

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act
1991

AND

IN THE MATTER of Queenstown Lakes District
Proposed District Plan - Stage 1:
Chapter 5 Tangata Whenua

**STATEMENT OF EVIDENCE OF TIMOTHY MARK VIAL
FOR TE RŪNANGA O MOERAKI, KĀTI HUIRAPA RŪNAKA KI
PUKETERAKI, TE RŪNANGA O ŌTĀKOU AND HOKONUI RŪNANGA
(COLLECTIVELY NGĀ RŪNANGA)**

Dated 26 February 2016

QUALIFICATIONS AND EXPERIENCE

1. My name is Timothy Mark Vial. I am employed by Kāi Tahu ki Otago Limited (**KTKO Ltd**), a regional Kāi Tahu environmental consultancy, as the Principal Planner.
2. I hold Degrees of Bachelor of Arts and Bachelor of Laws and a Master of Regional and Resource Planning from the University of Otago. I am a Full Member of the New Zealand Planning Institute (MNZPI), and an accredited hearings commissioner.
3. I have worked in resource management planning for over 13 years, including five years in various roles for the Dunedin City Council and eight years for KTKO Ltd. I am familiar with the Queenstown Lakes District Plan – Stage 1.
4. I whakapapa to the Kāi Tahu hapū of Ngāi te Ruahikihiki and affiliate to Te Rūnanga o Ōtākou.
5. In preparing this evidence I have reviewed:
 - a. The reports and statements of evidence of other experts giving evidence relevant to my area of expertise, including:
 - i. Matapura Ellison, Kāti Huirapa Rūnaka ki Puketeraki
 - ii. Maree Kleinlangevelsloo, Kāi Tahu ki Otago Limited
 - b. Proposed Regional Policy Statement for Otago
 - c. Queenstown Lakes District Proposed District Plan - Stage 1: Chapters 3 (Strategic Direction) and Chapter 5 (Tangata Whenua)
 - d. Section 42A Hearing Report Chapter 5: Tangata Whenua
 - e. Proposed Dunedin City Council Second Generation District Plan
6. Although this is a Council Hearing I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note. This evidence has been prepared in accordance with it and I agree to

comply with it. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

EXECUTIVE SUMMARY

7. I concur with Mr Pickard that the overall thrust of the provisions in the Tangata Whenua chapter should be retained as outlined and supported in the Section 32 assessment, as these provisions provide for:
 - Integration of Tangata Whenua values into the Proposed District Plan (PDP).
 - Involvement of Tangata Whenua in the decision making process.
 - Recognition of the Statutory Areas identified in the Ngāi Tahu Claims Settlement Act 1998.
8. Ngā Rūnanga in collaboration with Ngāi Tahu ki Murihiku have undertaken to map wāhi tūpuna throughout the Queenstown Lakes District for inclusion in Stage 2 of the PDP. The mapping of wāhi tūpuna will enable the development of provisions that recognise and provide for the relationship of Ngāi Tahu with their ancestral lands, water, sites, waahi tapu, and other taonga, as discussed in the evidence of Ms Kleinlangevelsloo.
9. Ngā Rūnanga have worked with the Otago Regional Council and the Dunedin City Council to develop provisions in the Proposed Regional Policy Statement (PRPS) and Proposed Second Generation Dunedin City District Plan respectively that recognise and provide for their values. I consider that the provision for tangata whenua values in the Queenstown Lakes District PDP should be consistent with these planning documents.

SCOPE OF EVIDENCE

10. I have been asked by Ngā Rūnanga to provide evidence in relation to:
 - a. The Statutory Framework
 - b. Integration of Tangata Whenua Values in the PDP
 - c. Analysis of Submissions

d. Nga Runanga Submissions

INTRODUCTION

11. Kāi Tahu ki Otago Limited (KTKO) collaborated with Te Ao Marama Inc and Mr Pickard in developing Chapter 5 - Tangata Whenua. Ngā Rūnanga were encouraged by the constructive approach taken by Council to recognising and providing for their values, rights and interests in the PDP.
12. Strategic Goal 7 and the elevation of Chapter 5 to Part 2 (Strategy) of the PDP give effect to the Treaty partnership and provide for the special relationship between Council and Tangata Whenua.¹ This strategic direction informs the chapters of the PDP that follow.
13. I concur with Mr Pickard that there is a crossover between "the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga" and the provision for these matters under Chapter 26 (Historic Heritage) of the PDP. I support this crossover of provisions as it provides for the integration of tangata whenua values in the PDP. In my opinion, provision for this relationship is also required in other chapters in the PDP, as outlined in the submission of Ngā Rūnanga.
14. The mapping of wāhi tūpuna and the development of provisions for inclusion in Chapter 26 (Historic Heritage) are a specific focus of Stage 2 of the District Plan Review. I anticipate that this will also require the addition of provisions to the other Stage 1 chapters to recognise and provide for Ngāi Tahu values, rights and interests.

