

Memorandum of Understanding

BETWEEN

Te Rūnanga o Ngāi Tahu

Te Ngāi Tūāhuriri Rūnanga

Te Rūnanga o Kaikōura

AND

Hurunui District Council (the Council)

1. Background

Te Ngāi Tūāhuriri Rūnanga, Te Rūnanga o Kaikōura, Te Rūnanga o Ngāi Tahu and the Hurunui District Council wish to effectively work together to establish a cooperative and mutually beneficial system of managing the natural, physical and spiritual resources of the Hurunui District. The Hurunui River is the main management boundary, however an interest in sharing issues throughout the whole district has been expressed and is encouraged through this document.

The takiwā (boundary) of the two Rūnanga, as defined within Schedule 1 of the Te Rūnanga o Ngāi Tahu Act is as follows:

The takiwā of Te Rūnanga o Kaikōura centres on Takahanga and extends from Parinui o Whiti to the Hurunui River and inland to the main divide.

The takiwā of Te Ngāi Tūāhuriri Rūnanga centres on Tuahiwi and extends from the Hurunui to Hakatere, and inland to the main divide.

2. Acknowledgement of Ngāi Tahu as the Tāngata Whenua in the Hurunui District and respective consultation processes

The Council acknowledges that Ngāi Tahu are the Tāngata Whenua of the Hurunui District and hold customary tribal authority over an area (rohe) which includes all of the area within the Councils jurisdiction.

Te Rūnanga o Ngāi Tahu is the tribal representative body of Ngāi Tahu Whānui, a body corporate established on 24 April 1996 under Section 6 of the Te Rūnanga o Ngāi Tahu Act 1996 (the "TRoNT Act"). Section 5 of the TRoNT Act also describes the takiwā (area) of Ngāi Tahu Whānui.

Section 15 states:

15 (1) Te Rūnanga o Ngāi Tahu shall be recognised for all purposes as the representative of Ngāi Tahu Whānui.

15 (2) Where any enactment requires consultation with any iwi or with any iwi authority, that consultation shall, with respect to matters affecting Ngāi Tahu Whānui, be held with Te Rūnanga o Ngāi Tahu.

15 (3) Te Rūnanga o Ngāi Tahu, in carrying out consultation under subsection (2) of this section, -

- (a) Shall seek the views of such Papatipu Rūnanga of Ngāi Tahu Whānui and such hapū as in the opinion of Te Rūnanga o Ngāi Tahu may have views that they wish to express in relation to the matter about which Te Rūnanga o Ngāi Tahu is being consulted; and*
- (b) Shall have regard, among other things, to any views obtained by Te Rūnanga o Ngāi Tahu under paragraph (a) of this subsection; and*
- (c) Shall not act or agree to act in a manner that prejudices or discriminates against, any Papatipu Rūnanga of Ngāi Tahu or any hapū unless Te Rūnanga o Ngāi Tahu believes on reasonable grounds that the best interests of Ngāi Tahu Whānui as a whole require Te Rūnanga o Ngāi Tahu to act in that manner.*

The TRoNT Act therefore makes it Te Rūnanga o Ngāi Tahu with whom consultation has to be undertaken for all resource management matters requiring consultation arising from the Resource Management Act 1991.

However, it is the acknowledged practice of Te Rūnanga o Ngāi Tahu that consultation for this area, in the first instance, is with Te Rūnanga o Kaikōura and Te Ngāi Tūāhuriri Rūnanga or their mandated representative¹. The Council wishes to maintain and enhance its strong working relationships with these Papatipu Rūnanga, and will consult them individually on resource management issues that fall within their respective takiwā.

In addition, the Council will consult Te Rūnanga o Ngāi Tahu when:

- Te Rūnanga o Ngāi Tahu or a Papatipu Rūnanga request such consultation;
- An issue affects a tribal interest identified in the Ngāi Tahu Claims Settlement Act 1998 or the Ngai Tahu Claims Settlement (Resource Management Consent Notification) Regulations 1999;
- A statutory document is being prepared;
- When an issue or application affects both Papatipu Rūnanga and one of those Rūnanga requests Te Rūnanga o Ngāi Tahu involvement.

The Local Government Act 2002 provides for the relationship and involvement of all Māori in Local Government processes. Ngāi Tahu and the Council will work together to develop appropriate processes that allow the Council to fulfil its statutory responsibilities whilst recognising Ngāi Tahu as the tangata whenua.

3. Purpose

The purpose of this protocol is to recognise the role Papatipu Rūnanga and Te Rūnanga o Ngāi Tahu have in environmental resource management matters dealt with by Hurunui District Council, and to provide an opportunity for a working relationship to be enhanced and improved upon where and when necessary.

