

BEFORE THE HEARINGS PANEL

IN THE MATTER OF The Resource Management Act 1991

AND

IN THE MATTER OF Central Hawkes Bay Proposed District Plan Hearing
Stream (Tangata Whenua)

**STATEMENT OF EVIDENCE BY STEPHEN GRAEME DAYSH
ON BEHALF OF HERETAUNGA TAMATEA SETTLEMENT TRUST**

PLANNING

3 August 2022

1. INTRODUCTION

QUALIFICATIONS AND EXPERIENCE

- 1.1 My name is Stephen Daysh. I am a partner with the firm Mitchell Daysh Limited, which practices as a planning and environmental consultancy throughout New Zealand, with offices in Auckland, Hamilton, Tauranga, Napier, Nelson and Dunedin.
- 1.2 I hold a Bachelor of Regional Planning (Honours) degree from Massey University and have over 35 years' experience as an environmental planner and project manager. I am a member of the New Zealand Planning Institute, the Resource Management Law Association, the New Zealand Geothermal Association, and the International Geothermal Association.
- 1.3 My specialist areas of practice include providing resource management advice to the private and public sectors, facilitating public consultation processes, undertaking planning analyses, managing resource consent acquisition projects, and developing resource consent conditions. I also have considerable experience as a process and meeting facilitator with a speciality in co-ordinating community-based option assessment processes for planning issues, often utilising multi-criteria evaluation methodologies.
- 1.4 I am an accredited Hearings Commissioner (with a Chair's endorsement) and have acted as a Hearings Commissioner on approximately 100 occasions, many in the role of Hearing Chair. I am currently the Chair of the New Plymouth District Proposed District Plan Hearings Panel.
- 1.5 My relevant experience includes:
 - a) Designing and facilitating community-based alternative assessment processes for a wide range of planning issues, often utilising multi-criteria evaluation methodologies. I am currently facilitating the community led Takutai Kāpiti coastal adaptation project and was a key consultant working alongside the councils and community in the development of Clifton to Tangoio Coastal Hazard Strategy 2120.

- b) Drafting effective objectives, policies and rules local examples include the Mission Estate Special Character Zone Development to the Hastings District Plan and the Havelock North Iona Residential Growth Area Variation to the Napier City District Plan.
 - c) I am currently advising a number of clients including both councils and private clients in respect of projects under the National Policy Statement for Freshwater 2020 (NPS-FM 2020) and the National Environmental Standards for Freshwater 2020 (NES-FM) including:
 - Advice to Hawke’s Bay Regional Council;
 - Advising rural landowners in Hawke’s Bay; and
 - Various water take and discharge applications.
- 1.6 While this is not an Environment Court hearing, I confirm my obligations in terms of the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014. I confirm that the issues addressed in this brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of evidence

- 1.7 Mitchell Daysh Limited has been engaged by Heretaunga Tamatea Settlement Trust (“**HTST**”) to provide resource management advice about the Central Hawkes Bay Proposed District Plan (the “**PDP**”). I assisted in the preparation of HTST’s submission and further submission on the PDP. I presented evidence at Hearing 3 in relation to the submissions of HTST to the Rural Land Resource and Rural zones.
- 1.8 I acknowledge the hui on 10 August is to provide an opportunity for submitters to discuss the key issues identified in the s42a overview report and that a further hearing (Hearing 2) is scheduled to respond to the officer recommendations set out in the s42 overview report. My evidence is structured in alignment with the 42a overview report and further s42a officer’s report relating to Historic Heritage and Notable Trees. I generally concur with the overview of issues identified by the s42a report writer and agree in general with their evaluation of the submissions and analysis of the

key issues. As such my evidence is intended as a useful assistance to the August 10 hui. My statement of evidence focuses on:

- 1.8.1 The main aspects of the relief sought by HTST and addresses several of the key issues of the Section 42A overview report relating to:
 - (i) Ngā Tangata Whenua o Tamatea chapters (in Part 1 and Part 2 of the PDP);
 - (ii) Sites of Significance to Māori (SASM);
 - (iii) Papakāinga and Kaumatua Housing and Associated Maori Based Developments.
- 1.8.2 Any areas where I have a different opinion or conclusion to the s42a author.
- 1.8.3 Provide a brief conclusion.
- 1.8.4 Provide an evaluation under section 32AA.
- 1.9 As noted in my previous evidence¹ (presented to the Hearings Panel at the Stream 3 hearings), the HTST submission included numerous points which are not all addressed in this statement of evidence for Hearing Stream 4. With respect to those submission points, they are to be addressed in different hearing streams.
- 1.10 In preparing this statement I have reviewed the following material:
 - 1.10.1 HTST's submission and further submission on the PDP;
 - 1.10.2 Other relevant submissions and further submissions; and
 - 1.10.3 The Council's reports and recommended provisions relating to Tangata Whenua Provisions – Submitters Hui, prepared under RMA Section 42A (the "**s42A overview report**") and the Historic and