STATUTORY FRAMEWORK

Resource Management Act 1991 - Part 2

15. I adopt the abridged summary of the relevant Part 2 matters.² In addition, Goal 7 and Chapter 5 take into account the principles of Te Te Tiriti o Waitangi (section 8 of the Act).

¹ Section 42A Hearing Report: Chapter 5 Tangata Whenua, Section 4

² Section 42A Hearing Report: Chapter 5 Tangata Whenua,

Proposed Regional Policy Statement for Otago

16. The PRPS for Otago provides for tangata whenua values in Part B: Chapter 1 Kāi Tahu values, rights and interests are recognised and kaitiakitaka is expressed, namely:

Objective 1.1 The principles of Te Tiriti o Waitangi are taken into account in resource management decisions	
Policy 1.1.1	Promoting awareness of treaty obligations
Policy 1.1.2	Taking the principles of Te Tiriti o Waitangi into account
Objective 1.2 Kāi Tahu values, rights and interests and customary resources are sustained.	
Policy 1.2.1	Managing the natural environment to support Kāi Tahu wellbeing.
Policy 1.2.2	Recognising important sites of cultural significance to Kāi Tahu
Policy 1.2.3	Protecting important sites and values of cultural significance to Kāi Tahu
Policy 1.2.4	Enabling Kāi Tahu relationships with wāhi tūpuna and associated sites
Policy 1.2.5	Enabling sustainable use of Māori land

17. Proposed Objective 1.2 and Policies 1.2.2 – 1.2.4 establish a regional direction for the mapping and protection of sites and values of cultural significance to Tangata Whenua.
18. In my opinion, the provisions of Goal 7 and Chapter 5, and the inclusion of Ngāi Tahu Claims Settlement Act site on Map Sheet 40, are consistent with the objectives and policies of the Proposed Regional Policy Statement for Otago.

Ngāi Tahu Claims Settlement Act 1998 (NTCSA)

19. The NTCSA included as cultural redress a number of mechanisms to recognise and give practical effect to Ngāi Tahu mana over taonga

resources and wāhi tūpuna. These cultural redress mechanisms include Statutory Acknowledgements, Tōpuni and nohoanga.

20. I consider that the mapping of the Statutory Areas, Tōpuni and nohoanga (Map 40) is appropriate, consistent with the NTCSA, and will ensure that the potential effects of development on these areas is addressed.

Kāi Tahu Ki Otago Natural Resource Management Plans 1995 and 2005

21. These Iwi Management Plans (IMP) were incorporated by under clause 30 of Schedule 1 of the RMA at notification.
22. The Kāi Tahu ki Otago Natural Resource Management Plans 1995 and 2005 are the principal resource management planning documents for Kāi Tahu ki Otago. The kaupapa (purpose) of these plans is Ki Uta ki Tai (Mountains to the Sea), which reflects the holistic Kāi Tahu ki Otago philosophy of resource management.
23. The IMP express Kāi Tahu ki Otago values, knowledge and perspectives on natural resource and environmental management issues. The IMP are intended to assist others in understanding tangata whenua values and policy and provide a starting point for consultation.
24. I concur with Mr Pickard that the IMP assist Council Staff and applicants to identify the issues of significance for Tangata Whenua and should be used in conjunction with direct consultation.

INTEGRATION OF TANGATA WHENUA VALUES IN THE PDP

25. Ngā Rūnanga sought through submission the insertion of place holders that would integrate Goal 7 and Chapter 5 throughout the PDP. The mapping of wāhi tūpuna would then enable the development of those placeholders into nuanced provisions that provide for tangata whenua values during Stage 2 of the District Plan Review.
26. In contrast, the mapping of wāhi tūpuna within Dunedin City occurred in parallel with the development of the Manawhenua provisions. These

provisions provide an integrated Manawhenua planning framework within the Proposed Dunedin City District Plan (refer to Appendix 1). This framework requires an assessment of the effects of activities on Manawhenua values, namely:

Activity	Assessment Guidance
Restricted discretionary activities	In a wāhi tūpuna mapped area where the activity is identified as a threat an assessment of the effects on Manawhenua cultural values.
Discretionary and Non-Complying Activities	<p>In assessing the significance of effects, consideration will be given to Manawhenua values and (to maintaining) the relationship between manawhenua and the natural environment, including the cultural values and traditions associated with:</p> <ul style="list-style-type: none"> a. wāhi tūpuna; and: b. mahika kai <p>If an activity is located outside a wāhi tūpuna mapped area, Kāi Tahu may advise the Council if it considers that the granting of the consent would affect the integrity of the broader environment within which the wāhi tūpuna is located, or the linkages between wāhi tūpuna.</p>

27. In my opinion, a consistent approach to the provision and integration of tangata whenua values across the PRPS and Second Generation District Plans would assist plan users to make and assess resource consents in compliance with the requirements of Schedule 4 of the Act and provide certainty for Ngā Rūnanga.

