 become a full Discretionary Activity which would mean that the specific matter of discretion requested above would not need to be specified in the rule given the change in activity status³⁸. The s42A report also recommends that Rule HH- R4 (Relocating or Repositioning a historic heritage item (and associated earthworks)) moves from controlled to restricted discretionary activity status and the matters of discretion concerning effects on cultural values on any site or area of significance to Māori, be applied to that rule instead³⁹.
84. I agree with the changes in rule status proposed in the s42A report which increases protection of the historic heritage items from activities seeking to relocate or reposition historic heritage item and gives effect to section 6 matters of national importance.

³⁷ Lois Easton. Te Tai o Poutini Plan Section 42A Office's Report, Historic Heritage, paragraph 130

³⁸ Lois Easton. Te Tai o Poutini Plan Section 42A Office's Report, Historic Heritage, paragraph 130

³⁹ Lois Easton. Te Tai o Poutini Plan Section 42A Office's Report, Historic Heritage, paragraph 130

85. I support the s42A report conclusions and rule amendments as shown in paragraph 133 and 134 and in Appendix 1 of the s42A report, and that the Ngāi Tahu submission S620.108 is accepted in Appendix 2 of the s42A report.

HH - R10 New Energy Activities and New Infrastructure Activities and associated Earthworks within a Historic Heritage Site or Area identified in Schedule One

Submission no.

S538.173 Buller District Council and FS41.128 by Ngāi Tahu Westpower Limited (S547.185) and Manawa Energy (S438.069)

86. Ngāi Tahu further submitted in opposition on the Buller District Council submission (538.173) opposing their request that Rule HH-R10 be deleted. Ngāi Tahu outlined in their further submission (FS41.128) that new infrastructure within a heritage site and area needs to be considered carefully within the proposed environment.
87. While the s42A report does not mention the Ngāi Tahu further submission around this rule, Appendix 2 to the s42A report rejects the Buller District Council submission and accepts the Ngāi Tahu further submission.
88. Manawa Energy (S438.069) submitted that the notified rule (Rule HH – R10) was unreasonably restrictive for nationally significant activities and that placing energy and infrastructure activities in discretionary activity status which is the same activity category status as those which will demolish or destroy a heritage item or area, with the only issues of relevance for consideration being the impact on the heritage item.⁴⁰ Westpower Limited (S547.185) and Manawa Energy (S438.069) submitted that a new rule be provided in the Historic Heritage chapter for new energy activities as a restricted discretionary activity, and be addressed in the same way as any other building or structure.
89. The s42A report in paragraph 142 agrees with these submitters that the status is onerous and has recommended the rule to be changed

⁴⁰ Lois Easton. Te Tai o Poutini Plan Section 42A Office's Report, Historic Heritage. Paragraphs 140-142

to a Restricted Discretionary Activity (RDA) with similar matters of discretion as Rule HH – R8⁴¹.

90. While it is important to provide for energy activities of national significance, I consider they are still subject to the matters of national importance outlined in section 6 of the RMA and I note that all national planning frameworks are subject to Part 2 of the Act.
91. I consider that while some new infrastructure and energy activities may be appropriate to be considered as an RDA, at this stage I am not convinced a 'blanket' RDA rule for all infrastructure and energy activities may be appropriate given the purpose of the Historic Heritage chapter. I note that the Infrastructure Chapter rules INF-R24 to R27 cover Discretionary Activities such as new community wastewater treatment facilities and new community reticulated water treatment plants.
92. It is also unclear from the Manawa Energy submission which infrastructure and energy activities will not damage or destroy any heritage values. When a heritage item is modified or adapted for re-use, there is the potential for damage to the heritage values. Given the range of Historic Heritage and Infrastructure Activities, any RDA rule needs to be specific in which activities will have limited effects on all of the Historic Heritage listed in Schedule 1.
93. The Energy, Transport and Infrastructure (ENG-TRN-INF) chapters contain Discretionary rules for activities which will not be located near identified historic heritage sites and areas. Given the national importance under s6 of the RMA to recognise and provide for the protection of historic heritage, I therefore consider for land where historic heritage sites and areas have been identified, further protection and consideration of the potential adverse effects of activities over areas where heritage sites have not been identified is warranted to ensure these historic heritage values are protected in accordance with s6 of the RMA.