¹ Evidence of Stephen Graeme Daysh – Hearing Stream 3 dated 31 May 2022 page 3.

Cultural Values – Historic Heritage and Notable Trees (**‘the s42a Officers Report’**).

2. BACKGROUND TO HERETAUNGA SETTLEMENT TRUST SUBMISSION

- 2.1 HTST was established in 2016 as the post settlement governance entity for Heretaunga Tamatea. HTST administers the Heretaunga Tamatea Treaty settlement signed between Heretaunga Tamatea and the Crown on 26 September 2015 and enacted by Parliament in 2018. A copy of the Statutory Acknowledgement sites was appended to the HTST submissions.
- 2.2 Te Rohe of Heretaunga Tamatea comprises around 1.5 million acres of land extending from the Tūtaekurī River in the north, following the ridge of the Ruahine Range south to Takapau, then turning seawards to Pōrangahau. The rohe contains five primary river systems, which comprise an alluvial plains system fuelled by the Heretaunga and Ruataniwha aquifers. All of the Central Hawke’s Bay District is within this area.
- 2.3 HTST has specific interest in the following sites located in the Rural zones of the PDP:
- Section 7 Block II Motuotaraia Survey District and Lot 1 DP 7057 – Lake Whatumā;
 - Lot 4 DP 25272 – Pukeora;
 - Part Lot 1 DP 25272 – Pukeora; and
 - Part Lot 29 DP 4416 – Te Aute College.
- 2.4 As I have previously outlined², each of these areas provide an opportunity for tangata whenua to live, work and prosper on their land or develop the land for environmental, training or education purposes. These areas also have a tangible commercial element with the opportunity to develop the landholdings for the commercial benefit of tangata whenua. THST will present detailed evidence on the development opportunity and proposed zoning in hearing stream 6.

² Evidence of Stephen Graeme Daysh, Hearing Stream 3, dated 31 May 2022, page 3-4.

Preserving Treaty settlement outcomes and commitments

- 2.5 In the Crown Apology to Heretaunga Tamatea, recorded at section 10(g) of the Heretaunga Claims Settlement Act 2018, the Crown said: “*The Crown looks forward to restoring a relationship with the hapū of Heretaunga Tamatea that is built on trust, co-operation, and respect for each other and the Treaty of Waitangi and its principles.*”
- 2.6 It is important to ensure that the PDP establishes the process to fully involve tangata whenua in decision making and includes appropriate objectives and policies to enable this process.

3. HERETAUNGA TAMATEA SETTLEMENT TRUST SUBMISSION AND FURTHER SUBMISSIONS AND THE KEY ISSUES.

Key Issue 1 – Mihi, Tangata Whenua Relationships and Representative Voices and Key Issue 2 – Co-Governance and Iwi Involvement in Decision Making

- 3.1 Before addressing the specific submission points, I would like to highlight the engagement process undertaken with tangata whenua for the Proposed District Plan which is summarised in the officer’s overview report³ and the general support by the submissions and further submissions received. Further I fully support, the officer’s overview report which provides the opportunity for further dialogue and discussion at the hui regarding the Tangata Whenua issues before making any final recommendations in terms of Tangata Whenua provisions. This process is commendable and departs from the normal s42a evidence response reporting, but I see real merit in the opportunity to discuss the higher-level planning issues in this hearing ahead of the further hui process.
- 3.2 A number of submissions and further submissions have been received to Part 1 Tangata Whenua chapter so it is anticipated that the wording will be redrafted following the hui discussion. HTST’s first submission point relating to iwi involvement in decision making requested that the PDP wording be

³ Section 1.4 of the Officer’s Overview Report for – Tangata Whenua Provision – Submitters Hui

amended to reflect the statutory requirement to engage with tangata whenua as cultural experts to inform any development and decision-making process.