ANALYSIS OF SUBMISSIONS

Issue 1 – Strategic Direction Goal 7 (3.2.7)

28. Submissions sought the amendment of Objective 3.2.7.1. This would see a "softening" of the stance from requiring protection of Ngai Tahu

values to recognising and providing for those values.³ The amendment aligns the Objective with the wording of section 6(e).

29. I consider that this amendment to Objective 3.2.7.1 is inconsistent with the PRPS, namely:

Policy 1.2.3 Protecting important sites and values of cultural significance to Kāi Tahu

Protect important values, as detailed in schedules 1A and B, and sites of cultural significance to Kāi Tahu as detailed in Schedule 1C by:

- a) Avoiding significant adverse effects on those values and sites, as detailed in Schedule 3; and*
- b) Avoiding remedying or mitigating other adverse effects on those values and sites; and*
- c) Managing those values and sites in a culturally appropriate manner*

32. I concur with Mr Pickard and Mr Paetz that ‘absolute protection’ would be inappropriate and inconsistent with the Treaty partnership. In my opinion, Policy 1.2.3 of the Proposed RPS provides qualified rather than absolute protection of Kāi Tahu values.

30. I consider that the submissions on this issue can be addressed by adding qualifying paragraphs to Objective 3.2.7.1:

Objective 3.2.7.1 *Protect Ngāi Tahu values, rights and interests, including taonga species and habitats, and wāhi tūpuna by:*

- a) Avoiding significant adverse effects on those values, rights and interests; and*
- b) Avoiding remedying or mitigating other adverse effects on those values, rights and interests; and*
- c) Managing those values, rights and interests, including taonga species and habitats, and wāhi tūpuna, in a culturally appropriate manner.*

³ Section 42A Hearing Report: Chapter 5 Tangata Whenua, section 7.4

31. The mapping of the wāhi tūpuna and the identification of the threats to the values of the site or landscape will further narrow the scope of protection and provide certainty for plan users.

Issue 2 – Consultation / mapping of cultural sites

32. I concur with Mr Pickard that there is ample information available to formulate and justify this Chapter. The mapping of wāhi tūpuna will also provide guidance to plan users on the specific areas or features of significance to Tangata Whenua.

Issue 3 - Manawhenua

33. Ngā Rūnanga sought the amendment of all references to “Tangata Whenua” to “Manawhenua”. The terms “Tangata Whenua” and “Manawhenua” are both used in the Act and in proposed Chapter 5. Mr Pickard prefers the use of a generic reference to “Tangata Whenua”.
34. Ngā Rūnanga have considered the Section 42A report and provided direction. The term “Tangata Whenua’ refers to Māori in general, in contrast to ‘Manawhenua’ which refers to those with traditional or customary authority within the Queenstown Lakes District. However, it is acknowledged that:
- a) The definition of Tangata Whenua in the Resource Management Act refers to the “iwi, or hapu, that holds mana whenua over that area;” and
 - b) The term ‘Tangata Whenua’ is used in the operative District Plan; and is understood by plan users.
35. Ngā Rūnanga endorse the use of ‘Tangata Whenua’ in the PDP to provide certainty for plan users.

Issue 4 - Involvement of Tangata Whenua / Status of Iwi Management Plans

36. I concur with Mr Pickard that Local Authorities are obligated under the Local Government Act and RMA to actively engage with Tangata Whenua and to take into account the principles of the Treaty of Waitangi.

NGĀ RŪNANGA SUBMISSIONS

Section 5.2 Ngāi Tahu Environmental Management

37. The term whakawhanaungatanga (the process of establishing relationships and connections) is incorrectly spelled.

Section 5.3 Issues and Outcomes sought by Ngāi Tahu

38. I recommend the addition of two issues to the bullet point list:
- Increasing land use intensification, especially increasing dairying and subdivision.
 - Effects of land use change and development on wāhi tūpuna, mahinga kai and water quality.
 - Access to Nohoanga.
 - Taonga species and related habitats.