⁴¹ Lois Easton. Te Tai o Poutini Plan Section 42A Office's Report, Historic Heritage. Paragraphs 142

94. Within the SASM Chapter (which are historic heritage sites) new network utility structures on or within Sites and Areas of Significance to Māori are a discretionary activity (SASM-R13), and the construction of any landfill, wastewater treatment plant within 50 metres of a SASM site is a non-complying activity.
95. I note in the Energy Chapter under the section entitled 'Other relevant Te Tai o Poutini Plan provisions' which directs plan users to other provision within the plan that might be relevant for energy activities, Historic Heritage is not mentioned as one of the listed overlays which may be a drafting oversight. I consider a cross-reference here would be useful for plan users.
96. Overall, I could support the development of an RDA for specific new infrastructure and energy activities where it is consistent with provisions of the INF-ENG-TRN Chapters of the TTPP and it is clearly identified that those activities will not potentially adversely affect the historic heritage values identified in Schedule 1. Additionally, any RDA criteria would need to carefully consider:
- Implications of affecting heritage sites and areas which is an inheritance resource that cannot be replaced or replicated;
 - Any alternative locations or designs; and
 - The impacts on amenity, identity and character;
 - Compliance with a conservation plan or report that has been prepared by persons suitably qualified in historic heritage conservation;
 - How effects will be minimised or offset through the construction and maintenance;
 - An additional matter of discretion consistent with those matters of discretion recommended for RDA HH-R4 (former HH-R7).

Implementation of any advice received from the relevant Poutini Ngāi Tahu rūnanga on ways to manage the effects on cultural values of the new energy activities and new infrastructure activities and associated earthworks.

97. Remedy sought:

- (a) That the Hearings Panel restrict the types of new Energy or Infrastructure activities that can occur in or on Historic Heritage Items in Schedule One (HH-R10).
- (b) That the matters of Discretion for new Energy or Infrastructure activities that can occur in or on Historic Heritage Items in Schedule One (Rule HH-R10) are expanded to include:
 - The full implications of affecting heritage which is an inheritance resource that cannot be replaced or replicated;
 - Any alternative locations or designs;
 - The impacts on amenity, identity and character;
 - Compliance with a conservation plan or report that has been prepared by persons suitably qualified in historic heritage conservation;
 - Relationship with adjoining sites of historic heritage value;
 - How effects will be minimised or offset through the construction and maintenance; and
 - Implementation of any advice received from the relevant Poutini Ngāi Tahu rūnanga on ways to manage the effects on cultural values of the new energy activities and new infrastructure activities and associated earthworks.
- (c) That the new Energy or Infrastructure Activities not identified in HH-R10 remain Discretionary Activities on or in Historic Heritage Items in Schedule One.

New Rule for Mining

Submission no.

S474.040 Rocky Mining Limited FS41.233 by Ngāi Tahu

S500.027 Papahaua Resources Limited, FS41.234 by Ngāi Tahu

98. Rocky Mining Limited (S474.006) and Papahaua Resources Limited (S500.027) seek that a restricted discretionary rule be added for mining, with discretion restricted to effects on the specific overlay or overlay values such as historic heritage. Ngāi Tahu further submitted opposing these submissions.
99. The s.42A report (paragraph 160) does not support these submissions given protection of historic heritage is a matter of national importance and mining is not recognised by the RMA or National Policy Statement as requiring any additional consideration or weight when dealing with activities in historic heritage areas. I agree with this conclusion.
100. I also consider that mining needs to remain a discretionary activity and not restricted discretionary as it is not an activity that is the same across the industry. I consider that each site can have a different scale, duration and impact and cannot be limited to a set number of considerations with no ability to consider the wider context.
101. I support the recommendation in Appendix 2 of the s42A report that the submissions S474.040 and S500.027 are rejected and Ngāi Tahu further submissions are accepted.