- 3.3 Having reviewed this chapter and the submissions received and as a result of my involvement as Chair of the Proposed New Plymouth District Plan Hearings Panel, I very aware the opportunity for a substantive position in the Central Hawke's Bay District for tangata whenua in co-governance associated with iwi interests and aspirations for the District. In New Plymouth for example, the eight Taranaki iwi have had significant involvement in the Proposed District Plan hearing process and in identifying wide ranging solutions to both how council and iwi might be involved in co-governance and in providing significant input to the provisions of the PDP which have in my opinion has been invaluable and contributed greatly to the plan making process.
- 3.4 Turning to the submission point of HTST's in relation to reference in this section of the PDP to engagement and consultation, I recommend an option of including a specific sub-heading, the Proposed New Plymouth District Plan⁴, for example, which as explained above I am familiar with, includes such a sub heading section which ties the chapter together linking the overarching Tangata Whenua chapter and requirement for engagement and consultation into the overall process of the Proposed District Plan decision making.
- 3.5 The theme of ensuring appropriate engagement and consultation is further reiterated in the HTST submission point to TW-P1 suggesting minor wording changes to the policy to provide for active and timely engagement in resource management decision making.
- 3.6 HTST also requested some additional wording to be added into the Ngā Reo o te Takiwā: Representative Voices to further explain the purpose of the post-treaty settlement trusts position which I support and the proposed amendments are set out in **Appendix A**.

⁴ refer Part 1 Introduction and General Provisions Tangata Whenua - Proposed New Plymouth District Plan.

Key Issue 3 – Inserting ‘Te Mana o te Wai’ Provisions into the PDP

3.7 The officer’s overview report notes that the submissions received sought specific references to Te Mana o te Wai in the Ecosystems and Indigenous Biodiversity chapter. The officer’s report suggests as an alternative to this with the Te Mana o te Wai provisions being included in the Strategic Direction ‘TW-Tangata Whenua’ chapter which applies more broadly across the Plan.

3.8 I note that Clause 3.4 of the National Policy Statement of Freshwater Management 2020 (NPSFM) requires:

“every local authority to actively involve tangata whenua (to the extent they wish to be involved) in freshwater management (including decision-making process), including the following:

(a) Identifying the local approach to giving effect to Te Mana o te Wai ...

3.9 As I set out in my earlier evidence⁵ to the Hearings Panel, Te Mana o te Wai is the fundamental concept underpinning the NPSFM, recognising that protecting the health of freshwater protects the health and well-being of the wider environment and protects “the mauri of the wai” and “restoring and preserving the balance between the water, the wider environment and the community” [section 1.3(1)] and that it encompasses 6 principles relating to the roles of tangata whenua and other New Zealanders in the management of freshwater.

3.10 The 6 principles are:

- *Mana whakahaere*: the power, authority, and obligations of tangata whenua to make decisions that maintain, protect, and sustain the health and well-being of, and their relationship with, freshwater;

⁵ Evidence of Stephen Graeme Daysh dated 31 May 2022 – page 7.

- *Kaitiakitanga*: the obligation of tangata whenua to preserve, restore, enhance, and sustainably use freshwater for the benefit of present and future generations;
- *Manaakitanga*: the process by which tangata whenua show respect, generosity, and care for freshwater and for others;
- *Governance*: the responsibility of those with authority for making decisions about freshwater to do so in a way that prioritises the health and well-being of freshwater now and into the future;
- *Stewardship*: the obligation of all New Zealanders to manage freshwater in a way that ensures it sustains present and future generations; and
- *Care and respect*: the responsibility of all New Zealanders to care for freshwater in providing for the health of the nation.

3.11 Further clause 3.6 of the NPSM requires that every territory authority include objectives, policies and methods in its district plan to promote positive effects and avoid, remedy or mitigate the adverse effects of urban development on the health and well-being of water bodies, freshwater ecosystems and receiving environments.

3.12 Te Mana o te Wai requires that the Council cares for the wellbeing of water. There are a range of activities including future subdivision and development that must ensure they contribute to an improvement in the quality of the District's water bodies, and appropriately recognises mana whenua and their relationship to water in line with the principles of Te Mana o te Wai.

3.13 While the August 10 hui provides an opportunity for further discussion on where the provisions relating to Te Mana o te Wai are to be included in the PDP, I am of the view that they do sit well within the district wide Natural Environment Values and Ecosystems and Indigenous Biodiversity chapter rather than within the Tangata Whenua chapter. The principles of Te Mana o te Wai need to be integrated across the whole of the district and all activities that have the potential to impact on water quality. This needs to be reflected in the Strategic Direction chapters of the PDP and flow throughout the PDP where land use activities have an effect on water.