Cemeteries, crematoriums and landfills

39. These activities, which may result in contaminants entering the air, land or water, and ultimately the food chain, are considered potentially significant by Tangata Whenua, particularly where the proposed activity is close to wāhi tūpuna, customary use areas, nohoanga and the habitat of taonga species.
40. In my opinion, it would be appropriate to amend Policy 5.4.5.4, to specifically refer to the adverse effects of these activities on wāhi tūpuna:

Policy 5.4.5.4 Avoid where practicable, adverse effects on the relationship between Ngāi Tahu and the wāhi tūpuna, including the effects of cemeteries, crematoriums and landfills.

41. This amendment supports the associated method in Section 5.5.

CONCLUSION

42. The strategic direction provided by Goal 7 and Chapter 5 are supported by Ngā Rūnanga. The subsequent mapping of wāhi tūpuna will enable the development of nuanced provisions during Stage 2 of the District Plan Review that will give effect to these objectives and policies.

43. A consistent approach to the provision and integration of tangata whenua values across the PRPS and Second Generation District Plans is an effective and efficient means of providing certainty for plan users. Further, this approach recognises and protects Tangata Whenua values, rights and interests across Otago.

44. I concur with Mr Pickard that the overall thrust of the provisions in the Tangata Whenua chapter should be retained as outlined and supported in the Section 32 assessment, as these provisions provide for:

- Integration of Tangata Whenua values into the Proposed District Plan.
- Involvement of Tangata Whenua in the decision making process
- Recognition of the Statutory Areas identified in the Ngāi Tahu Claims Settlement Act 1998.

DATED this 26th day of February 2016

A handwritten signature in black ink, appearing to be 'T. Vial', written on a light-colored background.

Timothy Mark Vial

Principal Planner

Kāi Tahu ki Otago Limited

Appendix 1: Dunedin City Council: Second Generation District Plan Manawhenua Planning Framework

Chapter 2: Strategic Directions

Strategic Direction 2.5: Dunedin is a City that Gives Effect to the Principles of the Treaty of Waitangi, Protects Kāi Tahu Values, Culture and Traditions, and Enables Kāi Tahu to Express Kaitiakitaka

Objective 2.5.1: Kaitiakitaka	
Kāi Tahu can exercise kaitiakitaka over resources within their takiwā.	
Policy 2.5.1.1	Give sufficient weight in decision making to Kāi Tahu values and associations through identifying these values, and issues of significance to manawhenua in the Plan.
Policy 2.5.1.2	Provide for effective and meaningful engagement with manawhenua at appropriate stages of the resource management process through: <ul style="list-style-type: none"> a. encouraging early consultation by applicants; b. requiring that the effects on values of significance to manawhenua are considered for culturally sensitive activities and activities that may adversely affect wāhi tūpuna and mahika kai; c. recognising and providing for matauraka Māori and tikaka during the consent and hearing process; and

Objective 2.5.2: Occupation of Native Reserve Land	
Kai Tahu can occupy, develop and use land in areas originally set aside for that purpose, in accordance with their culture and traditions and economic, social and cultural aspirations.	
Policy 2.5.2.1	Enable occupation of Native Reserve land, through rules that provide for papakāika in these locations.
Policy 2.5.2.2	Enable marae-related activities at existing marae, and any new marae established with the agreement of manawhenua.

Objective 2.5.3: Wāhi tūpuna	
Wāhi tūpuna (including wāhi tapu and wāhi taoka) and their relationship with Kāi Tahu is acknowledged and protected.	
Policy 2.5.3.1	Identify wāhi tūpuna and protect them from identified threats through rules that manage: <ul style="list-style-type: none"> a. buildings, structures, forestry, network utility structures, roading, mining and earthworks on the upper slopes and peaks of hills and mauka; and b. earthworks in areas where there is high likelihood of archaeological remains.

Objective 2.5.4: Mahika kai	
Mahika kai is protected from the adverse effects of land use and development so that it is maintained or enhanced in order to support customary use.	
Policy 2.5.4.1	Identify wāhi tūpuna that have mahika kai areas and manage activities that have the potential to adversely affect those values, or adversely affect access to them, including: <ul style="list-style-type: none"> a. buildings, structures and development activities adjacent to waterways and the coastal environment; and b. vegetation clearance.

