

BEFORE THE HEARING PANEL

IN THE MATTER of the Proposed Otago Regional Policy Statement 2021 (**PORPS**)

**MEMORANDUM ON BEHALF OF KĀI TAHU
IN RESPONSE TO DIRECTIONS IN MINUTE 7 (REDRAFT OF UFD CHAPTER)**

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INTRODUCTION

1. This memorandum responds to the redrafting of the Urban Form and Design (UFD) chapter proposed by Elizabeth White for Otago Regional Council (Memorandum dated 30 March 2023), in accordance with the directions of the Hearing Panel in Minute 7.

KĀI TAHU RESPONSE

2. Ms White has proposed a significant streamlining of provisions in the UFD chapter. The reasons for her recommended amendments are set out in comments in the “track changes” version of the amended chapter. These comments indicate that many of the amendments are intended to:
 - (a) provide a clearer distinction between outcomes (in objectives) and methods (in policies); and
 - (b) remove duplication within the chapter and with provisions in other parts of the PORPS.
3. Kāi Tahu support streamlining where it makes the direction of the chapter clearer. However, some of the amendments give rise to the same concerns highlighted by Ms McIntyre in her evidence rebutting the proposed redrafting of the UFD chapter by Emily McEwan for Dunedin City Council.¹ In particular:
 - (a) The absence of any reference in the objectives to the role and interests of mana whenua in planning for urban development diminishes recognition of these interests in a way that is inconsistent with the requirement of the National Policy Statement for Urban Development (NPSUD) to take into account the principles of Te Tiriti o Waitangi.² As described in Ms McIntyre’s evidence-in-chief, the principles of Te Tiriti include active protection of mana whenua interests, recognition of rakatirataka and partnership.³ ORC’s tracked redrafted version states that IM-O1 and MW-O1 sufficiently cover these interests, but recognition of mana whenua values should also be explicitly provided for in the UFD chapter to reflect their importance in the development of Otago’s urban areas.
 - (b) The amendments weaken provision for use and development of Native Reserves and Māori land. Positive references to providing for use of this land have been deleted, and the only reference retained (in UFD-P7(6)) is framed as an exception to the policy direction rather than an integral part of it. For the

¹ See rebuttal evidence of Sandra McIntyre for Kāi Tahu, at [41]-[43].

² NPSUD Objective 5, Policy 9.

³ Evidence of Sandra McIntyre for Kāi Tahu, at [16].

reasons described in the cultural evidence⁴ and in Ms McIntyre's evidence-in-chief,⁵ Kāi Tahu consider it is imperative that provision for use and development of ancestral land is recognised as an integral part of the planning framework that defines the form of urban development that is to take place within the region.

4. In addition to these concerns, Ms White's amendments and annotations do not provide any indication that she has considered other matters raised in Ms McIntyre's evidence-in-chief. Kāi Tahu continue to seek amendments to:
- (a) incorporate an exception from the restrictions on highly productive land to enable use and development of Native Reserves and Māori land, consistent with the exceptions provided for under the National Policy Statement for Highly Productive Land (NPSHPL);⁶
 - (b) include consideration of means to reduce contributions to climate change;⁷
 - (c) ensure that planning for urban development takes into account the pressures on water bodies from additional water demand and the potential effects of additional stormwater and wastewater discharges on the environment;⁸ and
 - (d) delete policy reference to the social and economic benefits of mineral and aggregate extraction.⁹

RELIEF SOUGHT

5. To assist the Hearings Panel, the amendments that Kāi Tahu continue to seek are set out in **Appendix A**. For the avoidance of doubt, careful consideration has been given to ensuring the amendments are either reinstating content removed from the notified PORPS in the redrafting by Otago Regional Council, or reiterating amendments Kāi Tahu has consistently sought through submissions and as set out in its expert evidence. None of this is new, rather it highlights the concerns already raised by Kāi Tahu which have not be addressed in this redrafting exercise.

⁴ Evidence of Edward Ellison at [92]–[96], Matapura Ellison at [34]–[41] and Justin Tipa at [29].

⁵ Evidence of Sandra McIntyre for Kāi Tahu, at [23]–[30].

⁶ Evidence of Sandra McIntyre for Kāi Tahu, at [34]–[36] and [157].

⁷ Evidence of Sandra McIntyre for Kāi Tahu, at [49]–[51] and [160]–[161].

⁸ Evidence of Sandra McIntyre for Kāi Tahu, at [158]–[159].

⁹ Evidence of Sandra McIntyre for Kāi Tahu, at [56]–[63] and [162].