Key Issue 4 Development of Māori Owned Land and including Key Issue 7 TW Ngā Take: Issues (not already addressed), Key Issue 16 PKH General Matters and Key Issue 17 PKH Issues, Objectives and Policies

- 3.14 Having reviewed the comments set out in the officer's overview report in terms of the intention of the PKH chapters including enabling provisions that directly seek to address planning obstacles to development of Māori land I support this ambition and provide the following comments to assist the hui discussion.
- 3.15 It is my understanding that, the focus of the submissions and further submissions of HTST is to ensure that the PDP enables its vision and aspiration for the people of the various hapū and marae represented by HTST to live, socialize and work within their hapū and marae. While HTST is supportive of the objectives and policies there is also a desire to ensure that a broad range of housing options are provided to enable tangata whenua to return to their land and provide economic benefit and development opportunities to contribute to the well-being of Tangata whenua. The amendments proposed to TW 13 and TW-P5 and the suggestion of a new policy within the Urban Form and Development was to ensure it is explicitly clear within the PDP that in addition to the provision of papakāinga housing a range of housing options including rural and residential housing is provided for. I have attached the tracked version of these proposed changes to the PDP in **Appendix A**.

Key Issues 12 and 13 Sites of Significance to Māori Issues, Objectives and Policies and Rules

- 3.16 HTST supported the submissions of Ngā hapū me ngā marae o Tamatea which generally supported the objectives, and policies and requested a new policy *"To encourage and support the visual acknowledgement of wāhi tapu and other places of significance through signage, information boards, poupou (traditional carved motifs) and other mahi toi."* I support the

inclusion of this policy which actively encourages the use of signage, information boards, poupou and other mahi toi throughout the district.

- 3.17 HTST opposed the submissions of Federated Farmers which sought to amend SASM-P1 and SASM- R4 and R5. The change in wording to P1 proposed by Federated Farmers seeks to introduce landowners into the identification of land within the District which contains wāhi tapu, wāhi tapu, wahi taonga and sites of significance, I concur with HTST that this is not appropriate. The submission of Federated Farmers to rules 4 and 5 sought to broaden the activities beyond ‘maintenance of existing farm fence lines and farm tracks’ to encompass primary production activities. I consider that this broad change potentially changes the purpose of the rule and is not supported.
- 3.18 In conclusion, I am supportive of the approach of the officer’s overview report to invite comment from tangata whenua presenting at the hui with the aim of reaching agreement with tangata whenua on the appropriate wording, objectives, policies and rules to be included in the PDP that relate to tangata whenua across a range of topics including tangata whenua values, the principle of Te Mana o te Wai, appropriately enabling the development of Māori owned land and the sites of significance to Māori.

4. HISTORICAL HERITAGE AND NOTABLE TREES

- 4.1 HTST lodged a further submission in support of the submission by Heritage New Zealand Pouhere Taonga (HNZPT) seeking a specific reference to Historic and Cultural Values in the Strategic Direction chapter of the PDP. The officer’s overview report concludes that a specific reference is not supported as it is their view that the cultural and heritage values are appropriately addressed in the PDP as a district wide matter and this approach is consistent with how the PDP addressed other section 6 matters including ‘Significant Natural Areas’ (s6(c)) and ‘Natural Features and Landscapes’ (s6(b)) contained within the ‘Natural Environment Values’ section of the PDP. I do note that both the Proposed New Plymouth District Plan and the recently notified Proposed Wellington City District Plan include within the Strategic Direction specific strategic objectives relating to historic heritage and I would support similar objectives being included in the PDP.

5. CONCLUSION

- 5.1 I appreciate the process that is provided at the hui to discuss with tangata whenua all of the tangata whenua provisions as a first step in amending the provisions. I have outlined above some suggestions that I consider will be useful in supporting the presentation by HTST at the hui and to assist with further discussion.
- 5.2 To assist further I have attached as Appendix A some initial proposed tracked changes but expect these will be updated ahead of Hearing 2 on this topic.