Chapter 14: Manawhenua

Objectives and Policies

Objective 14.2.1	
The relationship between manawhenua and the natural environment is maintained or enhanced, including the cultural values and traditions associated with: <ul style="list-style-type: none"> a. wāhi tūpuna; b. mahika kai; and c. occupation of native reserve land through papakāika 	
Policy 14.2.1.1	Only allow activities in or adjacent to wetlands and coastal and riparian areas that are wāhi tūpuna and are identified as having mahika kai values in Appendix A4, where adverse effects on mahika kai are avoided, or if avoidance is not possible, are no more than minor.
Policy 14.2.1.2	Require buildings, structures, earthworks and network utilities to be set back an adequate distance from the coast and water bodies that are wāhi tūpuna and are identified as having mahika kai values in Appendix A4, to maintain or enable access to the coast and riparian margins for the purpose of gathering mahika kai.
Policy 14.2.1.3	Only allow subdivision of land adjacent to water bodies and the coast that are wāhi tūpuna and are identified as having mahika kai values in Appendix A4, where the subdivision is designed to maintain or enable access to the coast and riparian margins for the purpose of gathering mahika kai.
Policy 14.2.1.4	Only allow activities that are identified as a threat to wāhi tūpuna in Appendix A4, where adverse effects on the relationship between manawhenua and the wāhi tūpuna are avoided, or if avoidance is not possible, are no more than minor.
Policy 14.2.1.5	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 no more than minor.
Policy 14.2.1.6	Enable manawhenua to live in Native Reserve areas where any adverse effects can be adequately managed in line with the objectives and policies of the relevant

Policy 14.2.1.7	Require residential buildings used for papakāika to be removed from a <u>site</u> when they are no longer used for that purpose.
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Rule Framework: Example – Network Utilities

Rule 5.4 Notification

2.	With respect to resource consent applications for the following activities, manawhenua will be considered an affected person in accordance with s95B of the RMA where their written approval is not provided:
i.	all restricted discretionary activities that list 'effect on cultural values of manawhenua' as a matter for discretion; and
ii.	discretionary and non-complying activities in a wāhi tūpuna mapped area where the activity is identified as a threat to the wāhi tūpuna mapped area in Appendix A4.

Rule 5.8.3 Assessment of restricted discretionary network utilities activities in an overlay zone, mapped area, heritage precinct, or scheduled item

Activity		Matters of Discretion	Guidance on the Assessment of Resource Consents.
4.	In a wāhi tūpuna mapped area where network utilities activities are identified as a threat in Appendix A4	a. Effects on cultural values of manawhenua	See Rule 14.4

Rule 5.9.2 Assessment of discretionary network utilities activities

Activity		Guidance on the assessment of resource consents
1.	All discretionary activities	<p><i>General assessment guidance</i></p> <p>e. In assessing the significance of effects, consideration will be given to:</p> <p>i. Manawhenua values and the relationship between manawhenua and the natural environment is maintained, including the cultural values and traditions associated with</p> <ol style="list-style-type: none"> 1. wāhi tūpuna; and 2. mahika kai (Objective 14.2.1). <p>ii. If located outside a wāhi tūpuna mapped area, Kāi Tahu may advise the Council if it considers that the granting of the consent would affect the integrity of the broader environment within which the wāhi tūpuna is located, or the linkages between wāhi tūpuna.</p>

Activity		Guidance on the assessment of resource consents
9.	All discretionary activities identified as a threat in a wāhi tūpuna mapped area in Appendix A4	See Section 14.5 for guidance on the assessment of resource consents in relation to Objective 14.2.1 and effects on the cultural values of manawhenua.

Rule 5.10.2 Assessment of all non-complying network utilities activities

Activity		Guidance on the assessment of resource consents
1.	All non-complying activities	<p><i>General assessment guidance</i></p> <p>b. In assessing the significance of effects, consideration will be given to:</p> <p>iv. Manawhenua values and the relationship between manawhenua and the natural environment is maintained, including the cultural values and traditions associated with</p> <ol style="list-style-type: none"> 1. wāhi tūpuna; and 2. mahika kai (Objective 14.2.1). <p>v. If located outside a wāhi tūpuna mapped area, Kāi Tahu may advise the Council if it considers that the granting of the consent would affect the integrity of the broader environment within which the wāhi tūpuna is located, or the linkages between wāhi tūpuna.</p>

Rule 5.10.3 Assessment of non-complying network utilities activities

Activity		Guidance on the assessment of resource consents
5.	All non-complying activities identified as a threat in a wāhi tūpuna mapped area in Appendix A4	See Section 14.6 for guidance on the assessment of resource consents in relation to Objective 14.2.1 and effects on the cultural values of manawhenua.

Rule 14.3 Assessment of Restricted Discretionary Activities (Performance Standard Contraventions)

Rule 14.3.1 Introduction

1. Restricted discretionary activities will be assessed in accordance with section 104 and 104C of the RMA, meaning only those matters to which Council has restricted its discretion will be considered, and Council may grant or refuse the application, and, if granted, may impose conditions with respect to matters over which it has restricted its discretion.
2. Rule 14.3.2:
 - a. lists the matters Council will restrict its discretion to; and
 - b. provides guidance on how a consent application will be assessed, including:
 - i. relevant objectives and policies, with respect to s104(1)(b)(vi);
 - ii. potential circumstances that may support a consent application;
 - iii. general assessment guidance; and
 - iv. conditions that may be imposed.
3. If a restricted discretionary activity also does not meet one or more relevant performance standards, discretion is expanded to include the areas of non-compliance and the assessment will include the matters outlined in Section 15.9.
4. For all land use activities that require consent, all associated development activities will be considered as part of the resource consent even if the development otherwise meets the development performance standards in the Plan. Conditions on development activities may be used to minimise any adverse effects from the land use activity or create mitigating positive effects.