METHOD HH-M2

102. Method HH-M2 is a new method for the Historic Heritage Chapter outlined in the s42A report. It refers to the term 'suitably qualified heritage professional'. The method outlines that people seeking additional items to be scheduled will need to provide an assessment by a suitably qualified heritage professional who would identify the merits of the item proposed to be scheduled against the criteria in Policy HH – P2.⁴²

⁴² Lois Easton. Te Tai o Poutini Plan Section 42A Officer's Report. Paragraph 51 and at paragraph 121

103. There is no explanation in the s42A report how a Council will determine whether someone is a 'suitably qualified heritage professional'. I consider that a definition or advice note is required within the Historic Heritage Chapter, to clarify to plan users what constitutes a 'suitably qualified heritage professional'. A definition would be preferable given that an advice note does not have legal effect. I also consider the term used in the method needs to be expanded to provide for a suitably qualified heritage professional and/or expert in Poutini Ngāi Tahu history, depending on what is more relevant to the item or area being proposed.
104. Remedy Sought:
- (a) That a definition or advice note is provided for the term 'suitably qualified heritage professional' to support newly proposed Method HH-M2.
 - (b) That the wording of proposed Method HH-02 needs to be amended to also include the wording 'and/or expert in Poutini Ngāi Tahu history, depending on what is more relevant to the item or area being proposed'.

APPENDIX FOUR

105. The s42A report in paragraph 21 outlines that submissions concerning Appendix Four Accidental Discovery Protocols (and Appendix 10) will be dealt with in a separate Sites and Areas of Significance to Māori s42A report.
106. However, at paragraph 112 the s.42A report supports a submission by Buller District Council (S538.168) requesting that guidance be provided on what is meant by an Accidental Discovery Protocol. The s.42A report proposes an additional definition be included to HH-R3, defining the term Accidental Discovery Protocol commitment as:

Accidental discovery protocol commitment means a written commitment to adhere to the accidental discovery protocol as

*contained in Appendix Four. This does not replace any archaeological authority required by Heritage New Zealand.*⁴³

107. I seek that this matter and definition be considered at the SASM hearing. Ngāi Tahu evidence for the SASM hearing will be covering this matter.

SUMMARY OF RELIEF SOUGHT FOR HEARING TOPIC 5

108. The Ngāi Tahu submissions on Historic Heritage generally support the notified plan and seek minor amendments to provide for the values and future aspirations of Poutini Ngāi Tahu.
109. In response to the Ngāi Tahu submission and further submissions on topic 5, I consider the following relief is appropriate for the reasons documented earlier in my evidence:

Overview, Other Relevant Statutory Provisions, Other relevant Te Tai o Poutini Plan provisions

- (a) Final sense check and review of the amended text within the Overview, Other Relevant Statutory Provisions, Other relevant Te Tai o Poutini Plan provisions.

Rules

- (a) That the Hearings Panel restrict the types of new Energy or Infrastructure activities that can occur in or on Historic Heritage Items in Schedule One (HH-R10).
- (b) That the matters of Discretion for new Energy or Infrastructure activities that can occur in or on Historic Heritage Items in Schedule One (HH-R10) are expanded to include:
- The implications of affecting heritage which is an inheritance resource that cannot be replaced or replicated;

⁴³ Lois Easton. Te Tai o Poutini Plan Section 42A Office's Report, Historic Heritage. Paragraph 121.

- Any alternative locations or designs;
- The impacts on amenity, identity and character;
- Compliance with a conservation plan or report that has been prepared by persons suitably qualified in historic heritage conservation;
- Relationship with adjoining sites of historic heritage value;
- How effects will be minimised or offset through the construction and maintenance; and
- Implementation of any advice received from the relevant Poutini Ngāi Tahu rūnanga on ways to manage the effects on cultural values of the new energy activities and new infrastructure activities and associated earthworks.

(c) That the new Energy or Infrastructure Activities not identified in HH-R10 remain Discretionary Activities on or in Historic Heritage Items in Schedule One.

Method

- (a) That a definition or advice note is provided for the term 'suitably qualified heritage professional' to support newly proposed Method HH-M2.
- (b) That the wording of proposed Method HH-02 needs to be amended to also include the wording 'and/or expert in Poutini Ngāi Tahu history, depending on what is more relevant to the item or area being proposed'.



Susan Aitken

9 November 2023

APPENDIX 1: Summary of Te Rūnanga o Ngāi Tahu submissions and the direction taken.