APPENDIX A SUGGESTED AMENDMENTS

| Key Issue | Notified PDP text | S42A recommended text | Recommended text |
|-----------|---|--|---|
| 1 & 2 | <p>Part 1 Tangata Whenua Te Whakataki: Introduction Te Ao Hurihuri: Tangata Whenua today Tangata Whenua me te Ture: The Resource Management Act Ngā Reo o te Takiwa: Representative Voices</p> | <p>No specific comment is provided in the officer overview report relating to the suggestion of additional consultation and engagement wording. Further explanation of the submission points was invited in relation to the Tangata Whenua provisions.</p> | <p>Insert new sub-heading top of Page 5</p> <p><u>Engagement and Consultation with Tangata Whenua</u></p> <p><u>The Council recognises that the need to consult with tangata whenua stems from Te Tiriti o Waitangi / the Treaty of Waitangi principle of partnership. Requiring both parties to act reasonably and make informed decisions. Council also acknowledges engaging and consulting with tangata whenua often leads to a better understanding of issues and opportunities. In many cases, this will result in stronger, more trusting relationships, and positive outcomes of mutual benefit.</u></p> <p><u>While the Resource Management Act 1991 has different requirements for consulting with tangata whenua, whose contribution to assessing effects on Māori cultural values is set out under Part II of the Act. For this reason, Council engages and consults with tangata whenua on a wide range of resource management-related matters.</u></p> |
| 1 & 2 | <p>Part 2 Tangata Whenua TW-P1</p> | <p>No specific comment is provided in the officer overview report relating to the suggestion of additional consultation and engagement wording. However, further explanation of the submission points was invited in the officer’s overview report.</p> | <p><i>Amend TW-P1 as follows:</i></p> <p><i>To provide <u>opportunities for tangata whenua to actively engage in a timely, effective and meaningful engagement with tangata whenua way in resource management decision-making and implementation where tangata whenua are interested and/or affected which recognises:</u></i></p> |

| | | | |
|-------|--|---|---|
| 1 & 2 | <p>Part 1 Tangata Whenua Ngā Reo o te Takiwa: Representative Voices</p> | <p><u>Nga Reo o te Takiwā: Representative Voices</u> 3.2.9 It is important that the PDP accurately captures the relevant Tangata Whenua representative voices. This initial hui, or subsequent hui/wānanga, provide an opportunity for tangata whenua submitters to offer updated wording for this section.</p> | <p><i>Amend the wording as follows: Heretaunga Tamatea Treaty Settlement Trust (HTTST): for issues identified in the Heretaunga Tamatea Claims Settlement Act 2018. The HTTST represents the treaty settlement interests of the Tamatea hapū and marae <u>to ensure the betterment of the hapū and marae. HTTST is the mandated voice and representative entity which includes considering the extent to which proposed planning policy and development may impact on the historical, cultural and spiritual interests of the various hapū and those areas under statutory acknowledgement and /or the Heretaunga Tamatea Claims Settlement Act 2018.</u></i></p> |
| 32 | <p>Part 2 Natural Environment Values Te Mana o te Wai provisions</p> | <p>5.2.10 Submitters may wish to discuss their concerns and preferences for Te Mana o Te Wai and Te Mana o Te Taiao provisions at the hearing. 5.2.11 Whilst I note that a number of the submitters seek specific reference to ‘Te Mana o Te Wai’ in the ‘ECO Ecosystems and Indigenous Biodiversity’ chapter, that could imply that those provisions only apply when matters of significant indigenous vegetation and significant habitats of indigenous fauna come into play. Alternatively, Te Mana o Te Wai provisions (or Te mana o Te Taiao provisions) could be inserted in the Strategic Direction ‘TW-Tangata Whenua’ chapter which applies more broadly across the Plan.</p> | <p>Add a new objective to the Strategic Objectives</p> <p><i><u>Te Mana o te Wai, intrinsic values of ecosystems and the life supporting capacity of the district’s natural resources are recognised and provided for. Add such consequential changes throughout the PDP to implement te mana o te wai through the relevant objectives, policies, rules and methods.</u></i></p> <p>Add two new objectives ECO-O3 & ECO-O4</p> <p><i><u>The relationship of tangata whenua and their culture and traditions, values, interests and associations associated with waterbodies are recognised and provided for.</u></i></p> <p><i><u>Subdivision, use and development within the District is undertaken in an integrated manner that recognises Te Mana o te Wai for all</u></i></p> |

