



IN THE MATTER AND IN THE MATTER

of the Resource Management Act
1991

AND

IN THE MATTER

of Hearing of Submissions and Further
Submissions on the Proposed Gore
District Plan

Minute 15 of the Hearings Panel

**MANA WHENUA AND
SITES & AREAS OF SIGNIFICANCE TO MĀORI CHAPTERS**

6 August 2024

1. INTRODUCTION

- 1.1 The purpose of this Minute is to indicate considerations of the Hearings Panel (the Panel) and provide directions following the hearing of submissions on the Mana Whenua chapter on 22 July 2024.
- 1.2 The Panel in drafting this Minute wishes to assist participants to prepare for the Sites and Areas of Significance to Maori (SASM) chapter hearing commencing on 2 December 2024 to achieve an efficient hearing process. Directions contained in this Minute are intended primarily for the s42A reporting officer and planning experts representing Hokonui Rūnanga and Te Rūnanga o Ngāi Tahu, but they will also be of relevance for other experts preparing for that hearing.

2. RELATIONSHIP OF PLAN PROVISIONS

- 2.1 It is the view of the Panel that the Mana Whenua chapter does not currently contain adequate guidance or direction to Plan users and decision-makers as to how the matters set out in the chapter are to be applied. At the very least, the Panel would expect the chapter to contain objectives, and possibly policies and rules that would assist plan implementation. Such provisions could potentially clarify the aims of the plan in relation to matters raised in the chapter and identify how those aims will be met. While context and expectations of implementation are covered in the text of the chapter, this text does not carry the weight in decision-making that objectives, policies and rules carry.
- 2.2 Advice received by the Panel during the Mana Whenua hearing is that the Sites and Areas of Significance to Māori (SASM) chapter currently contains the objectives and policies necessary.
- 2.3 Several submissions on the notified plan reference the link between section MW-2.3 and various plan provisions. The Panel observe that in the notified plan MW-2.3 and MW-4.1 are the only parts of the Mana Whenua chapter that are referenced directly in plan provisions. Links to MW-2.3 and MW-4.1 appear throughout the plan, not just in the SASM chapter.
- 2.4 Attached as Appendix A is a copy of Introduction and General Provisions Standard portion of the National Planning Standards setting out the matters to be included in the Mana Whenua chapter of District Plans. During the hearing, the Panel was advised Directions 25 and 26 allow for provisions in the Mana Whenua chapter to address context and process matters. This is in addition to the matters that must be considered in Direction 28.
- 2.5 The National Planning Standards also direct that the content of the chapter must be decided after engaging with mana whenua. Advice to the Panel is that Hokonui Rūnanga have been closely involved in the drafting of the notified plan, particularly the Mana Whenua and SASM chapters.

3. PROPOSED POLICY

- 3.1 At the Mana Whenua hearing, evidence presented on behalf of Hokonui Rūnanga and Te Rūnanga o Ngāi Tahu sought the inclusion of a proposed policy in the District Plan labelled “Policy SASM-PXX”. This proposed policy supports collaboration

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between the Gore District Council and Hokonui Rūnanga to undertake further cultural assessment within the district, stating:

Policy SASM-PXX- Implementing the Āpiti Hono Tātai Hono Approach into the Plan:

The Council will:

(A) Work with Hokonui Rūnanga Inc to:

- (1) facilitate the continuation of cultural assessment work across the district.*
- (2) Investigate opportunities to develop additional cultural landscape tools as part of the assessment work.*
- (3) facilitate a plan change incorporating the outcomes of the assessments and investigations in (1) and (2).*

(B) Use an Āpiti Hono Tātai Hono Approach for (A) above.

The PGDP does not completely provide for the appropriate recognition and protection of cultural traditions and values as it is yet to give full effect to the Āpiti Hono Tātai Hono Approach. A separate work programme is currently being implemented to give effect to the Āpiti Hono Tātai Hono Approach. This process will result in proposed changes to provisions of the Proposed Gore District Plan. These changes will be proposed by way of plan variation or plan change (depending on the status of the Plan).

- 3.2 Advice to the Panel is that there has been some use of Āpiti Hono Tātai Hono (the favoured methodology of Hokonui Rūnanga for cultural landscape assessment) during development of the notified District Plan, but that there is more work to be done. In other words, existing outputs from use of this methodology will need to be built on in order to assist decision-making over time.
- 3.3 The Panel understands that provisions in the proposed Gore District Plan represent an interim position and anticipate that further cultural assessment work will be undertaken during the life of the plan. The outputs of further work can then assist with any future plan change process, and other decision-making processes.
- 3.4 In considering the proposed policy put forward by mana whenua, the Panel has identified potential to streamline the policy wording along the following lines:

The Council will:

- A. Work with Hokonui Rūnanga to continue cultural assessment work across the district, utilising tools preferred by Hokonui Rūnanga; and*
- B. Consider any request of Hokonui Rūnanga for a plan change incorporating outcomes of cultural assessment undertaken in accordance with A.*

- 3.5 The Panel have been mindful of the following matters in seeking to streamline the proposed policy wording:
 - (a) legal submissions of Mr Garbett on behalf of Gore District Council in relation to the proposed policy;
 - (b) evidence and legal submissions of Hokonui Rūnanga and Te Rūnanga o Ngāi Tahu regarding the intent and wording of the proposed policy; and
 - (c) statutory obligations under the Resource Management Act 1991 (RMA).
- 3.6 In particular, the Panel noted the following, based on evidence and advice received :