Historic Heritage section 42A report

Submission	Provision	Position	Reasons for Submission	S42A position	Poutini Ngāi Tahu position at hearing
Definitions					
S620.031	HERITAGE RESOURCE	Support	This definition recognises that historic resources are multifaceted.	Paragraph 45 Accept	Support
S620.032	HISTORIC HERITAGE	Amend	Delete proposed definition and replace with the following wording: <u>has the same meaning as in section 2 of the RMA (as set out in the box below)</u> <u>a. means those natural and physical resources that contribute to an understanding and appreciation of New Zealand’s history and cultures, deriving from any of the following qualities:</u> <u>i. archaeological:</u> <u>ii. architectural:</u> <u>iii. cultural:</u> <u>iv. historic:</u>	Paragraph 49 Accept	Support

Submission	Provision	Position	Reasons for Submission	S42A position	Poutini Ngāi Tahu position at hearing
			<p><u>v. scientific;</u> <u>vi. technological; and</u> <u>b. includes—</u> <u>i. historic sites, structures, places, and areas; and</u> <u>ii. archaeological sites; and</u> <u>iii. sites of significance to Māori, including wāhi tapu; and</u> <u>iv. surroundings associated with the natural and physical resources.</u></p>		
Overview & other relevant statutory provisions					
S620.102 S620.154	Other relevant Statutory Provisions	Amend	<p>Included the following wording: ...If you discover a previously unknown archaeological site (for example, when you are undertaking earthworks) you must stop any work that could affect the site and contact HNZPT for advice on how to proceed. If there are human remains <u>kōiwi or taonga</u> revealed, then the Accidental Discovery Protocol in Appendix Five</p>	Paragraph 41 Accept	Accept

Submission	Provision	Position	Reasons for Submission	S42A position	Poutini Ngāi Tahu position at hearing
			Four must be followed and if any artefacts are found they must be handed over to the Ministry for Culture and Heritage.		
S620.101 S620.153 S620.353 S620.392	Other relevant Te Tai o Poutini Plan provision	Amend	<p>Include the following wording:</p> <ul style="list-style-type: none"> • Notable Trees - the Notable Trees Chapter contains the provisions in relation to the trees identified in Schedule Two <u>in Schedule Two</u> <p>...</p> <ul style="list-style-type: none"> • Appendix Ten - This appendix contains NZAA listed archaeological sites of Māori origin. The exact spatial location and extent of these sites has not yet been clearly identified but they are included in this appendix for information purposes <u>and are a matter for consideration where resource consent is required for an activity that may impact on an archaeological site. Appendix 10 will be mapped and included as an "Alert Layer" in the e-planning maps.</u> Like all archaeological sites, these <u>sites</u> are protected 	Paragraph 41 Accept	Support Additional wording (indicated by italics) added in s42A report is supported: <u>Appendix 10 will be mapped and included as an "Alert Layer" in the e-planning maps via future Plan Change process.</u>

Submission	Provision	Position	Reasons for Submission	S42A position	Poutini Ngāi Tahu position at hearing
			under the Heritage New Zealand Pouhere Taonga Act 2014.		
S620.100 S620.152	Overview	Amend	<p>Include the following changes or changes to this affect to paragraph 7:</p> <p>Archaeological sites.... are protected under Heritage New Zealand Pouhere Taonga Act 2014, archaeological sites <u>predominately related to European colonial history</u> of particular significance to the community on the West Coast/Te Tai o Poutini are included in Schedule One and the Historic Heritage rules also apply to these archaeological sites. <u>The archaeological sites listed in Schedule One, while an important part of the history of the West Coast/Te Tai o Poutini are not the full list. Alongside this, the New Zealand Archaeological Association has identified a list of archaeological sites of Māori origin. Further investigation is required to ensure the exact</u></p>	<p>Paragraph 41</p> <p>Accept</p> <p><i>“in relation to Appendix Ten, I consider that the wording needs to make it clear that while these sites are not currently mapped, any mapping will need to be introduced via Plan Change”</i></p>	<p>Support</p> <p>Additional wording (indicated by italics) added in s42A report is supported:</p> <p><u>Appendix 10 is intended to be mapped and included as an “Alert Layer” on the e-plan maps via a future Plan Change.</u></p>