| | | | |
|----------|--|---|--|
| | | | <p><i>receiving waters and minimises changes in the hydrological regime of those waters.</i></p> <p>Add new Policy ECO-P10</p> <p><i>Recognise, protect and enhance significant indigenous biodiversity and natural wetlands, while recognising and providing for Te Mana o te Wai.</i></p> <p>Add a new method</p> <p><i>Methods to recognise and provide for Te Mana o te Wai in receiving waters.</i></p> |
| 3 | Part 2 Natural Environment Values | As above | <p>HTST are supportive of the identifying significant indigenous vegetation and indigenous habitat. The use of mātauranga māori could be identified as a criteria to accord with the proposed new objective.</p> <p>Add a new objective ECO -O5</p> <p><i>The relationship of tangata whenua and their traditions and culture with indigenous vegetation and fauna are recognised and provided for.</i></p> |
| 4 | Part 2 Tangata Whenua TW13 | The s42a officer's overview report invites further discussion to assist with the understanding of the concerns and aspirations of the submitters in relation to Māori owned land. | <p>HTST has a vision and aspiration for the people of the various hapū represented by HTST to live, socialise and work within their various hapū and marae to enable economic growth and prosperity across the District. Within the Central Hawke's Bay District, the hapū of HTST have an opportunity through their redress settlement to prosper and thrive and become economically successful. It is critically important that the PDP provides a</p> |

| | | | |
|---|-----------------------------|----------|--|
| | | | <p>range of opportunities to enhance and develop the culture and traditions and social and economic opportunities. While papakāinga housing is vitally important to tangata whenua encouraging options for other types of housing and development is also important to ensure there are a range of opportunities to enable the people dislocated from their land to return home and to enable economic prosperity. As such the following wording is proposed.</p> <p>Amend paragraph 3 of TW-13 to include:</p> <p><i>With the loss and alienation from ancestral lands, the provision/enabling of a range of housing options including rural and residential housing, papakāinga housing, kaumātua flats, marae-based development is important to enable tangata whenua to use their land in a way that is consistent with their culture and traditions and their social and economic aspirations.</i></p> |
| 4 | Part 2 Tangata Whenua TW-P5 | As above | <p>As part of the Settlement, land and facilities within the Central Hawke's Bay District have been returned to hapū. It is important that the opportunities for development are provided and enhanced to ensure that the people of the hapū of the district can thrive and prosper. As such a minor wording change is recommended to P5 as follows:</p> <p><i>To recognise actively promote, enhance and provide for development of, and a range of activities on, Māori Land to meet the needs and aspirations of tangata whenua, while ensuring that actual or potentially adverse effects of activities are avoided, remedied or mitigated.</i></p> |

| | | | |
|---|-------------------------------------|----------|---|
| 4 | Part 2 - Urban Form and Development | As above | <p>HTST consider that the objectives need to include specific provision for papakāinga housing being made available throughout the district. This needs to be recognised at a strategic level to ensure the relationship of tangata whenua with the culture and traditions and opportunities to live in the district are appropriately recognised.</p> <p>Add a new objective as follows:</p> <p><i><u>Papakāinga housing that provides for the ongoing relationship of tangata whenua with their culture and traditions and with their ancestral lands and for their cultural, environmental, social and economic well-being.</u></i></p> |
|---|-------------------------------------|----------|---|

1. Section 32AA evaluation: Key Issue 1 & 2 New wording proposed in Part 1 Tangata Whenua – Engagement and Consultation, Amend TW-P1 and wording of Ngā Reo o te Takiwa: Representative Voices

Effectiveness and efficiency

The suggested new wording, minor wording changes to TW-P1 and additional wording to Ngā Reo o te Takiwa: Representative Voices is to ensure that there is a clear link between the requirements enshrined in the Te Tiriti o Waitangi relating to the principle of partnership and the RMA requirements. HTST is mandated to ensure that the redress provided in the settlement is used for the purpose of cultural, social and economic benefit of its hapū members.

In addition it is important that the PDP clearly reflects the statutory requirements and provide clear opportunities for engagement and consultation.

Costs and benefits

Ensuring clear processes in relation to consultation and engagement with tangata whenua in my view is beneficial to all parties involved in resource management processes. In addition the additional wording also explains the role of HTST in the District.

Risk of acting or not acting

If the recommended wording is not included in the PDP there is a risk that future users of the PDP will not identify a clear link between this section of the PDP and the matters included in Part 2.