14.3.2 Assessment of performance standard contraventions

Performance standard	Matters of discretion	Guidance on the assessment of resource consents
1. All performance standard contraventions including performance standards listed below		<p><i>Potential circumstances that may support a consent application include:</i></p> <ul style="list-style-type: none"> a. The degree of non-compliance with the performance standard is minor. b. Topography or other <u>site</u> specific factors make the standard irrelevant as the adverse effects that the standard is trying to manage will not occur. c. Non-compliance with a development performance standard would improve the design of the development in a way that would result in positive effects and better achieve the identified objectives and policies of the Plan. <p><i>General assessment guidance:</i></p> <ul style="list-style-type: none"> d. Where more than one standard is contravened, the combined effects of the contraventions should be considered. e. Council will consider the findings of any cultural impact assessment provided with a resource consent application, where required (see Special Information Requirements - Rule 14.7). f. In assessing the effects on manawhenua and their relationship with a wāhi tūpuna mapped area, Council will consider the values in Appendix A4.
2. Density (papakāika - residential zone)	a. Effects on cultural values of manawhenua	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 14.2.1 ii. Manawhenua are able to live in Native Reserve areas where any adverse effects can be adequately managed in line with the policies of the relevant zone (Policy 14.2.1.6). iii. Residential buildings used for papakāika are removed when no longer used for that purpose (Policy 14.2.1.7).
3. Esplanade reserves and strips	a. Where in a wāhi tūpuna mapped area , effects on cultural values of manawhenua	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 14.2.1 ii. In a wāhi tūpuna mapped area identified as having mahika kai values in Appendix A4, the subdivision is designed to maintain or enable access to the coast and riparian margins for the purpose of gathering mahika kai (Policy 14.2.1.3).

14.3.2 Assessment of performance standard contraventions

Performance standard	Matters of discretion	Guidance on the assessment of resource consents
<p>4. Maximum height</p>	<p>a. In the Huriawa height restriction mapped area, effects on cultural values of manawhenua</p> <p>b. In the Dunedin International Airport Zone, effects on cultural values of manawhenua (<i>in relation to Maukaatua wāhi tūpuna mapped</i>)</p>	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 14.2.1 ii. Adverse effects on the relationship between manawhenua and wāhi tūpuna are avoided, or if avoidance is not possible, are no more than minor (Policy 14.2.1.4).
<p>5. Maximum area (indigenous vegetation clearance)</p> <p>Protected areas (vegetation clearance)</p> <p>Protected species (indigenous vegetation)</p>	<p>a. Where in a wāhi tūpuna mapped area, effects on cultural values of manawhenua</p>	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 14.2.1 ii. In a wāhi tūpuna mapped area identified as having mahika kai values in Appendix A4, vegetation clearance has no significant effects on mahika kai (Policy 14.2.1.1). iii. In a wāhi tūpuna mapped area where indigenous vegetation clearance is identified as a threat in Appendix A4, adverse effects on the relationship between manawhenua and the wāhi tūpuna are avoided, or if avoidance is not possible, are no more than minor (Policy 14.2.1.4). <p><i>Potential circumstances or mitigation measures that may support a consent application include:</i></p> <ul style="list-style-type: none"> iv. Where the wāhi tūpuna mapped area has mahika kai values: <ul style="list-style-type: none"> 1. The area of vegetation to be cleared is not a source of mahika kai, nor will its removal affect adjoining areas of mahika kai. 2. Sufficient vegetation will remain to ensure mahika kai can continue to be gathered to the extent it is currently gathered.