Submission	Provision	Position	Reasons for Submission	S42A position	Poutini Ngāi Tahu position at hearing
			<p><u>spatial location and extent of some of these sites, therefore these</u> sites are included in Appendix Ten for information <u>and awareness to plan users, particularly resource consent applicants, of the increased likelihood of discovering archaeological material of Māori origin in the vicinity of these areas. Appendix 10 will be mapped and included as an 'Alert Layer' on the e-plan maps. The Councils will continue to work with both Heritage New Zealand Pouhere Taonga and Poutini Ngāi Tahu over the next ten years to ensure that the archaeological sites of Māori origin are accurately mapped before being considered for inclusion in Schedule One via a plan change.</u></p> <p>Historic heritage and archaeological sites are also important to Poutini Ngāi Tahu <u>for values other than Historic heritage.</u> Some of</p>		
S620.151	Overview	Amend	<p><u>Include the following changes to paragraphs 5 and 8: Historic Heritage items are listed in Schedule</u></p>	Paragraph 42	Support

Submission	Provision	Position	Reasons for Submission	S42A position	Poutini Ngāi Tahu position at hearing
			<p><u>One, Schedule two and Schedule Three. Schedule One predominately covers the built and colonial heritage and also this schedule also identifies if there are any interior elements of a heritage building that are also protected. Schedule Two covers important notable and heritage trees to the community and Schedule Three reflects Poutini Ngāi Tahu heritage.</u> Historic areas area also identified Where a site is scheduled in multiple locations, the provisions of all chapters must be considered. <u>Some objectives and policies of this chapter also apply to sites list only in schedule two or three.</u></p>	Accept	Recommend a final sense check of the marked-up text.
FS41.004 S608.010	Overview	Oppose	Cross referencing within the Plan is important for clarity. Also SASM include historic sites	Paragraph 44 Accept	Support

Submission	Provision	Position	Reasons for Submission	S42A position	Poutini Ngāi Tahu position at hearing
FS41.229 S474.033	HCV - Historical and Cultural Values	Oppose	While some mining can only occur where there are minerals, there are particular locations what should not be mined regardless of the mineral. In these cases, the functional and operational need is irrelevant.	Paragraph 39 Accept	Support
FS41.231 S474.036	HCV - Historical and Cultural Values	Oppose	"Avoid, protect and prevent" are the appropriate terms in order to meet section 6 requirements within the HCV sections.	Paragraph 40 Accept	Support
FS41.233 S474.040 <i>*recorded as S474.006</i>	HCV - Historical and Cultural Values	Oppose	Mining needs to remain a discretionary activity and not restricted discretionary as it is not an expected activity in the overlay chapters and cannot be limited to a set number of considerations and no ability to consider the wider context.	Paragraph 160 Accept	Support

Submission	Provision	Position	Reasons for Submission	S42A position	Poutini Ngāi Tahu position at hearing
FS41.230 S500.022	HCV - Historical and Cultural Values	Oppose	While some mining can only occur where there are minerals, there are particular locations what should not be mined regardless of the mineral. In these cases, the functional and operational need is irrelevant.	Paragraph 39 Accept	Support
FS41.232 S500.025	HCV - Historical and Cultural Values	Oppose	"Avoid, protect and prevent" are the appropriate terms in order to meet section 6 requirements within the HCV sections.	Paragraph 40 Accept	Support
FS41.234 S500.027	HCV - Historical and Cultural Values	Oppose	Mining needs to remain a discretionary activity and not restricted discretionary as it is not an expected activity in the overlay chapters and cannot be limited to a set number of considerations and no ability to consider the wider context.	Paragraph 160 Accept	Support