Decision about most appropriate option

The Hearings Panel has a choice between no amendment to the wording or including a section on consultation and engagement which assists in the connections between the various pieces of legislation and the PDP and the other minor wording changes intended to assist users of the PDP. It is my opinion that the inclusion of additional wording is beneficial to the interpretation of this section of the PDP.

2. Section 32AA evaluation: Key Issue 3 - new wording proposed in Part 2 – Natural Environment Values – Te Mana o te Wai provisions

Effectiveness and efficiency

It is my understanding that for Māori, water is the essence of all life. All water bodies within the HTST area are of significance. Waterbodies and their margins are an important part of the Central Hawke's Bay District. Tangata whenua's relationship with freshwater is acknowledged by the Crown through Statutory Acknowledgement Areas in the Heretaunga Tamatea Claims Settlement Act 2018. The Statutory Acknowledgement areas are formed of most of the main waterbodies and their tributaries within the rohe and acknowledge the cultural, spiritual, historical and traditional association the hapū within the settlement area has with those waterbodies.

The NPS FM directs Council to involve tangata whenua in freshwater management and also requires Council to include objectives policies and methods in its PDP to promote positive effects and avoid, remedy or mitigate adverse effects of urban development on water bodies and freshwater ecosystems.

The proposed objects set out the relationship of tangata whenua and requires subdivision, use and development to recognise Te Mana o te Wai.

Similarly the proposed objective to indigenous biodiversity clearly identifies the important relationship of tangata whenua with indigenous vegetation and fauna and embodied into the broader provisions of Te Mana o te Wai.

Costs and benefits

Including objectives and policies in line with the directive of NPSFM and in relation to indigenous biodiversity adds value to the PDP.

For Māori, water is the essence of all life. All water bodies within the HTST area are of significance. Waterbodies and their margins are an important part of the Central Hawke's Bay District. Tangata whenua's relationship with freshwater is acknowledged by the Crown through Statutory Acknowledgement Areas in the Heretaunga Tamatea Claims Settlement Act 2018. The Statutory Acknowledgement areas are formed of most of the main waterbodies and their tributaries within the rohe and acknowledge the cultural, spiritual, historical and traditional association the hapū within the settlement area has with those waterbodies.

Risk of acting or not acting

If the recommended objectives, policy and method is not included in the PDP there is clearly a risk that subdivision, use and development may not sufficiently recognise the relationship of tangata whenua with indigenous biodiversity and natural wetlands and water and provide for Te Mana o te Wai.

Decision about most appropriate option

The hearings panel has a choice between no objective and policy supporting Te Mana o te Wai and the inclusion of the proposed objectives, policy and method as recommended in my client's submission. In planning terms, it is my opinion that the inclusion of these objectives, policy and method fills a significant policy void in the PDP as notified, and the inclusion in the PDP is the most appropriate option in terms of these two choices.

3. Section 32AA evaluation: Key Issue 4 Development of Māori owned land - New wording proposed in Tangata Whenua and Urban Form and Development

Effectiveness and efficiency

The suggested new objective and minor wording changes to the issue TW 13 and policy TW-P1 is considered to be an effective and efficient way to ensure that the aspiration of tangata whenua are incorporated into the PDP. It is my understanding that as part of the Settlement, land and facilities within the Central Hawke's Bay District have been returned to hapū. It is important that the opportunities for development are provided and enhanced to ensure that the people of the hapū and marae can thrive and prosper in an efficient and effective manner and that this is enabled through the appropriate issues, objectives and policies of the Plan.

Costs and benefits

The PDP includes provision for various types of housing including papakāinga, Kaumātua and marae-based development. The amendment to TW13 and policy TW-P5 and new objective are intended to ensure that there are clear consenting pathways for these activities and other residential and commercial activities to ensure the economic stability for tangata whenua of the district.

Risk of acting or not acting

If appropriate pathways are not provided in the PDP, all such activities will be subject to a discretionary activity status, regardless of the effects and compatibility with the surrounding environment. This risks additional financial burden and constraints for tangata whenua on the use and development of their land across the district. In contrast providing a full gambit of consenting and rule framework for all types of development of Māori land will ensure clear consenting pathways within the PDP.

Decision about most appropriate option

The hearings panel has a choice between no changes to the wording of the existing issue and policy and not supporting the new objective linking the provision for papakāinga housing with the broader provisions for urban development and housing across the district or the amendments recommended in my client's submission. Overall I consider that the proposed amendments strengthen the policy direction to enable the development of Māori land within the district and in my opinion is the most appropriate option in terms of the two choices.