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- (a) decisions by the Council related to matters of funding, and initiation of any future plan change, are beyond the scope of current submission process, although relevant to the Charter of Understanding between Gore District Council and Hokonui Rūnanga;
- (b) development of cultural assessment tools may occur both as part of, or outside of, the direct relationship between Gore District Council and Hokonui Rūnanga;
- (c) a s32 assessment will be required for any future plan change process, including in relation to cultural assessment methodology used to inform drafting of any notified plan change;
- (d) this process and any future plan change process will be required to establish that the plan provisions are the most appropriate way to achieve the purpose of the RMA; and
- (e) Āpiti Hono Tātai Hono is currently the preferred tool identified by Hokonui Rūnanga to undertake cultural landscape assessment and inform a future plan change process, however, it may also evolve or be supplemented by additional tools or approaches over the life of the plan

4. PANEL DIRECTIONS

4.1 The Panel directs that:

- (1) The s42A reporting officer and planning experts representing Hokonui Rūnanga and Te Rūnanga o Ngāi Tahu confer in relation to the following:
 - (i) scope for introducing context and process-related provisions to the Mana Whenua chapter;
 - (ii) utilisation of text contained in the Mana Whenua chapter to form context and process-related provisions for that chapter;
 - (iii) transfer of context and process-related provisions contained in the SASM chapter to the Mana Whenua chapter;
 - (iv) drafting of context and process-related provisions based on (ii) and (iii), also considering available examples in other plans that have utilised the National Planning Standards directions (e.g. Otago Regional Policy Statement); and
 - (v) a s32AA assessment of any drafted provisions.
- (2) Hokonui Rūnanga and Te Rūnanga o Ngāi Tahu planning experts consider the Panel re-drafting of proposed Policy SASM-PXX in the first instance, and then confer with the s42A reporting officer regarding:
 - (i) the extent to which the re-drafted policy would satisfy relief sought by Hokonui Rūnanga and Te Rūnanga o Ngāi Tahu; and
 - (ii) the location of this policy within the plan, with reference to (1) above.

4.2 The Panel anticipates that the results of undertaking Directions (1) and (2) above will be incorporated into reports and evidence prepared for the SASM hearing. This will then provide an opportunity for all participants in the SASM hearing to engage with

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the outcomes of the conferencing and further advise the Panel in relation to those outputs.

- 4.3 However, should the parties wish to provide the outputs of conferencing in advance of the exchange of evidence for the SASM hearing, this will be made available on the Council's District Plan hub on its website.

Any queries regarding this Minute should be directed to the Hearings Administrator, Lindsey Crazy Wolf who can be contacted by email at lcrazywolf@goredc.govt.nz or by telephone on (03) 209 0330.



Keith Hovell
Hearing Panel Chair

APPENDIX A

Extract from National Planning Standards 2019

Tangata whenua/mana whenua

25. The provisions under the [Tangata whenua/Mana whenua] heading must only include context and process-related provisions. Other tangata whenua/mana whenua provisions must be integrated throughout the policy statement or plan where the local authority determines it is appropriate.
26. Local authorities must consider the matters in direction 28, and may include provisions relating to these matters. These decisions must be made after engaging with tangata whenua/mana whenua. Provisions may include links to material outside the policy statement or plan.
27. Chapters and sections under this heading may be structured as appropriate, but must comply with 10. Format Standard.
28. Matters to consider for provisions under the [Tangata whenua/Mana whenua] heading:
 - a. Recognition of hapū and iwi
 - i. a history of the hapū or iwi within the rohe
 - ii. the relationship of hapū or iwi with their rohe
 - iii. environmental management perspectives and values of hapū or iwi
 - iv. a description of resources of significance to tangata whenua/mana whenua
 - v. where agreed with the iwi authorities, a list of relevant iwi authorities. Where possible this should include links to iwi authority websites
 - vi. where agreed with iwi authorities, a description of the relationship of hapū or iwi with ancestral lands, water, sites, wāhi tapu, and other taonga, and interests in resource management
 - vii. an explanation of how hapū or iwi values have been considered when preparing the policy statement or plan, or are reflected in the policy statement or plan
 - viii. an overview of resource management arrangements from any Treaty settlement and post-treaty settlement agreements
 - ix. a list of any statutory acknowledgements for the district and region, and a brief explanation of how they affect the policy statement or plan and are reflected in policy statement or plan provisions. Where possible this should include a link to the relevant statutory acknowledgement legislation
 - x. if a statutory acknowledgement requires a specific resource management processes, identification of that process.
 - b. Tangata whenua/mana whenua – local authority relationships
 - i. a list of formal relationships agreements between tangata whenua/mana whenua and the local authority as they relate to resource management functions. These may include memoranda of understanding, mana whakahono a rohe or iwi participation arrangements, co-management agreements, joint management agreements, or

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transfer of powers under RMA section 33. Where agreed with tangata whenua/mana whenua this list should include links to these relationship agreement documents.

- c. Hapū and iwi planning documents
 - i. a list of hapū or iwi planning documents lodged with the local authority. Where agreed with tangata whenua/mana whenua this should include links to the planning documents
 - ii. a description of how the local authority has taken the hapū or iwi planning documents into account in the policy statement or plan
 - iii. an explanation of how hapū or iwi planning documents are used
 - iv. if relevant and agreed, parts of the hapū or iwi planning documents.
- d. Involvement and participation with tangata whenua/mana whenua
 - i. any specific involvement and participation or RMA consultation processes with tangata whenua/mana whenua: required by the RMA, in relationship agreements, or in hapū or iwi planning documents
 - ii. a description of best practice involvement, participation or RMA consultation processes with hapū or iwi, as agreed with specific hapū or iwi. This may include a link or reference to external best practice processes documents
 - iii. an explanation of the purpose of any involvement, participation or RMA consultation processes
 - iv. how the involvement, participation or RMA consultation processes are given effect to.