Submission	Provision	Position	Reasons for Submission	S42A position	Poutini Ngāi Tahu position at hearing
Objectives and Policies					
S620.103 S620.155	HH - O1	Support	Historic Heritage contributes to a community's sense of identity and knowledge of where it comes from.	Paragraph 56 Accept	Support
S620.104	HH - O3	Support	The wording of this objective applies equally to both colonial and Poutini Ngāi Tahu history.	Paragraph 56 Accept in part	Support
S620.105	HH - O4	Support	Recognise that to protect historic heritage that it may need to be moved (where appropriate) due to climate change and natural hazards.	Paragraph 56 Accept in part	Support
FS41.207 S442.047 <i>Recorded as S441*</i>	HH - O4	Oppose	Historic Heritage includes SASM and as an Objective this amendment would have far reaching implications beyond the rail corridor and it is unclear how it would meet the requirements of s6 to recognise and protect.	Paragraph 60 Accept	Support

Submission	Provision	Position	Reasons for Submission	S42A position	Poutini Ngāi Tahu position at hearing
S620.106	HH - P2	Support	Only by councils working closely in partnership with mana whenua will these important historical places be able to be identified.	Paragraph 67 Accept	Support
S620.107	HH - P6	Amend	Include the following wording: When considering proposals for relocation or repositioning of historic heritage items or sites identified in Schedule One, the following matters shall be considered: ... <u>h. The impacts on Poutini Ngai Tahu values on any item, site or area of significance to Māori</u>	Paragraph 78 Accept	Support
S620.416	HH - P9	Support	As indicated above in the overview submission point, NZAA sites of Māori origin are as important as the colonial NZAA sites. This policy enables these sites to be included in the plan as those in Schedule One as further investigations occur to ensure they are accurately mapped.	Paragraph 67 Accept	Support

Submission	Provision	Position	Reasons for Submission	S42A position	Poutini Ngāi Tahu position at hearing
FS41.208 S140.023	HH - P9	Support	Support the work programme to map NZAA sites and prioritising those of Māori origin. There is a lack of NZAA Māori sites in Schedule 1A. Currently these sites are listed in Appendix 10 NZAA sites of Māori Origin and not yet have any status in the plan. Just a policy HH-P9 outlining Council will look to accurately locate/map sites in future.	Paragraph 84 Reject	Support Proposed method HH-M2 will help achieve this outcome.
Rules					
FS41.586 FS41.734 S663.036	HH - R3	Support in part	We support the clarification for new customer connections, however wish to further clarify that heritage is more than just archaeology and also includes SASM which needs to be clear in this rule and similar ones.	P115 and 116 Accept	Support.
S620.108	HH - R7	Amend	Include the following discretions to listed in HH-R7: f. <u>Impacts of the activity on the cultural values on any site or area of significance to Māori;</u>	P130 Accept	Support

Submission	Provision	Position	Reasons for Submission	S42A position	Poutini Ngāi Tahu position at hearing
			<p><u>and Implementation of any advice received from the relevant Poutini Ngāi Tahu rūnanga on ways to manage the effects on cultural values of the proposed maintenance works.</u></p>	<p>H4 became RDA and includes cultural values on SASM & requirements from feedback from Poutini Ngāi Tahu.</p> <p>R7 became discretionary and is therefore included.</p>	
<p>FS41.128 S538.173</p>	<p>HH - R10</p>	<p>Oppose</p>	<p>Infrastructure needs to be considered within the proposed environment and should not be permitted where the adverse effects to the community exceed the benefits.</p>	<p>P137</p> <p>Accept</p> <p>S42A report changed rule status from discretionary to RDA.</p>	<p>Partial Support</p> <p>Any RDA rule needs to be consistent with INF-ENG Chapters</p>

Submission	Provision	Position	Reasons for Submission	S42A position	Poutini Ngāi Tahu position at hearing

Attachment A – Relevant Objectives and Policies from higher order planning documents

New Zealand Coastal Policy Statement

Objective 3 To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:

- recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;
- promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;
- incorporating mātauranga Māori into sustainable management practices; and
- recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.

Objective 6: To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that:

...

- historic heritage in the coastal environment is extensive but not fully known, and vulnerable to loss or damage from inappropriate subdivision, use, and development.