14.3.2 Assessment of performance standard contraventions

Performance standard	Matters of discretion	Guidance on the assessment of resource consents
<p>6. Setback from coast and water bodies</p>	<p>a. Where in a wāhi tūpuna mapped area, effects on cultural values of manawhenua</p>	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 14.2.1 ii. In a wāhi tūpuna mapped area where activities affecting access to a water body are identified as a threat in Appendix A4, adverse effects on the relationship between manawhenua and the wāhi tūpuna are avoided, or if avoidance is not possible, are no more than minor (Policy 14.2.1.4). iii. In a wāhi tūpuna mapped area identified as having mahika kai values in Appendix A4, buildings and structures, earthworks and network utilities are set back an adequate distance from the coast and water bodies to ensure access to the coast and riparian margins for the purpose of gathering mahika kai is maintained or enabled (Policy 14.2.1.2).
<p>7. Setback from ridgeline</p>	<p>a. Where in a wāhi tūpuna mapped area, effects on cultural values of manawhenua</p>	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 14.2.1 ii. In a wāhi tūpuna mapped area where buildings, structures and network utility structures are identified as a threat in Appendix A4, adverse effects on the relationship between manawhenua and the wāhi tūpuna are avoided, or if avoidance is not possible, are no more than minor (Policy 14.2.1.4).

Rule 14.4 Assessment of Restricted Discretionary Activities

Rule 14.4.1 Introduction

1. Restricted discretionary activities will be assessed in accordance with section 104 and 104C of the RMA, meaning only those matters to which Council has restricted its discretion will be considered, and Council may grant or refuse the application, and, if granted, may impose conditions with respect to matters over which it has restricted its discretion.
2. Rule 14.4.2:
 - a. lists the matters Council will restrict its discretion to; and
 - b. provides guidance on how a consent application will be assessed, including:
 - i. relevant objectives and policies, with respect to s104(1)(b)(vi);
 - ii. potential circumstances that may support a consent application;
 - iii. general assessment guidance; and
 - iv. conditions that may be imposed.
3. For all land use activities that require consent, all associated development activities will be considered as part of the resource consent even if the development otherwise meets the development performance standards in the Plan. Conditions on development activities may be used to minimize any adverse effects from the land use activity or create mitigating positive effects.

14.4.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
1.	All restricted discretionary activities	<p><i>General assessment guidance:</i></p> <ol style="list-style-type: none"> a. The development incorporates conservation activity that will have significant positive effects on biodiversity or natural character values. b. Council will consider the findings of any cultural impact assessment provided with a resource consent application, where required (see Special Information Requirements - Rule 14.7). c. In assessing the effects on manawhenua and their relationship with a wāhi tūpuna mapped area, Council will consider the values in Appendix A4.

14.4.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
<p>2.</p> <p>Indigenous vegetation clearance</p> <p>Earthworks - large scale</p> <p>New buildings or structures / additions and alterations up to 60m²</p> <p>Network utilities activities</p> <p>All other structures</p> <p>New buildings and additions and alterations 60m² and over</p> <p>Forestry</p> <p>Tree planting</p> <p>All other buildings and structures</p>	<p>a. Where in a wāhi tūpuna mapped area, effects on cultural values of manawhenua</p>	<p><i>Relevant objectives and policies:</i></p> <p>i. Objective 14.2.1</p> <p>ii. In a wāhi tūpuna mapped area where the activity is identified as a threat in Appendix A4, adverse effects on the relationship between manawhenua and wāhi tūpuna are avoided, or if avoidance is not possible, are no more than minor (Policy 14.2.1.4).</p>
<p>3.</p> <p>Crematoriums and Cemeteries</p>	<p>a. Effects on cultural values of manawhenua</p>	<p><i>Relevant objectives and policies:</i></p> <p>i. Objective 14.2.1</p> <p>ii. Adverse effects on cultural values, including the relationship between manawhenua and sites of cultural importance to them, can be avoided, or if avoidance is not possible, are no more than minor (Policy 14.2.1.5).</p>

14.4.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
<p>4. All subdivision activities</p>	<p>a. Where in a wāhi tūpuna mapped area, effects on cultural values of manawhenua</p>	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 14.2.1 ii. In a wāhi tūpuna mapped area where a subdivision or buildings and structures are identified as a threat, the subdivision is designed to ensure any future land use or development will avoid or, if avoidance is not possible, ensure adverse effects on values of significance to manawhenua are no more than minor (Policy 14.2.1.4). iii. In a wāhi tūpuna mapped area identified as having mahika kai values, the subdivision is designed to maintain or enable access to the coast and riparian margins for the purpose of gathering mahika kai (Policy 14.2.1.3). <p><i>Design considerations that may support a consent application include:</i></p> <ul style="list-style-type: none"> iv. Subdivisions are designed to maximise the opportunities for protection or enhancement of important manawhenua values on the site, for example through: <ul style="list-style-type: none"> 1. retaining indigenous vegetation on a single allotment, under single ownership; 2. fencing of indigenous vegetation; 3. enabling access to, and protection of, sites of significance. <p><i>Conditions that may be imposed include:</i></p> <ul style="list-style-type: none"> v. A building platform registered against the Certificate of Title by way of consent notice.