The ranges of resource management matters contemplated by this protocol are:

- Council encouragement for resource consent applicants to consult with appropriate Papatipu Rūnanga (and Te Rūnanga o Ngāi Tahu where appropriate) prior to, where possible, lodging applications;
- The Council to ensure opportunities for Papatipu Rūnanga (and Te Rūnanga o Ngāi Tahu where appropriate) participation in notified and non-notified resource consents processed by the Council under the Resource Management Act 1991;
- The Council will encourage consent applicants to prepare cultural impact assessments of resource consent applications where requested by a Papatipu Rūnanga and/or Te Rūnanga o Ngāi Tahu;
- The Council will ensure opportunities for the Papatipu Rūnanga (and Te Rūnanga o Ngāi Tahu where appropriate) input to statutory and non-statutory planning documents that are prepared by The Council;
- Regular meetings between Papatipu Rūnanga, Te Rūnanga o Ngāi Tahu and The Council;

¹ As notified in writing by the Secretary of the respective Papatipu Rūnanga

- Hurunui District Council assistance to Papatipu Rūnanga (and Te Rūnanga o Ngāi Tahu where appropriate) and *vice versa* for appropriate training and support. These training opportunities include Hurunui District councillors and staff involved in consent hearings, of Ngāi Tahu values and aspirations for sustainable management of the environment.
- The Council will facilitate Ngāi Tahu participation in decision-making processes particularly with respect to resource management matters.
- The Council will consider supporting the development of tribal and Papatipu Rūnanga iwi management plans where relevant to mutual concerns.

4. Implementation of Purposes

Advocacy for pre-application consultation

Pre-application consultation by consent applicants is recognised good practice under the RMA. For the Papatipu Rūnanga and Te Rūnanga o Ngāi Tahu it allows a proposal that is not set in concrete to be assessed, and any concerns dealt with up front. This saves applicants, the Papatipu Rūnanga and Te Rūnanga o Ngāi Tahu time and money by allowing any issues to be resolved in a non-adversarial manner.

The Council will, where possible, encourage consent applicants to consult with the affected Papatipu Rūnanga (and Te Rūnanga o Ngāi Tahu where appropriate) prior to the lodging of a resource consent application.

Participation in notified and non-notified resource consent applications

Under the Treaty of Waitangi, Ngāi Tahu, as Tāngata Whenua, has a relationship with the Crown that is akin to a partnership. This partnership is reflected in Part II of the RMA. The Council, in entering into this protocol, is giving formal recognition to the special status of Ngāi Tahu as the Tāngata Whenua for the Hurunui District.

The Council will continue to forward to the respective Papatipu Rūnanga notified and non-notified resource consent applications for their consideration. The Council will also provide the respective draft decision to the Rūnanga on non-notified consents when requested.

The Council in meeting its obligations under the Ngāi Tahu Settlement (Resource Management Consent Notification) Regulations 1999, is required to send Te Rūnanga o Ngāi Tahu a summary of consent applications within, adjacent to, or directly impacting Statutory Acknowledgement areas. The Council will also send the same summary to the affected Papatipu Rūnanga.

The Council acknowledges that the timeframes under the RMA are at times restrictive for the participation of Papatipu Rūnanga. The Council will therefore ensure that Papatipu Rūnanga may verbally express their views for a particular proposal (if they so wish) via a Council Investigating Officer if they are unable to meet these timeframes.

Representation on Environmental Services Committee

A tangata whenua representative/s from the respective takiwā may wish to sit on the hearings panel for resource consent applications and District Plan change hearings.. The

aim of this is to develop shared decision-making and broader understanding of issues between parties. In appointing a tangata whenua representative, the Council will seek advice as to the appropriate person from the relevant Papatipu Rūnanga and Te Rūnanga o Ngāi Tahu. Council shall endeavour to appoint tangata whenua representatives that are endorsed by the local Papatipu Rūnanga. The tangata whenua representative must not participate in any consultation processes and/or Rūnanga discussions regarding the consent application or plan change.

Where the Council appoints an independent Commissioner or Panel of Commissioners to hear a resource consent application it will have regard to the intent of the above representation matters.

The Council will reimburse the tangata whenua representative normal Council meeting costs for travel and hearing panel time.

Cultural impact assessments

Where Papatipu Rūnanga and/or Te Rūnanga o Ngāi Tahu request a cultural impact assessment, the Council will encourage resource consent applicants to include this in their assessment of environmental effects report. Encouragement of cultural impact assessments is related to pre-application consultation, however, there may be times when it is appropriate that the cultural effects of a particular proposal can be sought via section 92 of the RMA.

Where the Council asks the Papatipu Rūnanga or Te Rūnanga o Ngāi Tahu to complete a cultural impact assessment to assist it in its decision-making, the Council will meet the actual and reasonable costs of that cultural impact assessment. The Council may through its processes recover any such costs from the consent applicant.