Policy 1 Extent and characteristics of the coastal environment

(2) Recognise that the coastal environment includes:

(f) elements and features that contribute to the natural character, landscape, visual qualities or amenity values;

(g) items of cultural and historic heritage in the coastal marine area or on the coast;

Policy 2 The Treaty of Waitangi, tangata whenua and Māori heritage

In taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi), and kaitiakitanga, in relation to the coastal environment:

(a) recognise that tangata whenua have traditional and continuing cultural relationships with areas of the coastal environment, including places where they have lived and fished for generations;

(b) involve iwi authorities or hapū on behalf of tangata whenua in the preparation of regional policy statements, and plans, by undertaking effective consultation with tangata whenua; with such consultation to be early, meaningful, and as far as practicable in accordance with tikanga Māori;

(c) with the consent of tangata whenua and as far as practicable in accordance with tikanga Māori, incorporate mātauranga Māori in regional policy statements, in plans, and in the consideration of applications for resource consents, notices of requirement for designation and private plan changes;

(d) provide opportunities in appropriate circumstances for Māori involvement in decision making, for example when a consent application or notice of requirement is dealing with cultural localities or issues of cultural significance, and Māori experts, including pūkenga, may have knowledge not otherwise available;

(e) take into account any relevant iwi resource management plan and any other relevant planning document recognised by the appropriate iwi authority or hapū

(f) provide for opportunities for tangata whenua to exercise kaitiakitanga over waters, forests, lands, and fisheries in the coastal environment through such measures as: (i) bringing cultural understanding to monitoring of natural resources; (ii) providing appropriate methods for the management, maintenance and protection of the taonga of tangata whenua; (iii) having regard to regulations, rules or bylaws relating to ensuring sustainability of fisheries resources such as taiāpure, mahinga mātaimai or other non commercial Māori customary fishing; and

(g) in consultation and collaboration with tangata whenua, working as far as practicable in accordance with tikanga Māori, and recognising that tangata whenua have the right to choose not to identify places or values of historic, cultural or spiritual significance or special value:

(i) recognise the importance of Māori cultural and heritage values through such methods as historic heritage, landscape and cultural impact assessments; and

(ii) provide for the identification, assessment, protection and management of areas or sites of significance or special value to Māori, including by historic analysis and archaeological survey and the development of methods such as alert layers and predictive methodologies for identifying areas of high potential for undiscovered Māori heritage, for example coastal pā or fishing villages.

Policy 6: Activities in the coastal environment

(1) In relation to the coastal environment:

...

(j) where appropriate, buffer areas and sites of significant indigenous biological diversity, or historic heritage value.

Policy 15: Natural features and natural landscapes

To protect the natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use, and development:

- (a) avoid adverse effects of activities on outstanding natural features and outstanding natural landscapes in the coastal environment; and
- (b) avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects of activities on other natural features and natural landscapes in the coastal environment;

including by:.....

(c) identifying and assessing the natural features and natural landscapes of the coastal environment of the region or district, at minimum by land typing, soil characterisation and landscape characterisation and having regard to:

(viii) cultural and spiritual values for tangata whenua, identified by working, as far as practicable, in accordance with tikanga Māori; including their expression as cultural landscapes and features;

(ix) historical and heritage associations ...

Policy 17: Historic Heritage Identification and Protection

Protect historic heritage in the coastal environment from inappropriate subdivision, use and development by: Protect historic heritage in the coastal environment from inappropriate subdivision, use and development by:

- (a) Identification, assessment and recording of historic heritage, including archaeological sites;
- (b) Providing for the integrated management of such sites in collaboration with relevant councils, heritage agencies, iwi authorities and kaitiaki;
- (c) Initiating assessment and management of historic heritage in the context of historic landscapes;
- (d) Recognising that heritage to be protected may need conservation;
- (e) Facilitating and integrating management of historic heritage that spans the line of mean high water springs;
- (f) Including policies, rules and other methods relating to the above in regional policy statements, and plans;
- (g) Imposing or reviewing conditions on resource consents and designations, including for the continuation of activities;
- (h) Requiring, where practicable, conservation conditions; and
- (i) Considering provision for methods that would enhance owners' opportunities for conservation of listed heritage structures, such as relief grants or rates relief.

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Chapter 3 Resource Management Issues of Significance to Poutini Ngāi Tahu.

Objective 1: To take into account the principles of the Treaty of Waitangi in the exercise of functions and powers under the RMA.

Objective 2: Recognise and provide for the relationship of Poutini Ngāi Tahu and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga within the West Coast Region.