Rule 14.5 Assessment of Discretionary Activities

Rule 14.5.1 Introduction

1. Discretionary activities will be assessed in accordance with section 104 and 104B of the RMA meaning Council may grant or refuse the application, and, if granted, may impose conditions.
2. Rules 14.5.1.2 - 14.5.1.3 provide guidance on how a consent application for the listed discretionary activities will be assessed, including:
 - a. relevant objectives and policies that will be considered as a priority with respect to s104(1)(b)(vi);
 - b. potential circumstances that may support a consent applications;
 - c. general assessment guidance, including any effects that will be considered as a priority; and
 - d. conditions that may be imposed.

14.5.2 Assessment of discretionary activities	
Activity	Guidance on the assessment of resource consents
1. All discretionary activities	<p><i>Relevant objectives and policies (priority considerations):</i></p> <p>a. Objectives 2.5.1, 2.5.3, 2.5.4, 14.2.1</p> <p><i>General assessment guidance:</i></p> <p>b. Council will consider the findings of any cultural impact assessment provided with a resource consent application, where required (see Special Information Requirements - Rule 14.7.1).</p>
2. Crematoriums Cemeteries Landfills	<p><i>Relevant objectives and policies (priority considerations):</i></p> <p>a. Adverse effects on cultural values, including the relationship between manawhenua and sites of cultural importance to them, are avoided or, if avoidance is not possible, are no more than minor (Policy 14.2.1.5).</p>
3. In a wāhi tūpuna mapped area : Mining Discretionary network utilities activities New roads or additions or alterations to existing roads Passenger transportation hubs Heliports Hazard mitigation earthworks and structures	<p><i>Relevant objectives and policies (priority considerations):</i></p> <p>a. In a wāhi tūpuna mapped area where the activity is identified as a threat in Appendix A4, adverse effects on the relationship between manawhenua and wāhi tūpuna are avoided, or if avoidance is not possible, are no more than minor (Policy 14.2.1.4).</p> <p><i>General assessment guidance:</i></p> <p>b. Council will consider whether the activity is identified as a threat in Appendix A4 in the wāhi tūpuna mapped area.</p> <p>c. Where effects on the cultural values of manawhenua are assessed, the findings of a cultural impact assessment will be considered, where required (see Special Information Requirements - Rule 14.7).</p>

14.5.3 Assessment of discretionary performance standard contraventions

Activity	Guidance on the assessment of resource consents
1. Density (papakāika - rural zones)	<i>Relevant objectives and policies (priority considerations):</i> a. Objective 2.5.2, 14.2.1 b. Manawhenua are able to live in Native Reserve areas where any adverse effects can be adequately managed in line with the policies of the relevant zone (Policy 14.2.1.6). c. Residential buildings used for papakāika are removed from the <u>site</u> when they are no longer used for that purpose (Policy 14.2.1.7).

Rule 14.6 Assessment of Non-complying Activities

Rule 14.6.1 Introduction

1. Non-complying activities will be assessed in accordance with section 104, 104B and 104D of the RMA meaning Council may grant or refuse the application, and, if granted, may impose conditions.
2. Rule 14.6.2 provides guidance on how a consent application for the listed non-complying activities will be assessed, including:
 - a. relevant objectives and policies that will be considered as a priority with respect to s104(1)(b)(vi); and
 - b. general assessment guidance, including any effects that will be considered as a priority.
3. For all land use activities that require consent, all associated development activities will be considered as part of the resource consent even if the development otherwise meets the development performance standards in this Plan. Conditions on development activities may be used to minimise any adverse effects from the land use activity or create mitigating positive effects.

14.6.2 Assessment of non-complying activities

Activity	Guidance on the assessment of resource consents
1. All non-complying activities	<p><i>Relevant objectives and policies (priority considerations):</i></p> <p>a. Objectives 2.5.1, 2.5.3, 2.5.4</p> <p><i>General assessment guidance:</i></p> <p>b. Council will consider the findings of a cultural impact assessment provided with the application for resource consent, where required (see Special Information Requirements - Rule 14.7.1).</p>
2. Cemeteries Crematoriums Landfills	<p><i>Relevant objectives and policies (priority considerations):</i></p> <p>a. Objective 14.2.1</p> <p>b. Policy 14.2.1.5</p> <p><i>General assessment guidance:</i></p> <p>c. The assessment of a resource consent application for crematoriums, cemeteries and landfills will consider the findings of a cultural impact assessment (see Special Information Requirements - Rule 14.7)</p>

Rule 14.7 Special Information Requirements

14.7.1 Cultural Impact Assessment

1. Where manawhenua are considered an affected person, a cultural impact assessment may be required.

Note: The notification rules within the relevant management zone, major facility or city wide activities section provide advice on when manawhenua will be considered an affected person.