Such a cultural impact assessment is considered to be a factual document akin to a traffic engineering or landscape report. It is to assist the Council or an applicant to better understand Ngāi Tahu values in relation to a matter so that a decision may be made or consultation may take place. It is noted that consultation initiated by the Council and/or a resource consent applicant, in relation to a cultural impact assessment, is a matter for which costs will lie where they fall.

Plan preparation

Pursuant to Clause 3(1)(d) of the First Schedule to the Resource Management Act 1991, the Council during the preparation of a policy statement or plan shall consult Te Rūnanga o Ngāi Tahu and Papatipu Rūnanga.

Where the Council asks Papatipu Rūnanga or Te Rūnanga o Ngāi Tahu to complete a cultural impact assessment to assist it in its decision-making, the Council will meet the actual and reasonable costs of that cultural impact assessment. It is noted that consultation initiated by the Council in relation to a cultural impact assessment is a matter for which costs will lie where they fall.

Training opportunities

The Council agrees to discuss opportunities with Papatipu Rūnanga in relation to opportunities for Council staff to be of assistance to the Rūnanga in their resource management work, that will benefit both the Council and the Rūnanga.

The Papatipu Rūnanga and Te Rūnanga o Ngāi Tahu agree to discuss with the Council opportunities for where they may be of assistance to the Council for the training of staff and councillors so that they may have an appreciation of Ngāi Tahu values and aspirations for sustainable environmental management. It is noted that this may be particularly worthwhile for councillors that will sit on hearing panels, and Investigating Officers and Planners.

Iwi management plans

The Council will consider supporting, and where appropriate assisting, in resourcing the development of tribal and Papatipu Rūnanga iwi management plans.

Furthermore, it is also noted that the Council, when preparing or changing any district plan shall have regard to any Iwi Management Plan (relevant planning document recognised by Te Rūnanga o Ngāi Tahu).

Commitment by Hurunui District Council to build and maintain an on-going working relationship with Papatipu Rūnanga and Te Rūnanga o Ngāi Tahu

By entering into this protocol in good faith with Papatipu Rūnanga and Te Rūnanga o Ngāi Tahu, and creating opportunities for effective regular contact between the parties, the Council is making a commitment to build and maintain an on-going working relationship with those Rūnanga and Te Rūnanga o Ngāi Tahu, and vice versa.

5. Meetings

Meetings will be held between the Rūnanga and Hurunui District Council:

- a) At least annually, between Hurunui District Councillors and Officers, Kaikōura Rūnanga representatives, Ngāi Tūāhuriri Rūnanga Resource Committee members and Te Rūnanga o Ngāi Tahu representatives. The aim of this meeting will be to discuss broader issues and facilitate understanding and links between parties.
- b) Special meetings where appropriate, for instance, in relation to a proposal for major engineering works or prior to the release of a plan or report. The aim of special meetings will be to explore potential problems and issues and discuss possible solutions.
- c) Meetings or discussions at any level, when considered necessary by any party.
- d) The Council will contribute toward the travel costs for Rūnanga representatives to attend meetings outlined in points a-c above. Likewise the Rūnanga will endeavour to accommodate requests for Councillors and/or staff to travel at the Councils expense to meet with the Rūnanga.

6. Appendices to this Protocol

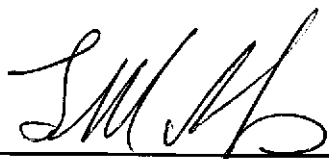
From time to time the parties to this protocol may develop processes and procedures to give effect to the purposes of this protocol. These appendices will be agreed to by all parties and appended to this document. An appendix can be updated or changed with the agreement of all parties without necessarily reviewing the entire protocol.

7. Review of this protocol

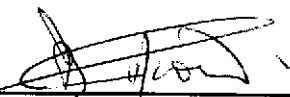
This protocol will be reviewed at least annually, and any party to this protocol may initiate that review.

Any amendments to the protocol must be mutually acceptable to all parties.

Signed on behalf of Hurunui District Council:



Mayor, Hurunui District Council



Chief Executive Officer, Hurunui District Council

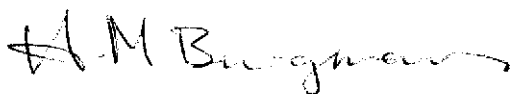
Signed on behalf of Papatipu Rūnanga



Chair, Te Rūnanga o Kaikōura



Chair, Te Ngāi Tūāhuriri Rūnanga Inc



Chair, Te Ngāi Tūāhuriri Rūnanga Inc Resource Management Committee

Signed on behalf of Te Rūnanga o Ngāi Tahu



Kaiwhakahaere, Te Rūnanga o Ngāi Tahu