Policy 1: Acting cooperatively and in good faith, the Regional and District Councils will continue to provide opportunities for active involvement of tangata whenua in resource management processes under the RMA.

Policy 2: In consultation with Poutini Ngāi Tahu, provide for the protection of ancestral land, wāhi tapu, water, sites, and other taonga from the adverse effects of activities, in a manner which is consistent with the purpose of the RMA.

Policy 3: The special relationship that Poutini Ngāi Tahu have with te taiao (the environment), and their economic, cultural, and spiritual values, including their role as kaitiaki, will be given particular consideration in resource management decisions and practices.

Chapter 4 Resilient and Sustainable Communities

Objective 4: The significant values of historic heritage are appropriately managed to contribute to the economic, social and cultural wellbeing of the West Coast.

Objective 5: To recognise and provide for the relationships of Poutini Ngāi Tahu with cultural landscapes.

Policy 5: Promote the sustainable management of historic heritage, through:

- a) Identification of significant values associated with historic heritage;
- b) Ensuring that subdivision, use and development does not detract from the significant values of historic heritage; and
- c) Encouraging the adaptive reuse of historic heritage where appropriate and practicable.

Policy 6: Cultural landscapes are appropriately identified, and effects of activities are managed in a way that provides for the cultural relationships of Poutini Ngāi Tahu.

Method 3: Assess and identify in regional and district plans significant historic heritage according to criteria based on the following matters: (a) Historic (b) Cultural (c) Architectural (d) Archaeological (e) Technological (f) Scientific (g) Social (h) Spiritual (i) Traditional (j) Contextual (k) Aesthetic .

Method 4: Use regional and district plans, and the resource consent process, to recognise and protect significant historic heritage from inappropriate subdivision, use and development.

Method 6: Regional and district councils will consult with Poutini Ngāi Tahu about appropriate provision for cultural landscapes in regional and district plans.

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Chapter 3 Natural and Human Use Values

Objective 3.2.2 To protect water bodies from inappropriate use and development by maintaining and where appropriate enhancing their natural and amenity values including natural character and the life supporting capacity of aquatic ecosystems.

Objective 3.2.3. To maintain or where appropriate enhance the spiritual and cultural values and uses of significance to Poutini Ngāi Tahu.

Policy 3.3.1 In the management of any activity involving water to give priority to avoiding, in preference to remedying or mitigating:

(1) Adverse effects on:

- (a) The habitats of threatened species identified in Schedule 7A;
- (b) Water supply values identified in Schedule 7B;
- (c) Spiritual and cultural values and uses of significance to Poutini Ngāi Tahu identified in Schedule 7C;
- (d) The significant natural character of wetlands, and lakes and rivers and their margins;
- (e) Outstanding natural features and landscapes;
- (f) Significant indigenous vegetation and significant habitat of indigenous fauna assessed in accordance with Policy 9.2 of the West Coast Regional Policy Statement;
- (g) Existing public access to and along lakes and rivers;
- (h) Significant historic heritage;

(2) Adverse effects which cause or exacerbate flooding, erosion, land instability, sedimentation or property damage;

(3) Adverse effects on existing lawful uses including regionally significant infrastructure.

Explanation Note from WCLWP: ...when reading 3.3.1(d) and 3.3.1(h) it is important to remember that the degree of natural character, or the value of historic heritage, varies along a continuum (for natural character this will be assessed having regard to the matters in Policy 3.3.6). Where a water body contains significant natural character, or the activity will affect significant historic heritage, preference will be given to avoiding adverse effects of development on that respective value. Giving priority to avoiding adverse effects on the value is more important the higher the significance of the natural character or historic heritage value⁴⁴.

Policy 3.3.7 In the management of any activity involving water, to avoid, remedy, or mitigate adverse effects on:

- (a) Water quality;
- (b) Amenity values;
- (c) Indigenous biological diversity;
- (d) Intrinsic values of ecosystems;
- (e) The natural character of wetlands, and lakes and rivers and their margins, not described in 3.3.1(1)(d); and
- (f) Historic heritage not described in 3.3.1(1)(h).

⁴⁴ WCLWP page 12